

**GENERAL CONDITIONS APPLICABLE TO EUROPEAN COMMUNITY  
GRANT AGREEMENTS WITH HUMANITARIAN ORGANISATIONS FOR  
HUMANITARIAN AID ACTIONS**

I.	GENERAL AND ADMINISTRATIVE PROVISIONS .....	2
Article 1.	General obligations.....	2
Article 2.	Conflict of interests .....	3
Article 3.	Liability .....	3
Article 4.	Communication, visibility and information .....	4
Article 5.	Evaluation of the Action.....	5
Article 6.	Access to agreement related documents by third parties .....	5
Article 7.	Intellectual property rights .....	6
Article 8.	Data protection .....	6
II.	MANAGEMENT OF THE GRANT AGREEMENT .....	6
Article 9.	Establishment and entry into force of the Grant Agreement.....	6
Article 10.	Reporting .....	7
Article 11.	Amendment of the Grant Agreement .....	8
Article 12.	Transmission of documents.....	9
Article 13.	Award of contracts .....	10
Article 14.	<i>Force majeure</i> .....	11
Article 15.	Suspension of the implementation of the Action .....	11
Article 16.	Termination of the Grant Agreement .....	12
III.	FINANCIAL PROVISIONS .....	15
Article 17.	Assignment.....	15
Article 18.	Eligible Costs .....	15
Article 19.	Donation and transfer of supplies (goods and equipment).....	19
Article 20.	Pre-financing and Bank Interests .....	20
Article 21.	Establishment of the Final Amount of Community financing .....	20
Article 22.	Payment of the balance.....	22
Article 23.	Controls and Audits.....	23
Article 24.	Recovery.....	25
IV.	FINAL PROVISIONS.....	25
Article 25.	Interpretation .....	25
Article 26.	Settlement of disputes .....	26

## **I. GENERAL AND ADMINISTRATIVE PROVISIONS**

### **Article 1. General obligations**

#### **1.1. Implementation principles**

The Action shall be culturally appropriate, adequate for the needs of the affected persons and comply with applicable international law and national legislation of the country where the Action is implemented.

The Humanitarian Organisation shall implement the Action in accordance with the principles, provisions and procedures established in the Framework Partnership Agreement with Humanitarian Organisations for the financing of humanitarian aid Actions.

The Action shall be properly prepared, with a clear and verifiable objective, which must be achieved within a given period; the results obtained should be assessed through specific, measurable, achievable, relevant and time bound indicators.

The Humanitarian Organisation shall implement the Action with the requisite degree of care, efficiency, transparency and diligence, as required by best practice in the field, and in compliance with the Grant Agreement.

The Humanitarian Organisation shall make every effort to mobilise all the financial, human and material resources required for the full implementation of the Action, as specified in Annex I to the Grant Agreement, endeavouring to use local human and material resources.

#### **1.2. Implementing partners and contractors**

The Humanitarian Organisation may work alone or in association with other organisations, on a non-profit basis, identified in the Action proposal as implementing partners. The Humanitarian Organisation may also contract out parts of the Action, in accordance with the procedure established in [Article 13](#) herein.

The Humanitarian Organisation shall, as appropriate, ensure that the obligations established under the Grant Agreement and in particular in Articles [2](#), [3](#), [4](#), [5](#), [6](#), [7](#), [8](#), [13](#), [16](#), [18](#) and [23](#) herein are adequately reflected in its relations with implementing partners and contractors. To this effect, the Humanitarian Organisation will include the necessary provisions in its agreements and contracts with implementing partners and contractors.

In any case, the Humanitarian Organisation shall assure an effective supervision and control of the Action and is fully responsible for all related activities implemented by its implementing partners and contractors.

The Commission recognises no contractual link between itself and the Humanitarian Organisation's implementing partners and contractors. The Commission will not entertain any request for reimbursement or indemnity

presented by the implementing partners and contractors of the Humanitarian Organisation.

### 1.3. Duty of information

The Parties shall inform each other immediately in writing of any circumstances likely to hamper or delay the implementation of the Action or the fulfilment of their contractual obligations.

The Parties shall take all reasonable measures to reduce to a minimum damages resulting from such circumstances, and notably in cases of *force majeure* and suspension of the implementation of the Action.

## **Article 2. Conflict of interests**

The Humanitarian Organisation shall take all reasonable precautions to avoid any conflict of interests and shall inform the Commission without delay of any situation constituting or likely to entail a conflict of interests.

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

Should the Humanitarian Organisation fail to report any known situation of conflict of interests or to adopt measures to address the situation of conflict of interests, and without prejudice to the application of financial and administrative penalties, the Commission may terminate the Grant Agreement with immediate effect.

## **Article 3. Liability**

### 3.1. Liability of the Commission

Under no circumstances nor for any reason whatsoever may the Commission be held liable for damages caused by implementing partners, contractors or property of the Humanitarian Organisation as a result of the Action's implementation. Consequently, the Commission will not entertain any request for indemnity resulting from such a claim.

The Humanitarian Organisation shall discharge the Commission of all liabilities associated with any claim or action brought as a result of a violation of rules or regulations or third party's rights by the Humanitarian Organisation, its staff or individuals for whom the staff is responsible.

