

EXECUTIVE COUNCIL

PUBLIC

Title: 11th European Development Funding: Financing Agreement

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Responsible Director: Director of Policy & Economic Development

Report Author: Senior Public Policy Advisor

Portfolio Holder: MLA Michael Poole

Reason for paper: This paper is submitted to Executive Council:
For policy decision

Publication: Yes

Previous papers: 141/14 Processes for Securing EU EDF11 Funding

List of Documents: Appendix 1 Financing Agreement

1. Recommendations

Honourable Members are recommended to approve:

- (a) The draft Financing Agreement for the 11th European Development Fund between the European Commission and the Falkland Islands Government.
- (b) Authority for the FIG Representative based in London to sign the Agreement on behalf of FIG.

2. Additional Budgetary Implications

2.1. None

3. Executive Summary

3.1. This paper seeks approval from Honourable Members to approve the Financing Agreement for the 11th European Development Fund (EDF) and for the Representative in

London to be given delegated authority to sign the agreement on behalf of FIG. The 11th EDF is worth €5.9 million to the Islands over the next four years (to 2020/21).

- 3.2. The programme focus is ‘connectivity and accessibility’ related infrastructure. The Director of Public Works and Director of Central Services were engaged in the process of developing the indicators, which focus on planned work programmes within these two directorates. The Policy Portfolio Holder and the Deputy Member for EU Issues have been regularly informed of progress and MLAs consulted at various stages during development of the programme.
- 3.3. A copy of the Financing Agreement is at Appendix 1.

4. Background

- 4.1. The European Development Fund is an extra-budgetary fund financed by EU Member States specifically to support economic and social development programmes in overseas countries and territories (OCTs).
- 4.2. The Falkland Islands have previously benefitted from EDF funding through the 9th and 10th EDF programmes, the last payment from the latter being received earlier this year.
- 4.3. The 11th EDF has a value of €5.9 million over the next four years (to the period 2020/21) and has been factored into the FIG capital budget over this time period.
- 4.4. Executive Council paper 141/14 approved the sector of focus for the 11th EDF as ‘infrastructure’, which was later refined in consultation with MLAs and the European Commission to ‘connectivity and accessibility’ related infrastructure.
- 4.5. The Islands Plan contains the objective “Consult on and prepare a delivery plan for funding that has been secured from the European Development Fund to support economic development in the Islands between 2014 and 2020.” This process commenced in 2014 and has involved developing and completing several detailed documents for approval by the Commission - a lengthy and bureaucratic process (as noted in ExCo paper 141/14). The Financing Agreement is a culmination of this work.
- 4.6. It is necessary to enter a formal Financing Agreement with the European Commission, setting out the specific terms and conditions attached to the funding and the specific indicators and performance measures that will be reported against.
- 4.7. The text of the proposed Financing Agreement is attached at Appendix 1 and consists of three main parts:
 - 4.7.1. Special Conditions – specific details and terms attached to the Falkland Islands, including details of the funding allocation.
 - 4.7.2. Technical and Administrative Provisions (Annex I of Appendix 1) – this section reproduces elements of the Programming Document in terms of the objectives of the programme, as well as the specific conditions and performance measures (of the variable tranche indicators) that will be used to secure the release of funding from the European Commission. These are summarised on page 17 and 18 of Annex I and include indicators linked to

culvert replacement, sealing of the MPA Road, rural road maintenance, FIGAS aircraft rehabilitation, replacement of domestic aerodrome fire appliances and procurement and operationalisation of a new asphalt plant.

- 4.7.3. General Conditions (Annex II of Appendix 1) – these are standard contractual terms used by the European Commission. These are required to be included as part of the agreement.

4.8. The indicative schedule for disbursement is shown in 5.1.

5. Resource Implications

5.1. Financial Implications

The release of 11th EDF funding from the European Commission is dependent on achieving the agreed targets and a disbursement request will be submitted annually. The table below illustrates the indicative timetable for release:

Financial Year/ Type of Tranche	2017/18 €m	2018/19 €m	2019/20 €m	2020/21 €m	Total €m
Fixed	2.0	1.0	1.0	0	4.8
Variable (linked to indicators)	0	1.0	0.8	0	1.8
Evaluation & Monitoring	0	0	0	0.1	0.1
Total	2.0	2.0	1.8	0.1	5.9

5.2. Human Resource Implications

Each tranche of funding requires the submission of a disbursement request to the European Commission which will be completed within existing Policy Unit resources.

Indicators are linked to planned programmes of work within the Public Works Department and Central Services. There are no additional staff requirements as a direct result of the 11th EDF programme within these areas.

6. Legal Implications

- 6.1. The Financing Agreement is a legal undertaking with the European Commission and FIG will be bound by its terms in order to release the funding.

7. Significant Risks

- 7.1. The UK is due to leave the EU by March 2019 which potentially has implications for UK OCTs in receipt of funding from the EU, including the Falkland Islands. The 11th EDF programme is due to complete in the financial year 2020/21 but there have been reassurances from the European Commissioner for International Cooperation and Development that despite ‘Brexit’, programmes and financing agreements signed by the end of 2017 will be honoured through to completion.

- 7.2. The Falkland Islands Programming Document (elements of which are included in the Financing Agreement including the indicators and measures that will be used to secure

the funding) is currently out to inter-service consultation within the European Commission. Extensive consultation and refinement of the indicators between FIG and the Department for International Cooperation and Development at European Commission has taken place ahead of this to ensure the indicators satisfy Commission requirements and are agreeable to all parties. The inter-service consultation is a mandatory consultation period of two months and is due to complete by the end of September. On completion of this period, the Financing Agreement can be signed. It is recommended for expediency that Executive Council give the Representative in London delegated authority to sign the Financing Agreement on behalf of FIG. This will ensure that the process is completed as soon as possible (early October) and avoids the need for an authorised signatory to travel from the Falkland Islands to Brussels purely to sign the contract. This process was also used for signing of the 10th EDF contract.

8. Consultation

- 8.1. Consultation has taken place with MLAs throughout the formulation of the 11th EDF programme, including a meeting with the technical assistance consultants at the stage of developing the specific areas of focus for the programme.
- 8.2. MLA Poole (Portfolio Holder) and MLA Edwards (Deputy on EU issues) have been kept abreast in detail at various stages of the process.
- 8.3. The Director of Public Works and Director of Central Services were heavily consulted and engaged in the process of formulating the indicators and targets as they directly relate to those service areas.

FINANCING AGREEMENT SECTOR REFORM CONTRACT SPECIAL CONDITIONS

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

of the one part, and

Falkland Islands represented by the territorial authorising officer, hereinafter referred to as "**the Partner**",
of the other part

have agreed as follows:

Article 1 - Nature of the action

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

Title: Support to promote equality of access to economic and social development opportunities across the territory through enhancing internal connectivity and accessibility
CRIS decision number: FED/2016/038-944

This action is financed from the 11th European Development Fund under the following basic act: Overseas Association Decision.

1.2. The total estimated cost of this action is EUR 5.900.000 and the maximum EU contribution to this action is set at EUR 5.900.000

This budget support action is composed of:

- (a) a budget support component with a maximum EU contribution of EUR 5.900.000.
- (b) a complementary support component with a total estimated cost of EUR 100.000 and a maximum EU contribution of EUR 100.000

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

Article 2 – Execution period

- 2.1. The execution period of this Financing Agreement as defined in Article 15 of Annex II (General Conditions) shall commence on the entry into force of this Financing Agreement and end 60 months after this date.
- 2.2. The duration of the operational implementation phase is fixed at 36 months.
- 2.3. The duration of the closure phase is fixed at 24 months.

Article 3 – Addresses

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

a) **for the Commission**

European Commission
Directorate-General for International Cooperation and Development
Directorate G
Rue Joseph II 54, office 05/013
B-1049 Brussels, Belgium

b) **for the Partner**

Policy Unit
Falkland Islands Government
The Secretariat
Thatcher Drive
Stanley
Falkland Islands
FIQQ 1ZZ
policy@sec.gov.fk

Article 4 – OLAF contact point

The contact point of the Partner having the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate OLAF's operational activities shall be: Director of Policy & Economic Development, Policy Unit

Article 5 - Annexes

- 5.1. This Financing Agreement is composed of:
 - (a) these Special Conditions;
 - (b) Annex I: Technical and Administrative Provisions, detailing the objectives, expected results, activities, description of the budget-implementation tasks entrusted and budget of this Action;

(c) Annex II: General Conditions;

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

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

The foreign exchange transfers will be accounted for under the value date of the notification of credit to the Treasury account from the Central Bank. The exchange rate applied will follow the standard Central Bank practice for all incoming transfers on the date of the notification of credit.

