ANNEX II
General Conditions applicable to European Community-financed grant contracts for external actions

CONTENTS

General and administrative provisions

ARTICLE 1 - GENERAL OBLIGATIONS 2

ARTICLE 2 - OBLIGATION TO PROVIDE INFORMATION AND FINANCIAL AND NARRATIVE REPORTS 2

ARTICLE 3 - LIABILITY 3

ARTICLE 4 - CONFLICT OF INTERESTS 4

ARTICLE 5 - CONFIDENTIALITY 4

ARTICLE 6 - VISIBILITY 4

ARTICLE 7 - OWNERSHIP/USE OF RESULTS AND EQUIPMENT 5

ARTICLE 8 – EVALUATION/MONITORING OF THE ACTION 5

ARTICLE 9 - AMENDMENT OF THE CONTRACT 5

ARTICLE 10 - ASSIGNMENT 6

ARTICLE 11 - IMPLEMENTATION PERIOD OF THE ACTION, EXTENSION, SUSPENSION, FORCE MAJEURE AND END DATE 6

ARTICLE 12 - TERMINATION OF THE CONTRACT 7

ARTICLE 13 - APPLICABLE LAW AND DISPUTE SETTLEMENT 8

ARTICLE 14 - ELIGIBLE COSTS 9

ARTICLE 15 - PAYMENT AND INTEREST ON LATE PAYMENT 10

ARTICLE 16 - ACCOUNTS AND TECHNICAL AND FINANCIAL CHECKS 14

ARTICLE 17 - FINAL AMOUNT OF FINANCING BY THE CONTRACTING AUTHORITY 16

ARTICLE 18 - RECOVERY 16

GENERAL AND ADMINISTRATIVE PROVISIONS

ARTICLE 1 - GENERAL OBLIGATIONS

1.1. The Beneficiary shall implement the Action under his own responsibility and in accordance with the Description of the Action in Annex I with a view to achieving the objectives laid down therein.

1.2. The Beneficiary shall implement the Action with the requisite care, efficiency, transparency and diligence, in line with best practice in the field concerned and in compliance with this Contract.

For this purpose the Beneficiary shall mobilise all the financial, human and material resources required for full implementation of the Action as specified in the Description of the Action.

1.3. The Beneficiary shall act alone or in partnership with one or more NGOs or other bodies identified in the Description of the Action. He may subcontract a limited portion of the Action. The bulk of the Action must, however, be undertaken by the Beneficiary and, where applicable, his partners.

Partners take part in the implementation of the Action, and the costs they incur are eligible in the same way as those incurred by the Beneficiary.

If implementation of the Action involves the conclusion of contracts by the Beneficiary, the contract-award procedures and rules of nationality and origin set out in Annex IV shall apply.

The Contracting Authority does not acknowledge any contractual link between itself and the Beneficiary's partner(s) or subcontractors. The Beneficiary alone shall be accountable to the Contracting Authority for the implementation of the Action. He shall undertake that the conditions applicable to him under Articles 1, 3, 4, 5, 6, 7, 8, 10, 14, 16 and 17 shall also apply to his partners, and those applicable under Articles 1, 3, 4, 5, 6, 8 and 16 to all his subcontractors. He shall include provisions to that effect as appropriate in his contracts with them.

1.4. The Beneficiary and the Contracting Authority are the only parties (the "Parties") to this Contract. Where the European Commission is not the Contracting Authority, it is not Party to this Contract, which confers on it only the rights and obligations explicitly mentioned therein. Nevertheless it shall endorse the Contract to ensure the financing of the Contracting Authority's grant from the European Communities' budget[1], and the provisions in this Contract on visibility shall apply accordingly.

ARTICLE 2 - OBLIGATION TO PROVIDE INFORMATION AND FINANCIAL AND NARRATIVE REPORTS

2.1. The Beneficiary must provide the Contracting Authority with all required information on the implementation of the Action. To that end, the Beneficiary must draw up interim reports and a final report. These reports shall consist of a narrative section and a financial section and shall conform to the model in Annex VI. They shall cover the Action as a whole, regardless of which part of it is financed by the Contracting Authority. Each

[1] Where a grant is financed by the European Development Fund, any mention of Community financing must be understood as referring to European Development Fund financing.

report must provide a full account of all aspects of the Action's implementation for the period covered. In case where, in accordance with article 15.6, no expenditure verification report is required the Beneficiary has to provide a list detailing each item of expenditure incurred in the period covered by the report, and indicating for each its title, amount, relevant heading in the Budget of the Action and the reference of the justifying document, is annexed to it. The proofs of the transfers of ownership referred to in Art 7.3 are also annexed to the final report.