### 3.2. Liability of the Humanitarian Organisation

The Humanitarian Organisation shall have sole responsibility for complying with any legal obligations incumbent on it.

The Humanitarian Organisation shall assume sole liability towards third parties, including liabilities for damages or injuries of any kind suffered by them as a result of the Action's implementation.

Except in cases of *force majeure*, the Humanitarian Organisation shall compensate any damage sustained by the Commission as a result of the execution or faulty execution of the Action.

#### **Article 4. Communication, visibility and information**

##### **4.1. Communication activities during the implementation of the Action**

The Humanitarian Organisation endeavours to undertake public communication activities highlighting its partnership with the European Community and to bring the support given by the European Community to the attention of the general public, the media or the beneficiaries of the Action.

For this purpose, the Humanitarian Organisation shall identify, whenever possible, potential communication activities in the Action proposal.

These obligations shall be waived when both Parties agree that such activities may harm the mandate or the safety of the staff of the Humanitarian Organisation or its Implementing Partners, or the safety of the local community.

The Humanitarian Organisation shall provide evidence of implementation of activities referred to in this Article in the final narrative report.

##### **4.2. Visibility on durable equipment and major supplies and at project locations**

The European Union logo (twelve yellow stars on a blue background) including any other appropriate acknowledgement shall be displayed in an appropriate way on durable equipment and other major supplies purchased with Community funds and on signboards at project locations.

This obligation shall be waived when both Parties agree that such visibility may harm the objective and results of the Action, the mandate or the safety of the staff of the Humanitarian Organisation or its Implementing Partners, or the safety of the local community.

##### **4.3. Information and publications by the Humanitarian Organisation**

Information or publications by the Humanitarian Organisation about the Action, including at conferences or seminars, shall indicate that the Action has received Community funding and display the European Union logo in an appropriate way.

Such information and publications, in any form and medium, including the Internet, shall include the following text or a similar disclaimer: "*This document has been produced with the financial assistance of the European Community. The views expressed herein should not be taken, in any way, to reflect the official opinion of the European Community.*"

Where the Humanitarian Organisation has a website where the activities supported by the European Community are described, a reference must be made on this site to the Humanitarian Organisation's partnership with the European Community with a hyperlink established to the relevant webpage of the Commission's Directorate General for Humanitarian Aid (DG ECHO) on the Europa website.

#### 4.4. Publication by the Commission

The Humanitarian Organisation authorises the Commission to publish the following information in any form and medium, including the Internet:

- the Humanitarian Organisation's name and address;
- the purpose of the Grant Agreement;
- the amount of the Community contribution and the percentage of funding of the Action.

Following a justified request by the Humanitarian Organisation, the Commission may forgo such publication if it may threaten the Humanitarian Organisation's safety or harm its interests.

### **Article 5. Evaluation of the Action**

#### 5.1. Evaluation by the Humanitarian Organisation

The Humanitarian Organisation shall inform the Commission in the Action proposal of any planned evaluation funded by the Commission and relating to the Action. Before the evaluation takes place, the Humanitarian Organisation shall submit to the Commission the terms of reference of the evaluation. Upon completion of the evaluation, the Humanitarian Organisation shall submit to the Commission the final evaluation report.

#### 5.2. Evaluation by the Commission

As a donor, the Commission may perform evaluations of the Action and of its partnership with the Humanitarian Organisation. Before such evaluations take place, the Commission shall submit to the Humanitarian Organisation the terms of reference. The Humanitarian Organisation shall make available to the Commission, or any other organisation or persons mandated by the Commission, all the information necessary by its nature to allow a successful completion of the evaluation and shall give the required rights of access, as defined in [Article 23.1](#) herein.

The Commission shall make a draft of its report available to the Humanitarian Organisation for comments before final issue. The comments of the Humanitarian Organisation will be annexed to the final evaluation report if agreed with the Humanitarian Organisation and if provided within a reasonable deadline.

### **Article 6. Access to agreement related documents by third parties**

Without prejudice to [Article 23](#) herein, the Parties commit to grant third parties access to any document, information or other material directly related to the Grant Agreement after having received the written authorisation of the other Party. This obligation remains valid for a period of five years after the end of the implementation of the Action.

## **Article 7. Intellectual property rights**

Industrial and intellectual property rights on the outputs of the Action, the reports referred to in [Article 10](#) herein and other documents relating to the Action shall be vested in the Humanitarian Organisation and, as the case may be, in third parties.

Without prejudice to Article 6, the Commission has the right to use freely and as it sees fit all documents produced as an activity of the Action, whatever their form or medium, provided that such use does not violate the existing industrial and intellectual property rights of third parties.

## **Article 8. Data protection**

Any personal data contained in the Grant Agreement shall be processed in accordance with the requirements of Regulation (EC) 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movements of such data.

Such data shall be processed solely for the purposes of the performance, management and follow-up of the Grant Agreement by the Commission's Directorate General for Humanitarian Aid (DG ECHO) without prejudice to a possible transmission to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF) for the purposes of safeguarding the financial interests of the Community.