Article 7 – Entry into force

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

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

For the Partner:

For the Commission:

<name, function, signature, place, date>

<name, function, signature, place, date>



ANNEX I

Action Document

Support to promote equal access to economic and social development opportunities in the Falkland Islands

1. Title/basic act/ CRIS number	Support to promote equality of access to economic and social development opportunities across the territory through enhancing internal connectivity and accessibility CRIS number: FED/2016/038-944, financed under the 11 th European Development Fund			
2. Zone benefiting from the action/location	Falkland Islands The action shall be carried out at the following location: Falkland Islands			
3. Programming document	Programming document for the Falkland islands under the 11 th European Development Fund			
4. Sector of concentration/ thematic area	Connectivity and Accessibility	DEV. Aid: YES		
5. Amounts concerned	Total amount of EDF contribution EUR 5.9 million for budget support of which: <ul style="list-style-type: none"> • EUR 5.8 million amount for budget support and • EUR 0.1 for complementary support (monitoring and evaluation) 			
6. Aid modality(ies) and implementation modality(ies)	Budget Support Direct management – Budget Support: Sector Reform Contract			
7 a) DAC code(s)	16050 Multi-sector aid for basic social services; 21050 Air transport; 21020 Road transport;			
b) Main Delivery Channel	10000 Public sector institutions			
8. Markers (from CRIS DAC form)	General policy objective	Not targeted	Significant objective	Main objective
	Participation development/good governance	x	<input type="checkbox"/>	<input type="checkbox"/>
	Aid to environment	x	<input type="checkbox"/>	<input type="checkbox"/>

	Gender equality (including Women In Development)	x	<input type="checkbox"/>	<input type="checkbox"/>
	Trade Development		<input type="checkbox"/>	x
	Reproductive, Maternal, New born and child health	x	<input type="checkbox"/>	<input type="checkbox"/>
	RIO Convention markers	Not targeted	Significant objective	Main objective
	Biological diversity	x	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	x	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	x	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	x	<input type="checkbox"/>	<input type="checkbox"/>
9. Global Public Goods and Challenges (GPGC) thematic flagships	Not applicable			
10. SDGs	Main SDG: Goal 9.1 Industry, Innovation and Infrastructure Secondary SDG: Goal 11.2			

SUMMARY

The Falkland Islands is an isolated Overseas Country and Territory (OCT) located in the South Atlantic, linked to the United Kingdom. The population is approximately 3,000. Traditionally it relied on sheep farming, but since the mid-1980s fisheries license fee revenues have been the main source of Falkland Islands Government revenue. Oil has been discovered but has yet to be brought into production.

The Falkland Islands Government has been running the economy prudently and has maintained a high level of reserves to handle fluctuating revenues. A sound system of governance ensures a high degree of accountability. Democratic processes are designed to ensure that the needs of the isolated rural population are met as well as those of the majority of the population who live in Stanley. Economic priorities are to develop and broaden the economy, whilst ensuring that growth does not adversely impact on the unique way of life or environment.

EU cooperation has successfully supported the Falklands using budget support under the 9th and 10th EDF. Reflecting this positive experience, and in the light of continuing progress in strengthening planning and management within the Government, this modality is again envisaged under the 11th EDF.

In particular, the EU co-operation intends to support equality of access to economic and social development opportunities across the territory and particularly in the rural areas of the archipelago through enhancing internal connectivity and accessibility. This Sector Reform Contract is to support the Government's Accessibility and Connectivity sector, as articulated in the National Infrastructure Plan. The main outcome relates to domestic (e.g. within the Islands) transport which will be improved to enhance transport and accessibility, in order to ensure equal development possibilities of urban and rural areas within the Falkland Islands.

1 DESCRIPTION OF THE ACTION

1.1 Objectives/results

Improving equality of access to transport and connectivity infrastructure between residents of Stanley and Camp will reduce the imbalance in opportunities for economic and social development. These improvements are crucial to ensure sustainable economic growth, enhancing quality of life for the population, contribute to attracting tourism as well as reducing the economic and social imbalance between Stanley and the Camp.

Therefore, the **overall objective** of the programme is to support equality of access to economic and social development opportunities across the territory and particularly in the rural areas of the archipelago through enhancing internal connectivity and accessibility.

It will build on the progress of the 10th EDF in terms of diversifying the economy and strengthening resilience of the Falkland Islands to future shocks. The equal access to infrastructure between the residents of Stanley and the rural areas will contribute to ensuring equality among residents and will contribute to overall development of the Islands.

The **specific objectives** of the programme in the sector of Connectivity & Accessibility include:

i) Improving the domestic air services of the Falkland Islands Government Air Service and improving fire safety facilities at rural airfields.

ii) Improving road infrastructure, particularly gravel roads in rural areas, and on the main link between Stanley and Mount Pleasant Airport.

This programme is relevant for the Agenda 2030. It contributes primarily to the progressive achievement of SDG target(s) to build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation, but also promotes progress towards Goals 9.1 “*Develop quality, reliable, sustainable and resilient infrastructure, including regional and trans-border infrastructure, to support economic development and human well-being, with a focus on affordable and equitable access for all*” and Goal 11.2 “*By 2030, provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport, with special attention to the needs of those in vulnerable situations, women, children, persons with disabilities and older persons*”. This does not imply a commitment by the Falkland Islands benefiting from this programme.

The **specific results** of this intervention are:

- i) Improved domestic air services
 - Result 1: More reliable and enhanced air services that will benefit both residents and tourists;
 - Result 2: Improved safety of domestic aerodromes through replacement of fire-fighting and safety equipment.

ii) Improved road infrastructure

- Result 3: Improved connectivity between Stanley and Mount Pleasant Airport through sealing additional sections of this key road;
- Result 4: Enhanced capability to seal the roads using an energy efficient asphalt plant;
- Result 5: Enhanced maintenance of rural roads to improve their running conditions and to make them driveable by lorries rather than just 4-wheel drive vehicles;
- Result 6: Reduced water damage to rural roads achieved through construction of culverts at key points.

In addition to these specific measures funded under the 11th EDF, the Government is committed to investing more in infrastructure in the coming years. The medium-term financial plan covering the period 2016/17 - 2020/21 includes a capital budget provision of EUR 29.2 million¹ (GBP 24.8 million) towards ‘Transport and Communications’ (telecommunications, air and sea related transport etc.) and ‘Roads’. This reflects its appreciation of the importance of enhancing connectivity and accessibility to strengthen competitiveness. It is also a rational counter-cyclical policy to minimize the adverse impact of the temporary cessation of oilfield exploration and delays in developing proven oil fields that is the consequence of prevailing low oil prices experienced in 2015 and 2016. This investment will enhance preparedness for future potential oil developments as well as maintaining local capacity to undertake construction and development work.

1.2 Main activities

The main activities to implement the budget support package are policy dialogue, provision of financial resources, performance assessment and reporting. Although capacity development is not an explicit objective of the 11th EDF, the application of Government Key Performance Indicators is consistent with best practice in terms of avoiding duplication of effort and consolidation of public sector reforms that have already taken place in the Falkland Islands.

1.2.1 Budget Support

The budget support programme entails engagement in dialogue around the agreed conditions and government reform priorities, the verification that those conditions have been met and, as appropriate, the payment of budget support. Support will be provided in the form of untargeted budget support, which will be received into the Governments Consolidated Budget. The budget support will help to facilitate implementation of the Connectivity and Accessibility sector.

The main **activities** being funded are described below:

- Activity 1: Rehabilitation of five Falkland Islands Government Air Service (FIGAS) aircraft BN2 Islander aircraft

These aircrafts serve over 30 domestic aerodromes. They are therefore vital to the rural and tourist economy, especially on West Falkland and on the small islands including Sea Lion, Saunders, Pebble, Bleaker and Carcass Islands, each of which have more than 250 landings per annum. The air access is often the only connectivity means of these remote rural areas. A

¹ http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/index_en.cfm using December 2016 exchange rate 1 EUR = 0.84 GBP

feasibility study by FIGAS has demonstrated that rehabilitation provides the best option for sustaining air services. In addition to new avionics and repainting, improved interiors will enhance passenger comfort, benefitting tourists and other visitors.

The activity will encompass avionics upgrade; internal cabin trim refurbishment and external painting of each aircraft. The work itself is expected to be undertaken over three years (2017 - 2019) via a tendered contract which is an appropriate timescale for funding under the 11th EDF.