2.2. The Contracting Authority may request additional information at any time and that information must be supplied within 30 days of the request.

2.3. The reports shall be drafted in the language of the Contract. They shall be submitted to the Contracting Authority at the following intervals:

if payments are made in accordance with option 1 or option 3 of Article 15.1: a single final report shall be forwarded no later than three months after the implementation period as defined in Article 2 of the Special Conditions;

if payments are made in accordance with option 2 of Article 15.1:

– an interim report must accompany every request for payment ;

– the final report shall be forwarded no later than three months after the implementation period as defined in Article 2 of the Special Conditions.

The deadline for submission of the final report is extended to six months where the Beneficiary does not have its headquarters in the country where the Action is implemented.

2.4. Any additional reporting requirement will be set out in the Special Conditions.

2.5. If the Beneficiary fails to supply the Contracting Authority with a final report by the final report deadline laid down in Article 2.3 and fails to furnish an acceptable and sufficient written explanation of the reasons why he is unable to comply with this obligation, the Contracting Authority may terminate the Contract in accordance with Article 12.2 a) and recover the amounts already paid and not substantiated.

Furthermore, where payments are made in accordance with option 2 of Article 15.1 and the Beneficiary fails to present an interim report and a request for payment by the end of each twelve-month period following the date laid down in Article 2.2 of the Special Conditions, the Beneficiary must inform the Contracting Authority of the reasons why he is unable to do so, and provide a summary of progress in the Action. If the Beneficiary fails to comply with this obligation, the Contracting Authority may terminate the Contract in accordance with Article 12.2 a) and recover the amounts already paid and not substantiated.

ARTICLE 3 - LIABILITY

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

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

ARTICLE 4 - CONFLICT OF INTERESTS

The Beneficiary undertakes to take all necessary precautions to avoid conflicts of interests and shall inform the Contracting Authority without delay of any situation constituting or likely to lead to any such conflict.

There is a conflict of interests where the impartial and objective exercise of the functions of any person under this Contract is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with another person.

ARTICLE 5 - CONFIDENTIALITY

Subject to Article 16, the Contracting Authority and the Beneficiary undertake to preserve the confidentiality of any document, information or other material communicated to them in confidence until at least seven years after the final payment. Where the European Commission is not the Contracting Authority it shall still have access to all documents communicated to the Contracting Authority and will maintain the same confidentiality.

ARTICLE 6 - VISIBILITY

6.1. Unless the European Commission agrees or requests otherwise, the Beneficiary must take all necessary steps to publicise the fact that the European Union has financed or co-financed the Action. Such measures must comply with the relevant rules on the visibility of external actions laid down and published by the Commission.

6.2. In particular, the Beneficiary shall mention the Action and the European Union's financial contribution in information given to the final recipients of the Action, in its internal and annual reports, and in any dealings with the media. It shall display the EU logo wherever appropriate.

6.3. Any notice or publication by the Beneficiary concerning the Action, including those given at a conference or seminar, must specify that the Action has received EU funding. Any publication by the Beneficiary, in whatever form and by whatever medium, including the internet, must include the following statement: "*This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of < Beneficiary's name > and can under no circumstances be regarded as reflecting the position of the European Union*."

6.4. The Beneficiary authorises the Contracting Authority and the European Commission (where it is not the Contracting Authority) to publish his name and address, the purpose of the grant, the maximum amount of the grant and rate of funding of the Action's eligible costs, as laid down in the Article 3.2 of the Special Conditions. A derogation

from publication of this information may be granted if it could endanger the Beneficiary or harm his commercial interests.

ARTICLE 7 - OWNERSHIP/USE OF RESULTS AND EQUIPMENT

7.1. Ownership of, and title and intellectual and industrial property rights to, the Action's results, reports and other documents relating to it shall be vested in the Beneficiary.

7.2. Notwithstanding the provisions of Article 7.1 and subject to Article 5, the Beneficiary grants the Contracting Authority (and the European Commission where it is not the Contracting Authority) the right to use freely and as it sees fit all documents deriving from the Action, whatever their form, provided it does not thereby breach existing industrial and intellectual property rights.