The data subject may, upon written request, gain access to his/her personal data and rectify any inaccurate or incomplete personal data. Should the data subject have any queries concerning the processing of his/her data, he/she shall address them to the Commission's Directorate General for Humanitarian Aid (DG ECHO). In any case and as regards the processing of personal data, the data subject has a right of recourse at any time to the European Data Protection Supervisor.

## **II. MANAGEMENT OF THE GRANT AGREEMENT**

### **Article 9. Establishment and entry into force of the Grant Agreement**

#### **9.1. Establishment of the Grant Agreement**

The Humanitarian Organisation shall present the Action proposal on the standard Single Form, Annex I to the FPA.

The Commission shall draft the Grant Agreement according to the standard format of Annex II to the Framework Partnership Agreement and in conformity with the Action proposal agreed by the Parties.

The Commission shall sign the Grant Agreement and send two originals for signature to the Humanitarian Organisation by registered letter with advice of delivery or equivalent. Under no circumstances whatsoever may the Humanitarian Organisation make changes to the Grant Agreement sent for signature. In the case of a material error in the text sent for signature, the Parties shall inform each other

as soon as the error is identified. The correction of the material error is without prejudice to the entering into force of the Grant Agreement.

## 9.2. Entry into force of the Grant Agreement

An authorised representative of the Humanitarian Organisation shall sign and return one original of the Grant Agreement to the Commission by registered letter with advice of delivery or equivalent procedure within 15 calendar days following its receipt. In any case, Grant Agreements have to be signed by the Humanitarian Organisation in the same calendar year of their signature by the Commission.

Subject to the requirements established in this Article, Grant Agreements shall be considered to be concluded and will enter into force on the date of receipt by the Commission of the original Grant Agreement signed by the Humanitarian Organisation, independently of the start date of the Action as laid down in Article 2 of the Special Conditions.

In case of non-compliance with the present Article, the Commission reserves its right to declare the Grant Agreement null and void.

## **Article 10. Reporting**

### 10.1. Purpose

The Humanitarian Organisation shall give the Commission full information on the implementation of the Action. To this end, the Humanitarian Organisation shall submit narrative and financial reports pertaining to the whole Action, regardless of the Community contribution.

Narrative reports shall allow comparison between the objective and results envisaged and those actually achieved and between the activities envisaged and those implemented.

Financial reports shall provide a clear identification of all expenses actually incurred and related information on the eligibility of costs as well as of the contributions and revenue of the Action.

### 10.2. Intermediate report and Final reports

Unless otherwise specified in Article 4 of the Special Conditions, the Humanitarian Organisation shall submit an Intermediate report, a Final narrative report and a Final financial report.

The Intermediate report shall be made on the standard Single Form, Annex I of the FPA, and focus on the state of implementation of the Action, providing a complete account of the implementation of the Action for the period covered. Failure to submit an Intermediate report within the agreed deadlines and without any valid justification may be considered sufficient grounds to terminate the Grant Agreement on the basis of [Article 16.2.b](#) herein.

The Final narrative report shall also be made on the standard Single Form and shall provide an overview of the implementation of the Action. The Humanitarian

Organisation shall assess the level of achievement of the objective and results envisaged in the proposal.

The Final financial report shall focus on financial information related to the Action. Financial reports shall be derived from the financial and accounting system of the Humanitarian Organisation and, as the case may be, its Implementing Partners.

Failure to submit a Final, narrative or financial, report within the agreed deadlines and without any valid justification may be considered sufficient grounds to terminate the Grant Agreement on the basis of [Article 16.3.b](#) herein.

#### 10.3. Additional information

The Commission may request specific information related to the implementation of the Action at any time. The Humanitarian Organisation shall submit the reasonably available information within 30 calendar days following the request.

The Humanitarian Organisation shall also send to the Commission any relevant reports, publications, press releases and updates, relating to the Action.

#### 10.4. Formal requirements

Narrative reports shall be drafted using the standard format defined in Annex I of the FPA.

Reports and any additional information required by the Commission shall be submitted in the language of the Grant Agreement.

The Final financial report shall be submitted in EUR and may be drawn from the financial statements of the Humanitarian Organisation or, as the case may be, its Implementing Partners. If these financial statements use other currencies on the basis of applicable legislation and applicable accounting standards, expenditure will be reported using the exchange rate in EUR on the day at which the European Community's first pre-financing payment was recorded in the Humanitarian Organisation's accounts or any other rate agreed between the Parties in Article 8 of the Special Conditions.

### **Article 11. Amendment of the Grant Agreement**

#### 11.1. Scope and form of the Amendments

Parties may agree to amend the Grant Agreement when the implementation of the Action, the achievement of its objective and results or the compliance with the principle of sound financial management so require it. Amendments shall not have the purpose or effect of making such changes to the Grant Agreement as would call into question the award of the grant.

Any amendment of the Grant Agreement, including its Annexes, shall be done in writing.



### 11.2. Unilateral modification

When the amendment does not affect a basic element of the Action nor Articles 2, 3, 4, 5 or 8 of the Special Conditions, the Humanitarian Organisation may apply the amendment unilaterally and shall inform the Commission in writing. The basic elements of the Action include the Action's objective and the related indicators, results, beneficiaries, area of implementation and, when relevant, sustainability.