– Activity 2: The Aerodrome Towed Fire Appliances project

This activity responds to the safety requirements set by current regulations stipulated by the International Civil Aviation Organisation (ICAO) and Overseas Territories Aviation Requirements. Maintaining the rural aerodromes is key to ensure continuous connectivity of the population living outside Stanley with the capital, since FIGAS flights are often the only mean of transport in these areas. The activity is expected to be implemented during three years and involve procurement of equipment for 28 aerodromes. This activity will be managed by FIGAS and will involve a public procurement tender. As part of efficiency reforms, aerodromes with little usage will be closed.

– Activity 3: Improved connectivity between Stanley and Mount Pleasant Airport (MPA)

This is the most heavily used non-urban road in the Falklands largely unsealed (gravel) and has high maintenance requirements due to its high usage. Sealing the most heavily used sections of this road will have significant environmental benefits through fuel savings, will be safer, require less routine maintenance and provide better driving conditions for Islanders, residents and tourists. The phased improvement programme is prioritised to ensure that the sections with most usage and wear are sealed first (e.g. close to Stanley, in the vicinity of the quarry, where the new asphalt plant is to be located). This project has clear environmental, social and cost-efficiency gains, and can be phased over each year of the 11th EDF programme.

– Activity 4: Purchase and installation of a new asphalt plant

This activity aims to meet both public and private sector needs. This plant will be larger and more technically advanced than the existing elderly plant, facilitating more energy-efficient and higher quality production. The plant will be publically managed. It will be located in a central location, close to the quarry supplying aggregates and well-located to serve key end-user locations.

– Activity 5: Improvements of additional sections of the road network

The road network will receive sustained and prioritised investment to improve its condition. Roads will be maintained on a systematic basis in accordance with Key Performance Indicators agreed with the Public Works Department of the Government, and reported on a regular basis. The Public Works Department utilises the Highways Asset Management Plan to prioritise and maintain the road network in the Falkland Islands. The Highways Asset Management Plan is a tool created to manage road assets and plan future works. Road condition is a Key Performance Indicator for the Public Works Department, with regular reporting. This activity will help the tourists and other visitors get around the islands by roads more easily and farmers deliver livestock (mainly sheep) to the abattoir (part-funded under STABEX) in better condition with animal welfare benefits. This action will help to reduce the

isolation of “Camp” farms, assisting in making rural life more attractive and reducing the imbalances between Stanley and the Islands.

– Activity 6: Construction of culverts at key points of the rural network

This activity aims to reduce the water damage to rural road network. The capital investment in rural roads is largely focusing on constructing culverts to divert water away from the road surface and reduce the rate of deterioration. An investment programme has recently started with a four-year contract being let following a competitive tender. Six to eight culverts will be constructed each year. The Public Works Departments performance in managing this contract and the contractor’s outputs will be utilized as the basis of a variable tranche indicator.

1.2.2 Complementary support

Since the Government has considerable capacity, and has experience in preparing disbursement requests from the EU, complementary support will not be required in this instance except for monitoring and/or evaluation.

1.3 Intervention logic

The sector budget support provided through the 11th EDF will enable the Government of Falkland Islands to contribute in developing its long-term vision for sustainable economic development, while advancing the internal transport and connectivity sector (e.g. improvement of road and national air services provided). The equal access to infrastructure to the inhabitants of Stanley and the rural areas will contribute to ensure equality among inhabitants and enhance the economic development of the territory.

The financial support will enable the Falkland Islands Government to continuously focus on the local transport enhancement, heading toward ensuring rural development of zone outside Stanley while strengthening transport capacities for incoming tourists at the same time.

2 IMPLEMENTATION

2.1 Implementation of the budget support component

2.1.1. Rationale for the amounts allocated to budget support

The amount allocated for budget support component is EUR 5.8 million.

2.1.2. Criteria for disbursement of budget support

a) The general conditions for disbursement of all tranches are as follows:

- Satisfactory progress in the implementation of the National Infrastructure Plan (NIP) and continued credibility and relevance thereof;
- Implementation of a credible stability-oriented macroeconomic policy;
- Satisfactory progress in the improvement of the Public Finance Management ;
- Satisfactory progress with regard to the public availability of timely, comprehensive and sound budgetary information.

b) The specific conditions for disbursement that may be used for variable tranches are the following: implementation of Connectivity and accessibility, namely:

i) Improvements to resilience, reliability and safety of Falkland Islands domestic flights (which serve remote farms and islands in the Falklands through:

- Variable Tranche Indicator 1: FIGAS aircraft rehabilitation;
- Variable Tranche Indicator 2: Domestic aerodrome (airstrip) fire safety improvements;

ii) Improvements to the road network:

- Variable Tranche Indicator 3: Length of Mount Pleasant Airport (MPA) to Stanley Road sealed Per Annum
- Variable Tranche Indicator 4: Installation and operationalisation of new asphalt plant
- Variable Tranche Indicator 5: Maintenance of the Rural Roads Network: Grading of road network;
- Variable Tranche Indicator 6: Improvements to Rural Road network: Number of Culverts completed for the rural road network.

The chosen performance targets and indicators to be used for disbursements will apply for the duration of the programme. However, in duly justified circumstances, the Falkland Islands Government may submit a request to the Commission for the targets and indicators to be changed. The changes agreed to the targets and indicators may be authorised by exchange of letters between the two parties.

In case of a significant deterioration of fundamental values, budget support disbursements may be formally suspended, temporarily suspended, reduced or cancelled, in accordance with the relevant provisions of the financing agreement.

2.1.3. Budget support details

Support will be provided through a combination of fixed and variable tranches and will be non-targeted budget support. There will be three fixed tranches and two variable tranches. The fixed tranches will cover the whole programme and the variable tranches the second and the third year of the programme.

Budget support is provided as direct untargeted budget support to the National Treasury. The crediting of the euro transfers disbursed into Falkland Island Pounds (convertible to GBP sterling at parity) will be undertaken at the appropriate exchange rates in line with the relevant provisions of the financing agreement.

2.2 Implementation modalities for complementary support of budget support

2.2.1 Procurement (direct management)

Subject in generic terms, if possible	Type (works, supplies, services)	Indicative number of contracts	Indicative trimester of launch of the procedure
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Evaluation & Monitoring	Services	1	Q4 2020
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2.3 Scope of geographical eligibility for procurement and grants

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

2.4 Indicative budget

	EU contribution (amount in EUR)
– Budget support - Sector Reform Contract	5 800 000
– First fixed tranche	2 000 000
– Second fixed tranche	1 000 000
– First variable tranche	1 000 000
– Third fixed tranche	1 000 000
– Second variable tranche	800 000
– Evaluation, Monitoring	100 000
Totals	5 900 000

2.5 Organisational set-up and responsibilities

Responsibility for implementing most aspects of the programme lies with the Public Works Department of the Government. Overall responsibility and oversight remains with the Government Secretariat with oversight by the Chief Executive of the Government and the Executive Council who are members of the Legislative Assembly. The Territorial Authorising Officer (TAO) will coordinate monitoring of eligibility conditions and Variable Tranche Indicator collection and reporting.

2.6 Performance monitoring and reporting

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

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for

independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

2.7 Evaluation

Having regard to the nature of the action, a mid-term or final evaluation will not be carried out for this action or its components. The Commission may, during implementation, decide to undertake such an evaluation for duly justified reasons either on its own decision or on the initiative of the partner.

2.8 Communication and visibility

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

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation.

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

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

3 INDICATIVE LIST OF RESULT INDICATORS (FOR BUDGET SUPPORT)

List of indicators is included in the Annex 4 of the programming Document for the Connectivity and Accessibility development of the Falkland Islands - Table of indicators from the National Infrastructure Plan (NIP) utilizing Falkland Island Government Key Performance Indicators (KPIs) where appropriate.

The inputs, the expected direct and induced outputs and all the indicators, targets and baselines included in the list of result indicators are indicative and may be updated during the implementation of the action without an amendment to the financing decision. The table with the indicative list of result indicators will evolve during the lifetime of the action: new columns will be added for intermediary targets (milestones), when it is relevant and for reporting purpose on the achievement of results as measured by indicators.