7.3. Where the Beneficiary does not have its headquarters in the country where the Action is implemented and unless otherwise specified in the Special Conditions, the equipment, vehicles and supplies paid for by the Budget for the Action must be transferred to any local partners of the Beneficiary and/or the final recipients of the Action, at the latest by the end of the implementation of the Action. Copies of the proofs of transfers of equipments and vehicles, the purchase cost of which was more than 5 000 euros per item, must be attached to the final report. Such proofs must be kept for control in all other cases.

ARTICLE 8 – EVALUATION/MONITORING OF THE ACTION

8.1. If the Commission carries out an interim or ex post evaluation or a monitoring mission, the Beneficiary shall undertake to provide it and/or the persons authorised by it with any document or information which will assist with the evaluation or monitoring mission, and grant them the access rights described in Article 16.2.

8.2. If either Party (or the European Commission) carries out or commissions an evaluation in the course of the Action, it must provide the other Party and the European Commission (or the Parties) with a copy of the evaluation report.

ARTICLE 9 - AMENDMENT OF THE CONTRACT

9.1. Any amendment to the Contract, including the annexes thereto, must be set out in writing in an addendum.

If an amendment is requested by the Beneficiary, he must submit that request to the Contracting Authority one month before the date on which the amendment should enter into force, unless there are special circumstances duly substantiated by the Beneficiary and accepted by the Contracting Authority.

9.2. However, where the amendment to the Budget or Description of the Action does not affect the basic purpose of the Action and the financial impact is limited to a transfer between items within the same main budget heading including cancellation or introduction of an item, or a transfer between main budget headings involving a variation of 15% or less of the amount originally entered (or as modified by addendum) in relation to each concerned main heading for eligible costs, the Beneficiary may amend the budget and inform in writing without delay the Contracting Authority accordingly. This method may not be used to amend the headings for administrative costs or the contingency reserve.

Changes of address, changes of bank account and changes of auditor may simply be notified, although this does not stop the Contracting Authority from opposing the Beneficiary's choice of bank account or auditor.

The Contracting Authority reserves the right to require that the auditor referred to in Article 5.2 of the Special Conditions be replaced if considerations which were unknown when the Contract was signed cast doubt on the auditor's independence or professional standards.

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

ARTICLE 10 - ASSIGNMENT

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

ARTICLE 11 - IMPLEMENTATION PERIOD OF THE ACTION, EXTENSION, SUSPENSION, FORCE MAJEURE AND END DATE

11.1. The implementation period of the Action is laid down in Article 2 of the Special Conditions. The Beneficiary must inform the Contracting Authority without delay of any circumstances likely to hamper or delay the implementation of the Action. The Beneficiary may request an extension of the Action's implementation period no later than one month before it ends. The request must be accompanied by all the supporting evidence needed for its appraisal.

11.2. The Beneficiary may suspend implementation of all or part of the Action if circumstances (chiefly force majeure) make it too difficult or dangerous to continue. The Beneficiary must inform the Contracting Authority without delay and provide all the necessary details. Each Party may terminate the Contract in accordance with Article 12.1. If the Contract is not terminated, the Beneficiary shall endeavour to minimise the time of its suspension and shall resume implementation once circumstances allow, and shall inform the Contracting Authority accordingly.

11.3. The Contracting Authority may request the Beneficiary to suspend implementation of all or part of the Action if circumstances (chiefly force majeure) make it too difficult or dangerous to continue. Each Party may terminate the Contract in accordance with Article 12.1. If the Contract is not terminated, the Beneficiary shall endeavour to minimise the time of its suspension and shall resume implementation once circumstances allow, after obtaining the prior written approval of the Contracting Authority.

11.4. The implementation period of the Action shall be extended by a period equivalent to the length of suspension, without prejudice to any amendment to the Contract that may be necessary to adapt the Action to the new implementing conditions.

11.5. Force majeure shall mean any unforeseeable exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their contractual obligations, is not attributable to error or negligence on their part (or the part of their subcontractors, 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 contractual obligations if it is prevented from fulfilling them by force majeure. Without prejudice to Articles 12.2 and 12.4, the 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.

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

The Contracting Authority shall notify the Beneficiary of any postponement of the end date.

ARTICLE 12 - TERMINATION OF THE CONTRACT

12.1. If a Party believes that the Contract can no longer be executed effectively or appropriately, it shall consult the other Party. Failing agreement on a solution, either Party may terminate the Contract by serving two months' written notice, without being required to pay compensation.