Changes of address or bank accounts as identified in Articles 6 and 7 of the Special Conditions shall be notified to the other Party.

### 11.3. Amendment request

When the amendment is expected to affect a basic element of the Action or Articles 2, 3, 4, 5 and 8 of the Special Conditions, the requesting Party shall send to the other Party a duly justified amendment proposition explaining the object of the amendment. The proposition shall be made in due time, i.e. before the amendment takes effect and in any case one month before the end of the implementation of the Action. Parties may agree to shorten this delay by mutual consent.

The Requested Party commits to inform the Requesting Party within the shortest delays of its acceptance or rejection of the proposed amendment. The Requesting Party shall abstain from implementing any changes before having received the express agreement of the Requested Party, except in cases of *force majeure*, suspension of the implementation of the Action or equivalent circumstances which require the immediate adoption of precautionary measures.

### 11.4. Exchange of letters

When the amendment request affects the contents of Articles 4 or 5 of the Special Conditions or a basic element of the Action as defined in Article 11.2 herein, the Requested Party shall send a written reply, accepting or rejecting the amendment request, to the Requesting Party. If accepted, the amendment shall enter into force the day following the day of receipt of the written reply by the Requesting Party.

### 11.5. Supplementary Agreement

When the amendment affects the contents of Articles 2, 3 and 8 of the Special Conditions, in case of acceptance of the proposed amendment by the Requested Party, the Commission shall send to the Humanitarian Organisation a Supplementary Agreement reflecting the amendment. The procedures of [Article 9](#) herein shall apply *mutatis mutandis*.

## **Article 12. Transmission of documents**

### 12.1. Means of transmission

The Humanitarian Organisation shall always send the final version of the Action proposal and the signed original of the Grant Agreement or Supplementary Agreements in paper copy, even if these documents were first sent by electronic means as advance copy.

The Humanitarian Organisation may submit unilateral modifications and amendment requests to the Commission by electronic means only.

Unless otherwise specified in the Special Conditions, the Humanitarian Organisation shall submit reports in one paper copy and by electronic means.

The Commission shall always send the Grant Agreement and Supplementary Agreements in paper copy to the Humanitarian Organisation, even if these documents were first sent by electronic means. Confirmation replies addressing questions on the interpretation of the Framework Partnership Agreement or related issues, and the replies to amendment requests by exchange of letters will only be sent by electronic means.

As date of receipt of documents, both Parties agree to accept the first date of receipt, be it on paper or by electronic means, whichever happens to be first.

#### 12.2. Contractual addresses and addressees

Communications concerning the Grant Agreement shall be sent for the attention of the persons and to the addresses, including electronic addresses, identified in Article 7 of the Special Conditions. This is without prejudice to any other practical arrangement established by the Parties for the transmission of the information to other competent persons in their organisations. Regardless of the transmission procedure followed, the person responsible for the transmission has to be clearly identified.

Article 7 of the Special Conditions shall identify the official email addresses of the Parties which have to be used for all contractual communications by electronic means.

Communications not respecting this obligation shall be considered null and void.

#### 12.3. Language

Any exchange of documents between the Parties relating to the Grant Agreement, including controls and audits, shall be drafted in the language in which the Grant Agreement was established.

### **Article 13. Award of contracts**

#### 13.1. Contracting arrangements

When the implementation of the Action requires the award of procurement contracts by the Humanitarian Organisation, the Action proposal shall mention the envisaged activities and related procurement procedures.

The Humanitarian Organisation will report on the implementation of these contracting arrangements in accordance with [Article 10](#) herein. Subsequent modifications of this information will be processed, if appropriate, in accordance with the relevant procedures laid down in [Article 11](#) herein.

### 13.2. Applicable procurement rules

The Humanitarian Organisation shall procure supplies, works or services in the context of the Action in accordance with the principles, rules and procedures on procurement established in Annex IV to the Framework Partnership Agreement. These principles, rules and procedures are an integral part of the Grant Agreement. In case of non-compliance, the Commission shall decide on the eligibility of the related costs.

This is without prejudice to the Commission's right to impose administrative and financial penalties in accordance with the Council Regulation (EC, Euratom) N° 1605/2002 of 25 June 2002 applicable to the general budget of the European Communities<sup>1</sup> (hereafter referred to as "the Financial Regulation") and of Commission Regulation (EC, Euratom) No 2342/2002 laying down detailed rules for the implementation of the Financial Regulation<sup>2</sup>, (hereafter referred to as "the Implementing Rules").

#### **Article 14. *Force majeure***

Neither of the Parties shall be held liable for breach of its obligations under the Grant Agreement if it has been prevented from performing them by *force majeure*.

*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, which is not attributable to error or negligence on their part (or the part of their implementing partners, contractors or employees), and which proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available or financial difficulties cannot be invoked as *force majeure*.

#### **Article 15. *Suspension of the implementation of the Action***

##### 15.1. *Suspension of the implementation of the Action by the Humanitarian Organisation*

The Humanitarian Organisation may suspend the implementation of the Action if changes in circumstances in the field are likely to make it impossible or excessively difficult to continue the implementation of the Action, notably in the event of *force majeure*, serious threat to the safety of humanitarian workers, and in cases of incompatibility between the further implementation of the Action and compliance with humanitarian principles or conflict of interests.