	Intervention logic	Indicators	Baselines	Targets	Sources and means of verification
Overall objective: Impact	Enhanced connectivity within the Falkland Islands supporting equality of access to economic and social development opportunities across the territory and particularly in the rural areas of the archipelago therefore helping to build economic diversification, and resilience a) Increased number of internal air transport trips	a) Annual numbers of passengers carried on FIGAS flights	a) 6772 (2015)	a) 3% increase by 2020 ²	a) FIGAS Passenger Statistics
	b) Improved internal circulation conditions on the roads, supporting the internal connectivity of the islands.	b) Annual number of road traffic incidents	b) 2015: 59	b) 5% decrease by 2020 ³	b) Royal Falkland Islands Police Statistics

² Target as per FIGAS Business Plan.

³ Target as per Royal Falkland Island Police Business Plan

Specific objective(s): Outcome(s)	a) Improved domestic air services of the Falkland Islands Government Air Service	a) Customer satisfaction with the FIGAS service	a) 87% in 2016	a) 92% by 2020 ⁴	a) FIGAS management Reports
	b) Improved fire safety facilities at rural airfields	b) Annual number of incidents at rural airfields	b) 0 (2015)	b) Safety record maintained – 0 in 2020	b) FIGAS Management Reports
	c) Improved road infrastructure, particularly gravel roads in rural areas, and on the main link between Stanley and Mount Pleasant Airport	c) km of sealed category A roads on East Falkland (excluding Stanley)	c) 6km (2016)	c) 12km by 2020 ⁵	c) Public Works Department management reports

⁴ Target as per FIGAS Business Plan.

⁵ Target as per Highways Management Plan.

Induced outputs	a) Quality and reliability of FIGAS fleet improved	a) Status of rehabilitation programme for FIGAS fleet	a) 0, no rehabilitation prior to programme (2016)	a) No less than 50% of work complete by contract value by 2020	a) FIGAS management reports
	b) Quality and reliability of Aerodrome fire appliances improved	b) Status of replacement programme for aerodrome fire appliances (to meet ICAO requirements)	b) 2016 replacement programme not started.	b) By 2020 replacement programme fully implemented to the quality specified.	b) FIGAS management reports
	c) Improved road access between Stanley Mount Pleasant Airport (MPA)	c) Kms of road rehabilitated to sealed condition (EPRR consistent indicator)	c) 0 (2016)	c) 6km by 2020	c) Public Works Department (PWD) management reports
	d) Better quality rehabilitated roads available to FIG and private sector thanks to energy efficient asphalt plant	d) Extent to which the new asphalt plants permits high quality road construction	d) New plant not functioning (2015)	d) Plant functioning effectively and able to provide quality asphalt on to schedule by 2018.	d) Public Works Department (PWD) management reports
	e) Rural roads maintained efficiently and effectively	e) Number of kms of rural road graded in accordance with targets	e) 52% of category C roads graded annually in 2015	e) 75% of category C roads graded annually by 2020	e) Public Works Department KPI report
	f) Reduced water damage to roads	f) Annual number of culvert constructions performed	f) 0 in 2016	f) 12 by 2020	f) PWD reports.

Direct outputs	a) FIGAS fleet rehabilitation achieved	a) Percentage (in value terms) of rehabilitation work (consisting of avionics structure upgrade, cabin trim refurbishment and external painting) completed.	a) 0% in 2015	a) 50% of work complete by 2020	a) FIGAS management reports
	b) Aerodrome fire tenders replaced	b) Number of Fire tenders specified, tendered, procured and installed	b) 0 in 2016	b) 24 by 2020	b) FIGAS management reports Contract and supply (delivery note) documentation
	c) Seal sections of Stanley and MPA airport road that are currently unsealed	c) Length (in kms) of MPA road (that is unsealed at the beginning of the 11 th EDF programme) that is sealed each year.	c) 0 in 2016 - the definition used only relates to ungraded sections in the baseline year	c) Minimum of 1.5 kms sealed per year – 6km by 2020	c) PWD reports
	d) Asphalt plant procured and operational	d) Status of installation of new asphalt plant	d) No new asphalt plant (2016)	d) Plant fully installed and operational by 2018	d) PWD reports
	e) Rural roads maintained in good condition	e) **Number of kms of rural roads maintained and frequency of maintenance. (EPRR indicator)	e) Category C Roads 197km graded annually in 2015	e) Category C Roads 285km graded annually by 2020	e) PWD operational reports on Key Performance Indicators
	f) Improvements in rural roads drainage through construction of culverts	f) Number of culverts built in East and West Falkland per year	f) Baseline set at zero, i.e. excludes culverts constructed prior to this programme.	f) Minimum of 4 culverts to be constructed each year.	f) PWD reports

APPENDICES

1. Appendix 1- Disbursement arrangements and timetable
2. Appendix 2 - Performance indicators for disbursement
3. Appendix 3 - Indicator documentation sheets

APPENDIX 1 – DISBURSEMENT ARRANGEMENTS AND TIMETABLE

1. General conditions for the disbursement of each tranche

The general conditions set out below for the disbursement of each tranche shall apply to the disbursement of all tranches and all tranche release requests must be accompanied by all appropriate information and documents.

Table 1: General conditions for the release of tranches

Area	Conditions	Verification source
Public Policy	Satisfactory progress in the implementation of the National Infrastructure Plan (NIP) and continued credibility and relevance thereof	Regular monitoring reports made by the Falkland Islands Government to demonstrate progress with implementation of the National Infrastructure Plan.
Macroeconomic stability	Implementation of a credible and relevant stability-oriented macroeconomic policy	Economic Development Strategy Action Plan monitoring report and Budget monitoring report including: Medium-Term Expenditure Framework (MTEF) Financial reserves and planned adjustments All, as per Budget Book.
Public financial management	Satisfactory progress in the improvement of the Public Finance Management	Update of the implementation of the PFM Action Plan. The report of the external auditors should be submitted by the Falkland Islands Government together with an assessment of what follow-up government has made in light of the observations and recommendations of the external auditors.
Budget Transparency	Satisfactory progress with regard to the public availability of timely, comprehensive and sound budgetary information.	Published government documents and government website. Public consultations reported on government websites and in Penguin

		News.
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2. Specific conditions for the disbursement of the variable tranches

The chosen performance targets and indicators to be used for disbursements will apply for the duration of the programme. However, in duly justified circumstances, the Falkland Islands Government may submit a request to the Commission for the targets and indicators to be changed. The changes agreed to the targets and indicators may be authorised by exchange of letters between the two parties.

In case of a significant deterioration of fundamental values, budget support disbursements may be formally suspended, temporarily suspended, reduced or cancelled, in accordance with the relevant provisions of the financing agreement.

Table C: Specific conditions for the disbursement of tranches

Tranche	Amount	Indicative date of the disbursement request	Indicative disbursement date	Conditions/criteria/ activities for disbursement	Verification source
First Variable tranche	1 million EUR	December 2018	February 2019	1. EU Indicator 1: FIGAS aircraft rehabilitation 2. EU Indicator 3: Length of MPA Road sealed Per Annum 3. EU Indicator 4: Installation and operationalization of new asphalt plant 4. EU Indicator 5: East and West Falklands Rural Roads Maintenance 5. EU Indicator 6: Number of Culverts completed for the rural road network	FIGAS management reports PWD reports DPW operational reports DPW operational reports PWD reports
Second Variable tranche	0.8 million EUR	December 2019	February 2020	1. EU Indicator 1: FIGAS aircraft rehabilitation 2. EU Indicator 2: Domestic aerodrome (airstrip) fire safety	FIGAS management reports FIGAS management reports

				improvements	
				3. EU Indicator 3: Length of MPA Road sealed Per Annum	PWD reports
				4. EU Indicator 5: East and West Falklands Rural Roads Maintenance	DPW operational reports
				5. EU Indicator 6: Number of Culverts completed for the rural road network	PWD reports

3. Indicative disbursement timetable

An indicative timetable is given below:

Fiscal Year/ Type of Tranche	2017/18	2018/19	2019/20	2020/21	Total
Fixed tranches	2.0	1.0	1.0	0	4.0
Variable tranches	0	1.0	0.8	0.0	1.8
Evaluation & Monitoring	0	0	0	0.1	0.1
Total	2.0	2.0	1.8	0.1	5.9

APPENDIX 2 - PERFORMANCE INDICATORS FOR DISBURSEMENT

Variable tranche	EU indicator number	Indicator	Fiscal Year	Target achievement			Weight	Verification source
				1	0.5	0		
1	EU 1	FIGAS aircraft rehabilitation	2018/19	By June 2018: at least 25% of work completed by contract value (based on contract execution reports)	-	Less than 25% of work completed by contract value (based on contract execution reports)	20%	FIGAS management reports
1	EU3	Length of MPA Road sealed Per Annum	2018/19	≤ 2km per year	≤ 1-2km per year	Less than 1 km per year	20%	PWD reports
1	EU4	Installation and operationalization of new asphalt plant	2018/19	Plant installed and operational by December 2017	-	Plant not operational by December 2017	20%	DPW reports
1	EU5	East and West Falklands Rural Roads Maintenance (Category C roads)	2018/19	≤ 228-285 km maintained (80-100% of KPI achieved ⁶)	≤ 172-227 km maintained (60-79% of KPI achieved)	Less than 171 km maintained (less than 60% of KPI achieved)	20%	DPW reports
1	EU 6	Number of Culverts completed for the rural road network	2018/19	6 culverts per year	4-5 culverts per year	Less than 4 culverts per year	20%	PWD reports

⁶ Key Performance Indicator of the Category C Roads (380 km) – 75% of the roads graded once a year = 75% of 380km graded once a year = 285 km.