12.2. The Contracting Authority may terminate the Contract, without giving notice and without paying compensation of any kind, where the Beneficiary:

a) fails, without justification, to fulfil any of the obligations incumbent on him and, after being given notice by letter to comply with those obligations, still fails to do so or to furnish a satisfactory explanation within 30 days of sending of the letter;

b) is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

c) has been convicted of an offence concerning professional conduct by a judgement which has the force of res judicata or is guilty of grave professional misconduct proven by any justified means;

d) engages in any act of fraud or corruption or is involved in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests: this also applies to the partners, subcontractors and agents of the Beneficiary;

e) changes legal personality, unless an addendum recording that fact is drawn up;

f) does not comply with Articles 4, 10 and 16;

g) makes false or incomplete statements to obtain the grant provided for in the Contract or provides reports that do not reflect reality.

12.3. The Beneficiary who has made false declarations, has made substantial errors or committed irregularities and fraud, or has been found in serious breach of its contractual obligations may be excluded from all contracts financed by the Contracting authority for a maximum of five years from the date on which the infringement is established, as confirmed following the adversarial procedure with the Beneficiary. This period can be extended to 10 years in the event of a repeated offence within 5 years of the date referred above.

12.4. In the event of termination the Beneficiary shall be entitled to payment of the grant only for the part of the Action carried out, excluding costs connected with current

commitments that would be implemented after termination. For this purpose the Beneficiary shall introduce a payment request and a final report in accordance with Article 2.

12.5. However, in the event of wrongful termination of the Contract by the Beneficiary under Article 12.1 and in the cases specified in points d), e) and g) of Article 12.2, the Contracting Authority may request full or partial repayment of sums already paid from the grant, in proportion to the gravity of the failings in question and after allowing the Beneficiary to submit his observations.

12.6. Prior to, or instead of, terminating the Contract as provided for in this Article, the Contracting Authority may suspend payments as a precautionary measure without prior notice.

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

ARTICLE 13 - APPLICABLE LAW AND DISPUTE SETTLEMENT

13.1. This Contract shall be governed by the law of the Contracting Authority or, where the Contracting Authority is the European Commission, by the European Community law supplemented as appropriate by Belgian law.

13.2. The Parties shall do everything possible to settle amicably any dispute arising between them during implementation of this Contract. To that end, they shall communicate their positions and any solution that they consider possible in writing, and meet each other at either's request. A Party must reply to a request for an amicable settlement within 30 days. Once this period has expired, or if the attempt to reach amicable settlement has not produced agreement within 120 days of the first request, each Party may notify the other that it considers the procedure to have failed.

13.3. In the event of failure to reach an amicable agreement, the dispute may by common agreement of the Parties be submitted to the conciliation of the European Commission if it is not the Contracting Authority. If no settlement is reached within 120 days of the opening of the conciliation procedure, each Party may notify the other that it considers the procedure to have failed.

13.4. In the event of failure of the above procedures, each Party may submit the dispute to the courts of the country of the Contracting Authority, or to the Brussels courts where the Contracting Authority is the European Commission.

FINANCIAL PROVISIONS

ARTICLE 14 - ELIGIBLE COSTS

14.1. Eligible costs are costs actually incurred by the beneficiary of this grant which meet all the following criteria:

a) they are incurred during the implementation of the action as specified in Article 2 of the Special Condition with the exception of costs relating to final reports and expenditure verification. Eventual contracts for goods/services/works used/provided/delivered during the implementation period may have been awarded but not executed by the Beneficiary or his partners before the implementation period of the Action started, provided the provisions of Annex IV were respected. Such costs must be paid for before the final report is finalised.

b) have to be indicated in the estimated overall budget of the action,

c) have to be necessary for the implementation of the action which is the subject of the grant,

d) must be identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary and determined according to the applicable accounting standards of the country where the beneficiary is established and according to the usual cost account practices of the beneficiary,

e) have to be reasonable, justified and comply with the requirements of sound financial management, in particular regarding economy and efficiency,

14.2. Subject to the above and where relevant to the provisions of Annex IV being respected, the following direct costs of the Beneficiary and his partners shall be eligible:

- the cost of staff assigned to the Action, corresponding to actual salaries plus social security charges and other remuneration-related costs; salaries and costs must not exceed those normally borne by the Beneficiary or his partners, as the case may be, unless it is justified by showing that it is essential to carry out the action;

- travel and subsistence costs for staff and other persons taking part in the Action, provided they do not exceed those normally borne by the Beneficiary or his partners, as the case may be. Any flat-rate reimbursement of the subsistence costs must not exceed the rates set out in Annex III, which correspond to the scales published by the European Commission at the time of signing this contract;

- purchase or rental costs for equipment and supplies (new or used) specifically for the purposes of the Action, and costs of services, provided they correspond to market rates;

- costs of consumables;

- subcontracting expenditure;

- costs deriving directly from the requirements of the Contract (dissemination of information, evaluation specific to the Action, audits, translation, reproduction, insurance, etc.) including financial service costs (in particular the cost of transfers and financial guarantees);

14.3. A contingency reserve not exceeding 5 % of the direct eligible costs may be included in the Budget of the Action. It can be used only with the prior written authorisation of the Contracting Authority

14.4. A fixed percentage not exceeding 7% of the total amount of eligible costs of the Action may be claimed as indirect costs to cover the administrative overheads incurred by the Beneficiary for the Action, save where the Beneficiary is in receipt of an operating grant financed from the Communities' budget.. The flat-rate funding in respect of indirect costs does not need to be supported by accounting documents.

Indirect costs are eligible provided that they do not include costs assigned to another heading of the budget of this Contract.

This Article 14.4 does not apply in the case of an operating grant.

14.5. Unless otherwise specified in the Special Conditions, any contributions in kind , which must be listed separately at Annex III, do not represent actual expenditure and are not eligible costs. The contributions in kind may not be treated as co-financing by the Beneficiary. The cost of staff assigned to the Action is not a contribution in kind and may be considered as co-financing in the Budget of the Action when paid by the Beneficiary or his partners.

Notwithstanding to the above, if the Description of the Action foresees the contributions in kind, such contributions have to be provided.

14.6. The following costs shall not be considered eligible:

- debts and provisions for losses or debts;
- interest owed;
- items already financed in another framework;
- purchases of land or buildings, except where necessary for the direct implementation of the Action, in which case ownership must be transferred to the final beneficiaries and/or local partners, at the latest at the end of the action;
- currency exchange losses;
- taxes, including VAT, unless the Beneficiary (or, where applicable, his partners) cannot reclaim and the applicable regulations authorise coverage of taxes;
- credits to third parties.

ARTICLE 15 - PAYMENT AND INTEREST ON LATE PAYMENT

15.1. Payment procedures are set out in Article 4 of the Special Conditions and correspond to one of the three options below:

<u>Option 1: Actions with an implementation period not exceeding 12 months or where the financing provided by the Contracting Authority does not exceed EUR 100 000</u>

The Contracting Authority will pay the grant to the Beneficiary in the following manner:

- pre-financing of 80% of the sum referred to in Article 3.2 of the Special Conditions following the provisions in Article 4.3 of the Special Conditions.

- the balance within 45 days of the Contracting Authority approving the final report in accordance with Article 15.2, accompanied by a request for payment of the balance conforming to the model in Annex V.

Option 2: Actions with an implementation period of more than 12 months and where the financing provided by the Contracting Authority is more than EUR 100 000

The Contracting Authority shall pay the grant to the Beneficiary in the following manner:

- an initial pre-financing instalment of 80% of that part of the estimated budget for the first 12 months financed by the Contracting Authority, as specified in Article 4 of the Special Conditions, following the provisions in Article 4.3 of the Special Conditions.

- further pre-financing instalments of the amount specified in Article 4 of the Special Conditions and designed to normally cover the Beneficiary's financing needs for each twelve month period of implementation of the Action, within 45 days of the Contracting Authority approving an interim report in accordance with Article 15.2, accompanied by:

  - a request for payment conforming to the model in Annex V,

  - an expenditure verification report under Article 15.6,

  - a financial guarantee if required under Article 15.7;

- the balance within 45 days of the Contracting Authority approving the final report in accordance with Article 15.2, accompanied by:

  - a request for payment of the balance conforming to the model in Annex V,

  - an expenditure verification report if required under Article 15.6.