---

<sup>1</sup> OJ L 248, 16 September 2002, p.1, as amended by Council Regulation N° 1995/2006 of 13 December 2006 (OJ L 390, 30 December 2006, p. 1).

<sup>2</sup> OJ L 357 of 31 December 2002, as amended by Commission Regulation (EC, Euratom) N° 1261/2005 of 20 July 2005 (OJ L 201, 2 August 2005), Commission Regulation (EC, Euratom) N° 1248/2006 of 7 August 2006 (OJ L 227, 19 August 2006) and Commission Regulation (EC, Euratom) N° 478/2007 of 23 April 2007 (OJ L 111, 28 April 2007).

The Humanitarian Organisation shall inform the Commission immediately justifying the suspension, the measures adopted and the expected date of resumption. The Humanitarian Organisation shall also inform the Commission of the details of the expenses expected to be incurred during the suspension period.

#### 15.2. Suspension of the implementation of the Action at the request of the Commission

The Commission may request the Humanitarian Organisation to suspend the implementation of the Action in the event of serious threat to the safety of humanitarian workers on the site, incompatibility between the further implementation of the Action and compliance with humanitarian principles or conflict of interests.

The Humanitarian Organisation has 15 calendar days after receipt of the suspension request to reply to the Commission and present its observations. If the Humanitarian Organisation fails to do so or if the Commission reasonably rejects the observations, the suspension of activities shall be applied.

The Commission reserves its right to terminate the Grant Agreement, in accordance with the procedure established in [Article 16.2 \(b\)](#) herein, in case of failure to comply with the suspension request.

#### 15.3. Duration of the suspension

If the suspension lasts longer than a third of the implementation period of the Action established in Article 2.2 of the Special Conditions, the Commission may terminate the Grant Agreement in accordance with the procedure established in [Article 16.3 \(a\)](#) herein.

Parties shall agree the resumption of the implementation of the Action once the grounds for the suspension cease to exist. The duration of the suspension will be added to the implementation period of the Action. To this end, the procedure established in [Article 11.5](#) herein shall apply.

### **Article 16. Termination of the Grant Agreement**

#### 16.1. Termination with advance notice by the Humanitarian Organisation

The Humanitarian Organisation may terminate the Grant Agreement at any time by serving 45 calendar days' written notice stating the grounds for termination.

If no motives are given or if the Commission reasonably rejects the justifications invoked by the Humanitarian Organisation, the termination shall be deemed wrongful.

#### 16.2. Termination with advance notice by the Commission

The Commission may terminate the Grant Agreement without any indemnity at any time by serving 45 calendar days' written notice when:

- a) a legal, financial, technical or organisational change in the Humanitarian Organisation's situation affects the Grant Agreement substantially or calls the award decision into question; or

- b) the Humanitarian Organisation has failed to comply with its obligations under the Grant Agreement, including its Annexes and these General Conditions.

After receipt of the notice letter the Humanitarian Organisation has 15 calendar days to present its observations. If the Humanitarian Organisation fails to do so or if the Commission reasonably rejects the observations, the notice shall continue to run.

Notice in the sense of this Article is given by registered letter with advice of delivery or equivalent procedure. The notice period starts to run on the day when the notice letter is received. The termination date is the day when the notice period expires.

### 16.3. Termination by the Commission with immediate effect

By way of exception, the Commission may terminate the Grant Agreement with immediate effect without any notice, nor indemnity, in any of the following circumstances:

- a) if the suspension lasts longer than one third of the implementation period of the Action;
- b) if the Humanitarian Organisation fails to present the due Final reports within six months of the end of the implementing period of the Action or if the Commission twice explicitly rejected the Final reports presented by the Humanitarian Organisation;
- c) if the Humanitarian Organisation is bankrupt or being wound up, has 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;
- d) if the Humanitarian Organisation has been convicted of an offence concerning its professional conduct by a judgment which has the force of *res judicata*, or if it is guilty of grave professional misconduct proven by any justified means;
- e) if the Humanitarian Organisation intentionally makes false declarations, is guilty of misrepresentation or submits reports inconsistent with the reality;
- f) if the Humanitarian Organisation has, intentionally or by negligence, committed an irregularity in the performance of the Grant Agreement. 'Irregularity' shall mean any infringement of a provision of Community law resulting from an act or omission by the Humanitarian Organisation, which has, or would have, the effect of prejudicing the general budget of the European Communities or budgets managed by them;
- g) if the Humanitarian Organisation has been the subject of a judgment or administrative decision which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests.

The grounds for termination by the Commission with immediate effect referred to in [Article 16.3 \(f\)](#) and [\(g\)](#) also apply, *mutatis mutandis*, to actions committed by the implementing partners, contractors or staff of the Humanitarian Organisation to the extent that they are related to the implementation of the Action.

The Commission shall inform the Humanitarian Organisation of the termination and of the grounds of termination by registered letter with advice of delivery or equivalent. The termination takes effect on the day following the date of receipt of the letter.