Variable tranche	Ind No.	Indicator	Fiscal Year	Target achievement			Weight	Verification source
				1	0.5	0		
2	EU 1	FIGAS aircraft rehabilitation	2019/2020	By June 2019: At least 50% of work completed by contract value (based on contract execution reports)	-	Less than 50% of work completed by contract value (based on contract execution reports)	20%	FIGAS management reports
2	EU 2	Domestic aerodrome (airstrip) fire safety improvements	2019/2020	6 units per year	4-5 units per year	Less than 4 units per year	20%	FIGAS management reports
2	EU3	Length of MPA Road sealed Per Annum	2019/2020	≤ 2km per year	≤ 1-2km per year	Less than 1 km per year	20%	PWD reports
2	EU5	East and West Falklands Rural Roads Maintenance (Category C roads)	2019/2020	≤ 228-285 km maintained (80-100% of KPI achieved ⁷)	≤ 172-227 km maintained (60-79% of KPI achieved)	Less than 171 km maintained (less than 60% of KPI achieved)	20%	DPW reports
2	EU 6	Number of Culverts completed for the rural road network	2019/2020	6 culverts per year	4-5 culverts per year	Less than 4 culverts per year	20%	PWD reports

⁷ Key Performance Indicator of the Category C Roads (380 km) – 75% of the roads graded once a year = 75% of 380km graded once a year = 285 km.

APPENDIX 3: INDICATOR DOCUMENTATION SHEETS

EU Variable Tranche Indicator 1: FIGAS aircraft rehabilitation

Indicator	EU 11th EDF Indicator
<p>Description</p> <p>Measurement unit</p> <p>Definition</p> <p>Composition</p> <p>Decomposition</p>	<p>Rehabilitation of FIGAS domestic aircraft fleet of five aircraft</p> <p>Physical progress reports for 3 components:</p> <ul style="list-style-type: none"> · Avionics upgrade · Internal Cabin Trim refurbishment · External Painting of all FIGAS fleet <p>Output indicator</p> <p>Defined by contract performance</p> <p>-</p>
<p>Development and quality</p> <p>Source</p> <p>Responsible for collection and/or calculation</p> <p>Method of calculation</p> <p>Periodicity of measurement</p> <p>Period measured</p> <p>Delivery date</p> <p>Baseline year</p> <p>Targets</p>	<p>FIGAS management reports</p> <p>FIGAS management team</p> <p>Financial/procurement management reports</p> <p>Not less than annual</p> <p>1st July year – 30th June</p> <p>July annually as part of KPI reports to ExCo.</p> <p>2016: No work undertaken to undertake physical rehabilitation works (although specification of requirements completed).</p> <p>June 2017: contract(s) for rehabilitation works signed</p> <ul style="list-style-type: none"> • End June 2018: At least 25% of work completed by contract value (based on contract execution reports) • End June 2019: At least 50% of work completed by contract value (based on contract execution reports)
<p>Comments</p> <p>Known limits and bias</p> <p>Improvement in progress</p>	<p>None identified: subject to national performance and financial audit reports.</p> <p>Not applicable.</p>

EU Variable Tranche Indicator 2: Domestic aerodrome (airstrip) fire safety improvements

Indicator	EU 11 th EDF Indicator
Description Measurement unit Definition Composition Decomposition	Aerodrome Fire Appliances procured and installed Input indicator Number of units procured and installed As per agreed schedule reported in Table 5 above
Development and quality Source Responsible for collection and/or calculation Method of calculation Periodicity of measurement Period measured Delivery date Baseline year Targets	FIGAS Management reports FIGAS Management Contract and supply (delivery note) documentation Annually 1 st July year N – 30 th June year N+1 July 2018 (to be reported Q2 2018/19); June 2019 (to be reported Q2 2019/20) 2016: none procured; therefore indicator set to zero Target achievement per year: <ul style="list-style-type: none"> • 6 units procured and installed: 100% target achievement • 4-5 units procured and installed: 50% target achievement • Less than 4 procured and installed: 0% target achievement
Comments Known limits and bias Improvement in progress	None identified

EU Variable Tranche Indicator 3: Length of MPA Road sealed Per Annum

Indicator	EU 11 th EDF Indicator
Description Measurement unit Definition Composition Decomposition	Length of MPA Road (Stanley to Mount Pleasant Airport) sealed Kilometres Output indicator Distance of road: 43 kms Kms or part of Km sealed to a minimum depth of 60mm asphalt.
Development and quality Source Responsible for collection and/or calculation Method of calculation Periodicity of measurement Period measured Delivery date Baseline year Targets	Public Works Department Highways reports (potentially a Key Performance Indicator) PWD Management reports Annual (although PWD reports quarterly against its KPI targets) 1 st July – 30 th June July annually 2016 Target achievement per year <ul style="list-style-type: none"> • ≤2km per year: 100% target achievement • ≤1-2km per year: 50% target achievement • Less than 1 km per year: 0% target achievement
Comments Known limits and bias Improvement in progress	No bias identified Minimum construction standards to be adhered to.

EU Variable Tranche Indicator 4: Installation and operationalization of new asphalt plant

Indicator	EU 11 th EDF Indicator
<p>Description</p> <p>Measurement unit</p> <p>Definition</p> <p>Composition</p> <p>Decomposition</p>	<p>Plant procured by PWD to provide asphalt to a high quality with increased energy efficiency</p> <p>Plant procured, installed, operatives trained and production started</p> <p>Input indicator</p> <p>One plant and associated installation (e.g. power supply, hardstanding etc.)</p> <p>NA</p>
<p>Development and quality</p> <p>Source</p> <p>Responsible for collection and/or calculation</p> <p>Method of calculation</p> <p>Periodicity of measurement</p> <p>Delivery date</p> <p>Baseline year</p> <p>Targets</p>	<p>PSD</p> <p>DPW Operational reports</p> <p>DPW</p> <p>Not applicable</p> <p>Once only: plant functioning</p> <p>April 2018, (to be reported Q2 2018/19)</p> <p>2016: existing obsolete plant only functioning resource</p> <ul style="list-style-type: none"> • Plant installed and operational by April 2018: 100% target achievement • Plant not operational by April 2018: 0% target achievement
<p>Comments</p> <p>Known limits and bias</p> <p>Improvement in progress</p>	<p>None identified</p> <p>Energy efficiency gains</p>

EU Variable Tranche Indicator 5: East and West Falklands Rural Roads Maintenance

Indicator	EU 11 th EDF Indicator
<p>Description</p> <p>Measurement unit</p> <p>Definition</p> <p>Composition</p> <p>Decomposition</p>	<p>Annual Road Grading</p> <p>Key Performance Indicators as per FIG targets</p> <p>Category A Roads (203 km) – 100% of the roads graded twice a year (203 km).</p> <p>Category B Roads (270 km) – 90% of the roads graded once a year (243 km).</p> <p>Category C Roads (380 km) – 75% of the roads graded once a year (285 km).</p> <p>Road grading</p> <p>Outcome Indicator</p> <p>Grading (and where necessary addition of fill materials)</p>
<p>Development and quality</p> <p>Source</p> <p>Responsible for collection and/or calculation</p> <p>Method of calculation</p> <p>Periodicity of measurement</p> <p>Period measured</p> <p>Delivery date</p> <p>Baseline year</p> <p>Targets</p>	<p>Key Performance Indicator: Management Reports</p> <p>PWD Highways team</p> <p>Timesheets and Highways Asset Management Plan (HAMP) reports</p> <p>Annually</p> <p>1st July – 30th June</p> <p>For this purpose July each year (for variable tranche assessment)</p> <p>2016 (ongoing)</p> <p>Annual Target Achievement</p> <ul style="list-style-type: none"> • ≤ 228-285 km graded (80-100% of KPI achieved) amounts to 100% target achievement • ≤ 172-227 km graded (60-79% of KPI achieved) amounts to 50% target achievement • ≤ 171 km graded (less than 60% of KPI achieved) amount to 0% target achievement
<p>Comments</p> <p>Known limits and bias</p> <p>Improvement in progress</p>	<p>None identified.</p>