Further pre-financing may only be given if the part of the expenditure actually incurred which is financed by the Contracting Authority (by applying the percentage set out in Article 3.2 of the Special Conditions) stands at 70% at least of the previous payment (and at 100% of any previous payments) as supported by the corresponding interim report and, where applicable, by an expenditure verification report as specified in Article 15.6. Where the consumption of the previous pre-financing is less than 70%, the amount of the new pre-financing payment shall be reduced by the unused amounts of the previous pre-financing payment. The sum total of pre-financing under the Contract may not exceed 90% of the amount referred to in Article 3.2 of the Special Conditions.

Option 3: All Actions

The grant shall be paid to the Beneficiary by the Contracting Authority in one payment within 45 days of the Contracting Authority approving the final report in accordance with Article 15.2, accompanied by:

- a request for payment of the balance conforming to the model in Annex V,
- an expenditure verification report if required under Article 15.6.

15.2. Any report shall be considered approved if there is no written reply from the Contracting Authority within 45 days of its receipt accompanied by the required documents.

The Contracting Authority may suspend the time-limit for approval of a report by notifying the Beneficiary that the report cannot be approved and that it finds it necessary to carry out additional checks. In such cases, the Contracting Authority may request clarification, alteration or additional information, which must be produced within 30 days of the request. The time-limit starts running again on the date the required information is received.

Reports shall be presented in accordance with Article 2.

15.3. The time-limit of 45 days for payment referred to in Article 15.1 above shall expire on the date on which the Contracting Authority's account is debited. Without prejudice to Article 12.6, the Contracting Authority may suspend this time-limit by notifying the Beneficiary that the request for payment is inadmissible, either because the amount in question is not due or because proper supporting documents have not been supplied or it thinks it necessary to conduct further checks, including on-the-spot checks, to make sure that the expenditure is eligible. The time-limit for payment shall start running again on the date on which a correctly formulated request for payment is recorded.

15.4. Once the time-limit referred to above has expired, the Beneficiary - unless the Beneficiary is a government department or public body in a Community Member State - may, within two months of receipt of the late payment, claim default interest:

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

on the first day of the month in which the time-limit expired, plus three and a half percentage points. The interest shall be payable for the time elapsed between the expiry of the payment deadline (exclusive) and the date on which the Contracting Authority's account is debited (inclusive). This interest is not considered income for the purposes of Article 17.3. Any partial payments shall first cover the default interest thus established.

15.5. Where the award procedure or performance of the contract is vitiated by substantial errors or irregularities or by fraud attributable to the Beneficiary, the Contracting Authority may refuse to make payments or may recover amounts already paid, in proportion to the seriousness of the errors, irregularities or fraud. The Contracting Authority may also suspend payments in cases where there are suspected or established errors, irregularities or fraud committed by the Beneficiary in the performance of another contract funded by the general budget of the European Community or by budgets managed by it which are likely to affect the performance of the present contract.

15.6. A report on the verification of the Action's expenditure, produced by an approved auditor who is a member of an internationally recognised supervisory body for statutory auditing, shall be attached to:

- any request for further pre-financing payment if the total sum of the earlier and the new pre-financing payment exceeds EUR 750 000;

- any request for payment of the balance in the case of a grant of more than EUR 100 000;

- any request for payment of over EUR 100 000 for the financial year, in the case of an operating grant

The auditor examines whether the costs declared by the Beneficiary are real, accurately recorded and eligible in accordance with the Contract and issues an expenditure verification report conforming to the model in Annex VII.

The Beneficiary grants the auditor all access rights mentioned in Article 16.2.

The expenditure verification report accompanying a request for payment of the balance covers all expenditures not covered by any previous expenditure verification report.

Based on the expenditure verification report the Contracting Authority determines the total amount of eligible expenditure which may be deducted from the sum total of pre-financing under the Contract (clearance).

Where the Beneficiary is a government department or a public body of a Member State of the European Community, the Contracting Authority may exempt it from the expenditure verification requirement.

15.7. If the sum total of pre-financing paid and not cleared at any point in time under the Contract is more than 80% of the Contract amount and exceeds EUR 60 000, its payment must be fully covered by a financial guarantee. Where the Beneficiary is a non governmental organisation, such guarantee is requested if the sum total of pre-financing paid and not cleared at any point in time under the Contract is more than EUR 1 million or 90% of the Contract amount. The financial guarantee must be denominated in euro, conforming to the model in Annex VIII and, unless the Contracting Authority otherwise agrees, provided by an approved bank or financial institution established in one of the Member States of the European Community. This guarantee shall remain in force until its release by the Contracting Authority when the total amount of pre-financing under the Contract is once again less than EUR 1 million or after payment of the balance.