The Humanitarian Organisation shall have 15 calendar days following receipt of the termination letter to request the Commission to review its decision, submitting any supporting evidence it considers adequate. If the Humanitarian Organisation does not react within this deadline, it is deemed as having accepted the termination.

The Commission shall react within 15 calendar days following receipt of the Humanitarian Organisation's observations. In the absence of a reply by the Commission, the observations of the Humanitarian Organisation are deemed to be accepted and the termination procedure shall be cancelled.

#### 16.4. Rules applicable in case of termination

- a) The Special Conditions and these General Conditions will continue to apply after termination, to the extent necessary to allow an orderly liquidation of the Grant Agreement.
- b) When the termination is based on the motives mentioned in [Article 16.3.\(b\)](#) herein, the Commission shall proceed to the recovery of any amounts already paid to the Humanitarian Organisation and not justified by the documentation previously submitted by the Humanitarian Organisation.
- c) When the termination is based on other grounds, by derogation to Article 4 of the Special Conditions, the Humanitarian Organisation shall submit the final narrative and financial reports with a request for payment within 60 calendar days from the termination date.

If no request is made within this time limit the Commission shall recover any amounts not justified by the documentation previously submitted by the Humanitarian Organisation.

- d) Without prejudice to the procedures established in [Articles 21](#) and [22.6](#) herein, the Humanitarian Organisation shall be entitled to payment only for the part of the Action carried out.
- e) The Commission may reimburse penalties paid by the Humanitarian Organisation in case of cancellation of orders and commitments entered into by the Humanitarian Organisation for the implementation of the Action and which it cannot reasonably terminate on legal grounds.

When the Grant Agreement is wrongfully terminated within the sense of Article [16.1](#) herein, or if it is terminated on the grounds set out in Article [16.2](#)

b) or the termination is based on the grounds referred to in [Article 16.3](#), paragraphs [d\)](#), [e\)](#), [f\)](#) or [g\)](#), the previous paragraph shall not apply.

#### 16.5. Automatic termination of Grant Agreements

The Grant Agreement shall be considered terminated by tacit mutual consent if it has not given rise to any payment by the Commission within the duration of the financing decision to which it relates.

### III. FINANCIAL PROVISIONS

#### Article 17. Assignment

The Grant Agreement 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 Commission.

In no circumstances shall such assignment release the Humanitarian Organisation from its obligations to the Commission for implementing the Action as established under the Grant Agreement.

#### Article 18. Eligible Costs

##### 18.1. General principles

To be considered eligible as direct costs of the Action, costs must satisfy the following general criteria:

- a) They must be necessary and reasonable for the implementation of the Action which is the subject of the grant.
- b) They must be actual costs and comply with the principles of sound financial management, in particular regarding economy and efficiency.
- c) They must be committed during the eligibility period of the Action as laid down in Article 2 of the Special Conditions, with the exception of:
  - costs relating to the winding-up of the Action, and
  - expenditure committed before the date of submission of the Action proposal related to the constitution of stocks by the Humanitarian Organisation for use in connection with the Action.

All commitments will ultimately have to be paid in full.

- d) They must be identifiable, in particular being recorded in the accounting records of the Humanitarian Organisation or its implementing partners, determined according to the applicable accounting standards of the country where the Humanitarian Organisation is established and according to the usual cost-accounting practices of the Humanitarian Organisation.

- e) They must be backed by original supporting evidence (as the case may be in electronic form) and verifiable, pursuant to the provisions of [Article 21](#) herein, to be consistent with the principles of transparency and equal treatment.
- f) They must comply with the requirements of applicable tax and social legislation.

## 18.2. Eligible costs

Subject to the above and without prejudice to [Articles 13.2](#) and [19.3](#) herein, the following direct costs may, notably, be considered as eligible:

- a) purchase costs for supplies and services delivered to the beneficiaries of the Action, including transport, storage and distribution costs;
- b) expenditure incurred by the Humanitarian Organisation related to the award of contracts required for the implementation of the Action;
- c) without prejudice to [paragraph 3](#) of this Article, purchase or depreciation costs for new or used durable equipment which is used for the Action;
- d) costs of staff assigned to the Action, including actual salaries, social security contributions and other remuneration related costs such as withholding taxes, even if the related employment contracts were concluded before the eligibility period. Identifiable staff costs at headquarters level directly related to the Action may be included. Salaries and costs may not exceed those normally borne by the Humanitarian Organisation. Travel and subsistence costs for staff taking part in the Action may also be eligible, provided they do not exceed those normally borne by the Humanitarian Organisation;
- e) actual costs incurred by the Humanitarian Organisation's implementing partners directly attributable to the implementation of the Action;
- f) without prejudice to [Article 18.5](#) herein, a contribution to the country office costs of the Humanitarian Organisation or its Implementing Partner established on the basis of an equitable cost allocation system applied to all of the Actions supported by the country office in question;
- g) subject to the conditions established in Article 120 of the Financial Regulation and the regulatory instruments adopted by the Commission to implement this provision of the Financial Regulation, the support in the form of a distribution of cash to the beneficiaries;
- h) costs arising from compensations in-kind or in cash to the beneficiaries for any activity not covered by an employment contract, largely to encourage motivation, availability and involvement on the part of those concerned in the implementation of activities that are part of the Action;
- i) costs of activities by personnel of national administrations to the extent that the concerned administrations would not have carried out these activities if the Actions were not undertaken;



- j) other costs deriving directly from the requirements of the Grant Agreement (dissemination of information, monitoring in the case of food aid, evaluation, reporting, translation, reproduction, insurance, etc.) including financial service costs (in particular bank fees for transfers and, when required by the Commission, financial guarantees).