EU Variable Tranche Indicator 6: Number of Culverts completed for the rural road network

Indicator	EU 11 th EDF Indicator
<p>Description</p> <p>Measurement unit</p> <p>Definition</p> <p>Composition</p> <p>Decomposition</p>	<p>Culverts constructed as a total for East and West Falkland</p> <p>Physical output</p> <p>Output indicator</p> <p>Public works</p>
<p>Development and quality</p> <p>Source</p> <p>Responsible for collection and/or calculation</p> <p>Method of calculation</p> <p>Periodicity of measurement</p> <p>Period measured</p> <p>Delivery date</p> <p>Baseline year</p> <p>Targets</p>	<p>Verified contractor's reports</p> <p>PWD Highways team</p> <p>Progress reports; procurement and contract management reports</p> <p>As per works, but not less than once per annum</p> <p>1st July – 30th June</p> <p>July each year (for variable tranche assessment)</p> <p>2016</p> <p>Annual Target achievement</p> <ul style="list-style-type: none"> • 6 culverts per year amounts to 100% target achievement • 4-5 culverts per year amounts to 50% target achievement • Less than 4 culverts per year amounts to 0% target achievement
<p>Comments</p> <p>Known limits and bias</p> <p>Improvement in progress</p>	<p>Although this is an output indicator, water flow and lack of roads drainage is a key cause of deterioration of roads, therefore investment in culverts will lead to improved roads (an outcome indicator)</p> <p>NA</p>

ANNEX II - GENERAL CONDITIONS

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

Article 1 - General principles

- 1.1 The purpose of Part One is to define the tasks entrusted to the Partner in indirect management as described in Annex I (Technical and Administrative Provisions) and to define the rights and

obligations of the Partner and of the Commission in carrying out these tasks.

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

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

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

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

- Under Partial delegation, the Partner acts as contracting authority for procurement contracts and grant contracts, whereby the Commission controls ex ante all award procedures and executes all related payments to the contractors and grant beneficiaries;
- Under the Imprest component of a programme estimate, the Partner acts as contracting authority for procurement and grant contracts, whereby it may, up to established thresholds, conduct procurement and grant award procedures without or with limited ex ante control of the Commission and execute payments to the contractors and grant beneficiaries, as well as in the context of direct labour.
- Under a Partner managed Pool fund, the Partner acts as contracting authority for procurement contracts and grant contracts, whereby the Commission does not control ex ante any award procedure and the Partner executes all related payments to the contractors and grant beneficiaries.

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

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

1.2 The Partner shall remain responsible for the fulfilment of the obligations stipulated in this

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

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

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

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

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

- 1.4 Outside the cases where the Partner applies its own (including in the case of a Pool Fund, those agreed upon by the Pool Fund's donors) procedures and standard documents for the award of procurement contracts and grant contracts, the Partner shall conduct the award procedures and conclude the resulting contracts and agreements in the language of this Financing Agreement.
- 1.5 The Partner shall take the necessary measures to ensure the visibility of EU funding for the activities entrusted to it or for other activities under this action. These measures shall either be defined in Annex I (Technical and Administrative Provisions) or shall be agreed later between the Partner and the Commission.

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

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

Procurement procedures:

- a. Forecast notice with proof of publication of the procurement notice and any corrigenda
- b. Appointment of shortlist panel
- c. Shortlist report (incl. annexes) and applications
- d. Proof of publication of the shortlist notice
- e. Letters to non-shortlisted candidates
- f. Invitation to tender or equivalent
- g. Tender dossier including annexes, clarifications, minutes of the meetings, proof of publication
- h. Appointment of the evaluation committee
- i. Tender opening report, including annexes
- j. Evaluation / negotiation report, including annexes and bids received¹
- k. Notification letter
- l. Supporting documents
- m. Cover letter for submission of contract
- n. Letters to unsuccessful candidates
- o. Award / cancellation notice, including proof of publication
- p. Signed contracts, amendments, riders and relevant correspondence

Calls for proposals and direct award of grants:

- a. Appointment of the evaluation committee
- b. Opening and administrative report including annexes and applications received²
- c. Letters to successful and unsuccessful applicants following concept note evaluation
- d. Concept note evaluation report
- e. Evaluation report of the full application or negotiation report with relevant annexes
- f. Eligibility check and supporting documents
- g. Letters to successful and unsuccessful applicants with approved reserve list following full application evaluation
- h. Cover letter for submission of grant contract
1. Award/cancellation notice with proof of publication
- j. Signed contracts, amendments, riders and relevant correspondence.

¹ Elimination of unsuccessful bids five years after the closure of the procurement procedure

² Elimination of unsuccessful applications three years after the closure of the grant procedure.

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

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

- a) Prevent any unauthorised person from gaining access to computer systems performing such operations, and especially unauthorised reading, copying, alteration or removal of storage media; unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored information;
- b) Ensure that authorised users of an IT system performing such operations can access only the information to which their access right refers;
- c) Design its organisational structure in such a way that it meets the above requirements.

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

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

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

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

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

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

- 2.2 However, the following transactions may be signed at any time during the operational implementation phase:
- a. amendments to procurement contracts and grant contracts already signed;
 - b. individual procurement contracts to be concluded after early termination of existing procurement contracts;
 - c. contracts relating to audit and evaluation, which may also be signed during the closure

phase;

d. operating costs referred to in Article 5.1;

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

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

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

Article 3 – Exclusion and administrative sanctions

3.1 Exclusion criteria

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

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

- that no EU financed procurement or grant contract is awarded to an economic operator or grant applicant who either itself, or a person having powers of representation, decision making or control over it,
 - a) is bankrupt, subject to insolvency or winding-up procedures or in any analogous situation arising from a similar procedure provided for under national laws or regulations;
 - b) is by final judgment or final administrative decision declared to be in breach of its obligations relating to the payment of taxes or social security contributions.
 - c) is by final judgment or final administrative decision declared to be guilty of grave professional misconduct;
 - d) is by final judgment declared to be guilty of fraud, corruption, participation in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings;
 - e) has shown significant deficiencies in complying with main obligations in the performance of an EU financed contract;
 - f) is by final judgment or final administrative decision declared to have committed an irregularity affecting the EU's financial interest.

- 3.1.2 When applying its own (including, in the case of a Pool Fund, those agreed upon by the Pool Fund's donors) procedures and standard documents for the award of procurement and grant contracts, the Partner shall adopt measures, in accordance with its own national legislation, to ensure that no EU financed procurement or grant contract is awarded to an economic operator or grant applicant who is in one of the situations referred to in Article 3.1.1, 1st indent, a), Article 3.1.1, 2nd indent, d) and Article 3.1.1, 2nd indent, f).

The Partner may take into account, as appropriate and on its own responsibility, the information contained in the Commission's Early Detection and Exclusion System when awarding procurement and grant contracts. Access to the information can be provided through the liaison point(s) or via consultation to the Commission (European Commission, Directorate-General for Budget, Accounting Officer of the Commission, BRE2-13/505, B-1049 Brussels, Belgium and by email to BUDG-C01-EXCL-DB@ec.europa.eu in copy to the Commission address identified in Article 3 of the Special Conditions). The Commission may refuse payments to a contractor or grant beneficiary in an exclusion situation.

3.2 Information duty

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

3.3 Administrative sanctions

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

With respect to the first paragraph, the Partner is considered in failure to act, among others, where:

- the Partner's national legislation does not allow to impose an exclusion and/or a financial penalty,
- the protection of the EU's financial interests requires to impose an administrative sanction within deadlines incompatible with the Partner's internal procedures,
- the imposition of an administrative sanction requires a mobilisation of resources beyond the Partner's means,
- its national legislation does not allow to exclude an economic operator from all EU financed award procedures.