15.8. This provision shall not apply if the Beneficiary is a government department or public body or an international organisation, unless otherwise stipulated in the Special Conditions. The payments owed by the Contracting Authority shall be made to the bank account or sub-account referred to in the financial identification form in Annex V, which identifies the funds paid by the Contracting Authority and allows to calculate the interests produced by such funds.

15.9. The Contracting Authority shall make payments in the currency of the country to which it belongs or in euro, in accordance with the Special Conditions. In the latter case, any conversion into euro of the real costs borne in other currencies shall be done at the rate made up by the average of the rates published in InforEuro for the months covered by the relevant report, unless otherwise provided in the Special Conditions.

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

Any interest or equivalent benefits accruing from pre-financing paid by the Contracting Authority to the Beneficiary shall be mentioned in the interim and final reports. Subject to the conditions laid down in the basic act, any interest accruing from pre-financing equal or below EUR 250 000 paid by the Contracting authority shall not be due to the Contracting authority and may be used by the Beneficiary for the Action. Any interest accruing from pre financing of more than EUR 250 000 paid by the Contracting authority shall be assigned to the Action and deducted from the payment of the balance of the amounts due to the Beneficiary, unless the Contracting Authority requests the Beneficiary to reimburse the interest generated by pre-financing payments before the payment of the balance.

15.10. Subject to the conditions laid down in the basic act, in case of crisis management actions recognized as such by the Contracting authority, the interests accruing form pre-financing equal or below EUR 750 000 shall not be due to the Contracting authority and may be used by the Beneficiary for the Action. Any interest accruing from pre-financing of more than EUR 750 000 is due to the Contracting Authority.

15.11. The interests are not taken into account when calculating the sum total of pre-financing under the Contract.

15.12. Subject to the conditions laid down in basic act, the Contracting Authority shall recover the interests accruing from pre-financing of EUR 750 000 or more by the end of each financial year.

15.13. All references to days in this article 15 are to calendar days.

ARTICLE 16 - ACCOUNTS AND TECHNICAL AND FINANCIAL CHECKS

16.1. The Beneficiary shall keep accurate and regular accounts of the implementation of the action using an appropriate accounting and double-entry book-keeping system. These systems may either be an integrated part of the Beneficiary's regular system or an adjunct to that system. This system shall be run in accordance with the accounting and bookkeeping policies and rules that apply in the country concerned. Accounts and expenditure relating to the Action must be easily identifiable and verifiable. This can be done by using separate accounts for the Action concerned or by ensuring that expenditure for the action concerned can be easily identified and traced to and within the Beneficiary's accounting and bookkeeping systems. Accounts must provide details of interest accruing on funds paid by the Contracting Authority.

The Beneficiary shall ensure that the Financial Report (both interim and final) as required under Article 2 can be properly and easily reconciled to the Beneficiary's accounting and bookkeeping system and to the underlying accounting and other relevant records. For this purpose the Beneficiary shall prepare and keep appropriate reconciliations, supporting schedules, analyses and breakdowns for inspection and verification.

16.2. The Beneficiary will allow the European Commission, the European Anti-Fraud Office, the European Court of Auditors and any external auditor carrying out verifications as required per Article 15.6 to verify, by examining the documents or by means of on-the-spot checks, the implementation of the Action and conduct a full audit, if necessary, on the basis of supporting documents for the accounts, accounting documents and any other document relevant to the financing of the Action. These inspections may take place up to 7 years after the payment of the balance.

Furthermore, the Beneficiary will allow the European Anti-Fraud Office and any external auditor carrying out verifications as required per Article 15.6 to carry out checks and verification on the spot in accordance with the procedures set out in the European

Community legislation for the protection of the financial interests of the European Communities against fraud and other irregularities

To this end, the Beneficiary undertakes to give appropriate access to staff or agents of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors as well as to any external auditor carrying out verifications as required per Article 15.6 to the sites and locations at which the Action is implemented, including its information systems, as well as all documents and databases concerning the technical and financial management of the Action and to take all steps to facilitate their work. Access given to agents of the European Commission, European Anti-Fraud Office and the European Court of Auditors and to any external auditor carrying out verifications as required per Article 15.6 shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject. Documents must be easily accessible and filed so as to facilitate their examination and the Beneficiary must inform the Contracting Authority of their precise location.