### 18.3. Depreciation costs

- a) Pro rata the number of months that the equipment was allocated to the Action, the Humanitarian Organisation may charge linear depreciation costs in accordance with the following values:
- equipment with a historic purchase price up to EUR 2,000 shall be depreciated over 24 months;
  - equipment with a historic purchase price above EUR 2,000 and up to EUR 10,000 shall be depreciated over 36 months;
  - equipment with a historic purchase price above EUR 10,000 and up to EUR 30,000 shall be depreciated over 48 months;
  - equipment with a historic purchase price above EUR 30,000 shall be depreciated over 60 months.
- b) The Humanitarian Organisation may charge a different depreciation rate for equipment when the P-control mechanism is applicable to the Action, as specified in Article 1.3 of the Special Conditions.

The Humanitarian Organisation depreciation rates have to be compliant with the following requirements:

- its conformity with the national legislation of the country of establishment of the Humanitarian Organisation;
- the identification in a regularly updated inventory covering the Humanitarian Organisation's assets;
- the codification of the accounting practices and the method to be used for the depreciation of equipment;
- transparent application, guaranteeing equal treatment of donors and consistency with the operations financed with the Humanitarian Organisation's own resources.

### 18.4. Allowance for low value equipment

The budget of the Action may include an allowance for covering low value equipment fully purchased with the Commission's financial support and for which donation to final beneficiaries and local implementing partners is either not suitable, not advisable or contrary to the principles of sound financial management. The maximum cost per single item under this allowance shall not exceed EUR 2,000 and the costs must be itemised and proven.

For Actions where the total budget is equal to or less than EUR 500,000, the amount of the allowance will not be higher than the amount of costs incurred up to the maximum of EUR 5,000. For Actions where the total budget exceeds EUR 500,000 the amount of the allowance will not be higher than the amount of costs incurred up to the maximum of EUR 15,000.

#### 18.5. Cost allocation systems

If the Humanitarian Organisation shares out certain costs to different uses and projects according to a cost allocation system, the related costs may be eligible provided that they are linked to the Action and are in proportion to the different sources of funding.

The cost allocation system must be based on the Humanitarian Organisation's standard practice and must be justifiable and reasonable. The Humanitarian Organisation must be able to demonstrate how the costs charged were derived at any time.

#### 18.6. Non-eligible costs

The following costs shall not be considered eligible:

- debts and provisions for possible future losses or debts;
- interest owed by the Humanitarian Organisation to any third party;
- items already financed from other sources;
- purchases of land or buildings;
- currency exchange losses;
- cessions and rebates by the Implementing Partners, contractors or staff of the Humanitarian Organisation of part of declared costs for the Action;
- taxes (including VAT), duties and charges, unless the Humanitarian Organisation can demonstrate that it is not able to reclaim them according to the applicable national legislation. If reimbursement occurs after the submission of the Final report, the Humanitarian Organisation shall inform the Commission, who will launch its recovery.

#### 18.7. Indirect costs

A percentage of direct eligible costs of the Action, not exceeding 7%, may be claimed as indirect costs. The Commission reserves its right to declare these costs non-eligible on the grounds established in [Article 22.6](#) herein.

Indirect costs shall not be eligible where the Grant Agreement concerns the financing of an Action conducted by a body which is already receiving a running cost grant from the Commission during the period in question.

### 18.8. Contribution in-kind

In the case of co-financing, contributions in-kind made by other donors or by the Humanitarian Organisation itself may neither be considered as co-financing nor as eligible costs. Costs directly arising out of, or related to, accepting or distributing contributions in-kind may be considered eligible to the extent that they comply with the conditions laid down in [Article 18.1](#) herein.

## **Article 19. Donation and transfer of supplies (goods and equipment)**

### 19.1. Donation

As a general rule and to the extent that the Commission is the single largest donor to the Action, the remaining supplies (durable equipment, goods and small equipment) purchased with the Commission's financial support shall be donated at the end of the implementation of the Action to the beneficiaries of the Action, local implementing partners or local authorities. When the recipient of the donation is a local authority, the Humanitarian Organisation shall obtain the prior agreement of the Commission. Under no circumstances may the supplies be donated to contractors.

Equipment included in the low value allowance established in [Article 18.4](#) herein as well as remaining goods with a value up to EUR 500 per category of items are excluded from this obligation and the Humanitarian Organisation pledges to use these to the benefit of humanitarian Actions.