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

Article 4 - Partial delegation

Award procedures

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

Ex ante control

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

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

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

Report

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

Payment procedures

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

(a) for pre-financing specified in the procurement contract and grant contract:

- (i) 15 calendar days for an action financed under the Budget;
- (ii) 30 calendar days for an action financed under the EDF;

b) 45 calendar days for other payments

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

4.5 Upon receipt of a payment request from a contractor or grant beneficiary, the Partner shall

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

- 4.6 Upon receipt of an admissible payment request, the Partner shall examine whether a payment is due, i.e. whether all contractual obligations justifying the payment have been fulfilled, including examining a report, where applicable. If the Partner concludes that a payment is not due, it shall inform the contractor or grant beneficiary thereof and of the reasons. The dispatch of this information suspends the time-limit for payment. The Commission shall receive a copy of the information so dispatched. The Commission shall also be informed of the reply or corrective action of the contractor or grant beneficiary. That reply or action aimed at correcting the non-compliance with its contractual obligations shall restart the time-limit for payment. The Partner shall examine this reply or action pursuant to this paragraph.
- 4.7 If the Commission disagrees with the Partner's conclusion that a payment is not due, it shall inform the Partner thereof. The Partner shall re-examine its positions and, if it concludes that the payment is due, it shall inform thereof the contractor or grant beneficiary. The suspension of the time-limit for payment shall be lifted upon dispatch of this information. The Partner shall also inform the Commission. The Partner shall further proceed as provided for in Article 4.8.

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

- 4.8 Where the Partner concludes that the payment is due, it shall transfer the payment request and all necessary accompanying documents to the Commission for approval and payment. It shall provide an overview of how many days of the time-limit for payment are left and of all periods of suspension of this time-limit.
- 4.9 After transfer of the payment request pursuant to Article 4.8, if the Commission concludes that the payment is not due, it shall inform the Partner and, in copy, the contractor or grant beneficiary thereof and of the reasons. Informing the contractor or grant beneficiary shall have the effect of suspending the time-limit for payment, as provided for in the contract concluded. A reply or corrective action of the contractor or grant beneficiary shall be treated by the Partner in accordance with Article 4.6.
- 4.10 Where the Partner and the Commission conclude that the payment is due, the Commission shall execute the payment.
- 4.11 Where late-payment interest is due to the contractor or grant beneficiary, it shall be allocated between the Partner and the Commission pro rata to the days of delay in excess of the time limits stipulated in Article 4.4, subject to the following:

- (a) the number of days used by the Partner is calculated from the date of the registration of an admissible payment request referred to in Article 4.6 to the date of the transfer of the request to the Commission referred to in Article 4.8 and from the date of information by the Commission referred to Article 4.9 to the following transfer of the request to the Commission referred to in Article 4.8. Any period of suspension of the time-limit for payment shall be deducted.
 - (b) the number of days used by the Commission is calculated from the date following that of transfer of the request by the Partner referred to in Article 4.8 to the date of payment and from the date of transfer to the date of informing the Partner pursuant to Article 4.9.
- 4.12 Any circumstances unforeseen by the above procedure shall be solved in a spirit of cooperation between the Partner and the Commission by analogy to the above provisions while respecting the contractual relations of the Partner with the contractor or grant beneficiary.
- Where feasible, one party shall cooperate at the request of the other party in providing useful information for the assessment of the payment request, even before the payment request is formally transferred to or returned from the first party.
- 4.13 A procurement contract or grant contract which has not given rise to any payment within two years of its signature shall be automatically terminated and its funding shall be decommitted, except in case of litigation before judicial courts or arbitral bodies.

Article 5 - Imprest component of the programme estimate

Application

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

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

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

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

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

Under the Imprest component of the programme estimate, the implementing body may, up to

established thresholds, conduct procurement and grant award procedures without or with limited ex ante control of the Commission and execute payments to the contractors and grant beneficiaries, as well as in the context of direct labour.

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

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

Award procedures

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

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

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

Ex ante control

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

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

Management declaration

5.4 The Partner shall submit to the Commission annually, by the date stipulated in Article 6 of the

Special Conditions, a management declaration signed by the Partner using the template in Annex IV.

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

Payments

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

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

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

- 5.6 The Commission shall make payments to a bank account opened at a financial institution accepted by the Commission.
- 5.7 The Partner shall guarantee that funds paid by the Commission can be identified in this bank account.
- 5.8 Transfers in euro shall, if necessary, be converted into the Partner's national currency as and when payments have to be made by the Partner, at the bank rate in force on the day of payment by the Partner.
- 5.9 The Imprest component of the programme estimate which has not given rise to any payment to the Partner within two years of the conclusion of the programme estimate shall be automatically terminated, and its funding shall be decommitted. For actions financed under the EDF, an extension of that deadline may be stipulated in Article 6 of the Special Conditions.

Article 6 – Pool Fund managed by the Partner

Application

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

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

Award procedures

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

Implementation

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

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

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

The locality of a natural person shall be a region at NUTS2 level. The locality of a legal person shall be its address.

If such internet publication is impossible, the information shall be published by any other appropriate means, including the official journal of the Partner.

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

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

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

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

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

- 7.3 Publication of the procurement and grant contracts concluded (i.e. signed by the Partner and the contractor or grant beneficiary) during the reporting period shall take place within six months following the date for submitting the report pursuant to Article 6 of Special Conditions.
- 7.4 Publication of contracts may be waived if such publication risks harming the commercial interests of contractors or grant beneficiaries. The Partner shall present a list with such justifications to the Commission which must grant prior authorisation to such publication waiver.
- 7.5 Where the Commission carries out payments to contractors or grant beneficiaries pursuant to Article 4, it shall ensure the publication of information on procurement contracts and grant contracts according to its rules.

Article 8 - Recovery of funds

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

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

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

amount owed by the contractor or grant beneficiary against any of its claims against the EU and by forced recovery before the competent courts.

- 8.3 To this end, the Partner shall provide to the Commission all the documentation and information necessary. The Partner hereby empowers the Commission to carry out the recovery in particular by calling on a guarantee of a contractor or grant beneficiary of which the Partner is the contracting authority or by offsetting the funds to be recovered against any amounts owed to the contractor or grant beneficiary by the Partner as contracting authority and financed by the EU under this or another Financing Agreement or by forced recovery before the competent courts.
- 8.4 The Commission shall inform the Partner that the recovery proceedings have been initiated (including where necessary before a national court).
- 8.5 Where the Partner is a grant beneficiary, subdelegatee or implementing partner of an entity with which the Commission concluded a delegation agreement, the Commission may recover funds from the Partner which are due to the entity but which the entity was not able to recover itself.

Article 9 - Financial claims under contracts and agreements

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

Article 10 - Cost overruns and ways of financing them

- 10.1 Individual overruns of the budget headings of the activities implemented by the Partner shall be dealt with by reallocating funds within the overall budget, in accordance with Article 25 of these General Conditions.
- 10.2 Wherever there is a risk of overrunning the amount foreseen for the activity implemented by the Partner, the Partner shall immediately inform the Commission and seek its prior authorisation for the corrective activities planned to cover the overrun, proposing either to scale down the activities or to draw on its own or other non-EU resources.
- 10.3 If the activities cannot be scaled down, or if the overrun cannot be covered either by the Partner's own resources or other resources, the Commission may, at the Partner's duly substantiated request, decide to grant additional EU financing. Should the Commission take such a decision, the excess costs shall be financed, without prejudice to the relevant EU rules and procedures, by the release of an additional financial contribution to be set by the Commission. This Financing Agreement shall be amended accordingly.

Part Two: Provisions Applicable to Budget Support

Article 11 - Policy dialogue

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

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

Article 12 - Verification of conditions and disbursement

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

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

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

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

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

Article 13 - Transparency of budget support

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

Article 14 - Recovery of budget support

All or part of the budget support disbursements may be recovered by the Commission, with due respect to the principle of proportionality, if the Commission establishes that payment has been vitiated by a serious irregularity attributable to the Partner, in particular if the Partner provided unreliable or incorrect information, or if corruption or fraud was involved.

Part Three: Provisions Applicable to this Action as a Whole, Irrespective of the Management Mode

Article 15 - Execution period and contracting deadline

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

- an operational implementation phase, in which the operational activities of the action are carried out. This phase shall start on the entry into force of this Financing Agreement or on the date stipulated in the Special Conditions and end with the opening of the closure phase.
- a closure phase, during which final audit and evaluation are carried out and contracts and the programme estimate for the implementation of this Financing Agreement are technically and financially closed. The duration of this phase is stipulated in Article 2.3 of the Special Conditions. It starts after the end of the operational implementation phase.

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

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

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

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

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

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

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

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

The Partner agrees to the Commission, OLAF and the European Court of Auditors conducting

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

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

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

- 16.3 The checks and audits described above shall also apply to contractors, grant beneficiaries and subcontractors who have received EU financing.
- 16.4 The Partner shall be notified of on the spot missions by agents appointed by the Commission, OLAF or the European Court of Auditors.