The Contractor guarantees that the rights of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors as well as of any external auditor carrying out verifications as required per Article 15.6 to carry out audits, checks and verification will be equally applicable, under the same conditions and according to the same rules as those set out in this Article 16, to the Beneficiary's partners and subcontractors. Where a partner or subcontractor is an international organisation, any verification agreement concluded between such organisation and the European Commission applies.

16.3. In addition to the reports mentioned in article 2, the documents referred to in Article 16.2 include:

- Accounting records (computerised or manual) from the Beneficiary’s accounting system such as general ledger, sub ledgers and payroll accounts, fixed assets registers and other relevant accounting information;

- Proof of procurement procedures such as tendering documents, bids from tenderers and evaluation reports;

- Proof of commitments such as contracts and order forms;

- Proof of delivery of services such as approved reports, time sheets, transport tickets (including boarding passes), proof of attending seminars, conferences and training courses (including relevant documentation and material obtained, certificates), etc;

- Proof of receipt of goods such as delivery slips from suppliers;

- Proof of completion of works, such as acceptance certificates;

- Proof of purchase such as invoices and receipts.

- Proof of payment such as bank statements, debit notices, proof of settlement by the subcontractor;

- For fuel and oil expenses, a summary list of the distance covered, the average consumption of the vehicles used, fuel costs and maintenance costs;

- Staff and payroll records such as contracts, salary statements, time sheets. For local staff recruited on fixed-term contracts, details of remuneration paid, duly substantiated by the person in charge locally, broken down into gross salary, social security charges, insurance and net salary. For expatriate and/or

European-based staff (if the action is implemented in Europe) analyses and breakdowns of expenditure per month of actual work; assessed on the basis of unit prices per verifiable block of time worked and broken down into gross salary, social security charges, insurance and net salary.

ARTICLE 17 - FINAL AMOUNT OF FINANCING BY THE CONTRACTING AUTHORITY

17.1. The total amount to be paid by the Contracting Authority to the Beneficiary may not exceed the maximum grant laid down in Article 3.2 of the Special Conditions, even if the total of actual eligible expenditure exceeds the estimated total budget set out in Annex III.

17.2. If the eligible costs at the end of the Action are less than the estimated total cost referred to in Article 3.1 of the Special Conditions, the Contracting Authority's contribution shall be limited to the amount obtained by applying the percentage laid down in Article 3.2 of the Special Conditions to the actual eligible costs approved by the Contracting Authority.

17.3. The Beneficiary accepts that the grant can under no circumstances result in a profit for himself and that it must be limited to the amount required to balance income and expenditure for the Action. Profit shall be defined as:

- In the case of a grant for an Action, a surplus of receipts over the costs of the Action in question when the request is made for payment of the balance. However, in the case of Actions designed specifically to strengthen the financial capacity of the Beneficiary, it is distribution to the members making up the beneficiary body of the surplus revenue resulting from its activity leading to their personal enrichment.

- In the case of an operating grant, a surplus balance on the operating budget of the Beneficiary.

These provisions shall not apply to study, research or training scholarships paid to natural persons, nor in the case of prizes awarded following contests.

17.4. In addition and without prejudice to the right to terminate the Contract in accordance with Article 12.2, the Contracting Authority may, by a duly reasoned decision, if the Action is not implemented or is implemented poorly, partially or late, reduce the grant initially provided for in line with the actual implementation of the Action on the terms laid down in this Contract.

ARTICLE 18 - RECOVERY

18.1. The Beneficiary undertakes to repay any amounts paid in excess of the final amount due to the Contracting Authority within 45 days of receiving a request to do so.

18.2. Should the Beneficiary fail to make repayment within the deadline set by the Contracting Authority, the Contracting Authority may (unless the Beneficiary is a government department or public body of a Member State of the Community) increase the amounts due by adding interest:

- at the rediscount rate applied by the central bank of the country of the Contracting Authority if payments are in the currency of that country;

- at the rate applied by the European Central Bank to its main refinancing transactions in euro where payments are in euro,

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

18.3. Amounts to be repaid to the Contracting Authority may be offset against amounts of any kind due to the Beneficiary. This shall not affect the Parties' right to agree on payment in instalments. Where necessary the European Community may as a donor subrogate itself to the Contracting Authority.

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