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

- 17.1 The Partner shall immediately inform the Commission of any element brought to its attention which arouses suspicions of irregularities, fraud or corruption and of any measure taken or planned to deal with them.
- 17.2 The Partner shall ensure and check regularly that the actions financed from the budget are effectively carried out and implemented correctly. It shall take appropriate measures to prevent, detect and correct irregularities and fraud and where necessary, bring prosecutions and recover funds unduly paid.

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

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

- the use or presentation of false, incorrect or incomplete, statements or documents which has as its effect the misappropriation or wrongful retention of funds from the general budget of the EU or the EDF;

- non-disclosure of information in violation of a specific obligation, with the same effect;
- the misapplication of such funds for purposes other than those for which they are originally granted.

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

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

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

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

Article 18 - Suspension of payments

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

- a) the Commission has established or has serious concerns that, on the basis of information it received, and needs to verify, the Partner has committed substantial errors, irregularities or fraud in the procurement and grant award procedure or in the implementation of the action, or the Partner has failed to comply with its obligations under this Financing Agreement, including obligations regarding the implementation of the Communication and Visibility plan;
- b) the Commission has established or has serious concerns that, on the basis of information it received, and needs to verify, the Partner has committed systemic or recurrent errors, irregularities, fraud or breach of obligations under this or other Financing Agreements, provided that those errors, irregularities, fraud or breach of obligations have a material impact on the implementation on this Financing Agreement or call into question the reliability of the Partner's internal control system or the legality and regularity of the underlying expenditure;
- c) the Commission suspects that the Partner committed substantial errors, irregularities, fraud or breach of obligations in the procurement and grant award procedure or in the implementation of the action and needs to verify whether they have occurred.
- d) it is necessary to prevent significant damage to the financial interests of the EU.

- 18.2 The Commission shall immediately inform the Partner about the suspension of payments and of the reasons for this suspension.
- 18.3 The suspension of payments shall have the effect of suspending payment time-limits for any payment request pending.
- 18.4 In order to resume payments the Partner shall endeavour to remedy the situation leading to the suspension as soon as possible and shall inform the Commission of any progress made in this respect. The Commission shall, as soon as it considers that the conditions for resuming payments have been met, inform the Partner thereof.

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

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

Article 20 - Right of establishment and residence

- 20.1 Where justified by the nature of the procurement contract or grant contract, the Partner shall entitle natural and legal persons participating in invitations to tender for works, supply or service contracts or calls for proposals and entities expected to be entrusted with implementation tasks identified in Annex I with a provisional right of establishment and residence in the Partner's territory(ies). This right shall remain valid for one month after the contract is awarded.
- 20.2 The Partner shall also entitle procurement contractors and grant beneficiaries, entities entrusted with implementation tasks identified in Annex I (Technical and Administrative Provisions), natural persons whose services are required for the performance of this action and members of their families with similar rights during the implementation of the action.

Article 21 - Tax and customs provisions and foreign exchange arrangements

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

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

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

Article 22 - Confidentiality

- 22.1 The Partner agrees that its documents and data held by an entity with which the Partner is in a contractual relationship regarding them may be forwarded to the Commission by that entity for the sole purpose of implementing this or another Financing Agreement. The Commission shall respect all confidentiality arrangements agreed between the Partner and that entity.
- 22.2 Without prejudice to Article 16 of these General Conditions, the Partner and the Commission shall preserve the confidentiality of any document, information or other material directly related to the implementation of this Financing Agreement that is classified as confidential.
- 22.3 The Parties shall obtain each other's prior written consent before publicly disclosing such information.
- 22.4 The Parties shall remain bound by the confidentiality until five years after the end of the execution period.

Article 23 - Use of studies

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

Article 24 - Consultation between the Partner and the Commission

- 24.1 The Partner and the Commission shall consult each other before taking any dispute relating to the implementation or interpretation of this Financing Agreement further pursuant to Article 28 of these General Conditions.
- 24.2 Where the Commission becomes aware of problems in carrying out procedures relating to management of this Financing Agreement, it shall establish all necessary contacts with the Partner to remedy the situation and take any steps that are necessary.
- 24.3 The consultation may lead to the amendment, suspension or termination of this Financing Agreement.
- 24.4 The Commission shall regularly inform the Partner of the implementation of activities described in Annex I which do not fall under Parts One and Two of these General Conditions.

Article 25 - Amendment of this Financing Agreement

- 25.1 Any amendment of this Financing Agreement shall be made in writing, including an exchange of letters.
- 25.2 If the request for an amendment comes from the Partner, the latter shall submit that request to the Commission at least three months before the amendment is intended to enter into force, except in cases which are duly substantiated by the Partner and accepted by the Commission. In the exceptional cases of an adjustment of the objectives of the action and/or an increase in the

EU contribution, such request shall be submitted at least six months before the amendment is intended to enter into force.

- 25.3 If the adjustment both does not significantly affect the objectives of the activity implemented pursuant to Part One of these General Conditions, and if it concerns matters of detail which do not affect the technical solution adopted, and if it does not include the reallocation of funds, or if it concerns reallocations of funds for an amount equivalent to the amount of the contingency reserve, the Partner shall inform the Commission of the adjustment and its justification in writing as soon as possible and may apply that adjustment.
- 25.4 The use of the contingency reserve provided for an action shall be subject to the Commission's prior written approval.
- 25.5 Where the Commission considers that the Partner ceases to perform satisfactorily the tasks entrusted pursuant to Article 1.1 of these General Conditions and without prejudice to Articles 26 and 27 of these General Conditions, the Commission may decide to retake the tasks entrusted from the Partner in order to continue the implementation of the activities on behalf of the Partner after informing the latter in writing.

Article 26 - Suspension of this Financing Agreement

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

- The Commission may suspend the implementation of this Financing Agreement if the Partner breaches an obligation under this Financing Agreement.
- The Commission may suspend the implementation of this Financing Agreement if the Partner breaches any obligation set under the procedures and standard documents referred to in Articles 1, 4, 5 and 6 of these General Conditions.
- The Commission may suspend this Financing Agreement if the Partner breaches an obligation relating to respect for human rights, democratic principles and the rule of law and in serious cases of corruption.
- This Financing Agreement may be suspended in cases of force majeure, as defined below. "Force majeure" shall mean any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations, not attributable to error or negligence on their part (or the part of their contractors, agents or employees) and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as force majeure. A party shall not be held in breach of its obligations if it is prevented from fulfilling them by a case of force majeure of which the other party is duly informed. A party faced with force majeure shall inform the other party without delay, stating the nature, probable duration and foreseeable effects of the problem, and take any measure to minimise possible damage.
- Neither of the Parties shall be held liable for breach of its obligations under this Financing Agreement if it is prevented from fulfilling them by force majeure, provided it takes

- measures to minimise any possible damage.
- 26.2 The Commission may suspend this Financing Agreement without prior notice.
- 26.3 The Commission may take any appropriate precautionary measure before suspension takes place.
- 26.4 When the suspension is notified, the consequences for the on-going procurement and grant contracts, delegation agreements and programme estimate shall be indicated.
- 26.5 A suspension of this Financing Agreement is without prejudice to the suspension of payments and termination of this Financing Agreement by the Commission in accordance with Article 18 and 27 of the General Conditions.
- 26.6 The parties shall resume the implementation of the Financing Agreement once the conditions allow with the prior written approval of the Commission. This is without prejudice to any amendments of this Financing Agreement which may be necessary to adapt the action to the new implementing conditions, including, if possible, the extension of the implementation period, or the termination of this Financing Agreement in accordance with Article 27.

Article 27 - Termination of this Financing Agreement

- 27.1. If the issues which led to the suspension of this Financing Agreement have not been resolved within a maximum period of 180 days, either party may terminate this Financing Agreement at 30 days' notice.
- 27.2. This Financing Agreement shall be automatically terminated, if no implementing contract has been signed within the deadlines of Article 2.
- 27.3 When the termination is notified, the consequences for the on-going procurement contracts, grant contracts and programme estimate shall be indicated.

Article 28 - Dispute settlement arrangements

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

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

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

arbitrator within 30 days. Failing that, either party may ask the Secretary-General of the Permanent Court of Arbitration to designate the third arbitrator.

- 28.3 Unless the arbitrators decide otherwise, the procedure laid down in the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States shall apply. The arbitrators' decisions shall be taken by a majority within a period of three months.
- 28.4 Each party shall be bound to take the measures necessary for the application of the arbitrators' decision.