### 19.2. Transfer to another Action

If the Humanitarian Organisation intends to transfer the supplies (durable equipment, goods, or small equipment) to another Action funded by the Commission, it shall submit to the Commission a justified written request with an inventory of the remaining supplies and a proposal concerning their use. This request must be submitted in due time and at the latest with the submission of the Final reports.

The submission of this request and the reply thereto will be done by Exchange of Letters in accordance with the procedures laid down in [Article 11.4](#) herein. If the request is sent with the Final report, the Commission shall not reply by exchange of letters but shall instead decide in the framework of the establishment of the final amount of Community funding as laid down in [Article 21](#) herein.

### 19.3. Reporting on end destination

The Humanitarian Organisation shall report on the end use of the supplies (durable equipment, goods and small equipment) in the Final report. For verification purposes and in accordance with [Article 23.4](#) herein, it shall keep documentary proof of any transfer of property. In case of non-compliance, the related costs may not be eligible for Community funding and will, if necessary, be recovered in accordance with the procedure established in [Article 24](#) herein.

## **Article 20. Pre-financing and Bank Interests**

### **20.1. Pre-financing**

The Commission shall make a pre-financing payment to the Humanitarian Organisation within 45 calendar days following the entry into force of the Grant Agreement.

The level of pre-financing shall be established taking into account the specificities of the Action and the control mechanism applied. The pre-financing will amount to 80% of the Commission's contribution to the Action or to 50% followed by a second pre-financing payment instalment amounting to 30% of the Commission's contribution to the Action.

### **20.2. Bank interests generated by pre-financing**

The Humanitarian Organisation shall inform the Commission in the final financial report of the amount of any interest or equivalent benefits yielded by pre-financing payments whenever the total amount of pre-financing for an Action exceeds EUR 750,000 and the implementation period of the Action exceeds 12 months. The Commission shall deduct the interests or equivalent benefits from the payment of the balance due to the Humanitarian Organisation.

The Humanitarian Organisation pledges to assign any other interests generated by the Commission's financing to the implementation of humanitarian Actions.

## **Article 21. Establishment of the Final Amount of Community financing**

### **21.1. Final Amount**

The amount of the grant shall not become final until the Commission has accepted the Final reports and verified the payment request presented by the Humanitarian organisation, without prejudice to [Article 23](#) herein and subsequent recoveries established in accordance with [Article 24](#) herein.

### **21.2. Acceptance of the Final narrative and financial reports**

The Humanitarian Organisation shall present a Final narrative report and a Final financial report complying with [Article 10.2](#) herein within the deadline established in Article 4.2 of the Special Conditions.

The Final narrative and financial reports shall be deemed accepted by the Commission 45 calendar days after receipt in the absence of any other reaction by the Commission. When the Humanitarian Organisation fails to submit the Final reports within the deadline established in Article 4.2 of the Special Conditions, the deadline for the acceptance of the Final reports shall be extended for a period equivalent to the duration of the delay. In this case, the Commission shall inform the Humanitarian Organisation accordingly.

The Commission shall verify whether the Action has been carried out in all respects in compliance with the Grant Agreement on the basis of the supporting documents submitted by the Humanitarian Organisation.

If the Commission cannot accept the Final narrative or financial reports, it shall request the Humanitarian Organisation to submit the additional information it requires within 30-calendar days following its request. After that delay, the Commission may either reject the Final reports as submitted or continue the procedure on the basis of the available information. The deadline for accepting the reports shall be suspended pending receipt of the requested information. The deadline starts running again on the date on which the Commission receives the required information.

In accordance with the procedure established in [Article 16.3 b\)](#) herein, the Commission may terminate the Grant Agreement with immediate effect in case of a renewed explicit rejection of the Final reports.

The acceptance of the Final reports does not constitute recognition of the eligibility of the costs, neither of the regularity, authenticity, completeness and correctness of the declarations and information contained in the reports.

### 21.3. Payment request

Together with the Final reports and supporting documentation, the Humanitarian Organisation shall submit a payment request identifying the amounts pre-financed by the Commission, the expenditure engaged by the Humanitarian Organisation and the balance requested from the Commission.

Following the acceptance of the Final reports, the Commission shall verify the eligibility of the costs claimed by the Humanitarian Organisation. The information submitted by the Humanitarian Organisation must be sufficiently detailed in order to allow the Commission to formulate an opinion on the eligibility of costs.

If the Commission deems that the payment request cannot be met, it may request the Humanitarian Organisation to submit additional information within 30 calendar days. After that delay, the Commission may either reject the payment request as submitted or continue the procedure on the basis of the available information. The payment deadline set in [Article 22.1](#) herein shall be suspended pending receipt of the requested information. The payment deadline starts running again on the date on which the Commission receives the required information.

No tacit approval of the payment request can be presumed on expiry of the payment deadline. In case of late payment, [Article 22.5](#) herein shall apply.

In accordance with the procedure established in [Article 16.3 b\)](#) herein, the Commission may terminate the Grant Agreement with immediate effect, in case of a renewed rejection of the payment request.

### 21.4. Maximum Community contribution

The final amount shall not exceed the maximum Community contribution established in Article 3.2 of the Special Conditions, even if the total of eligible costs exceeds the estimated total budget of the Action referred to in Article 3.1 of the Special Conditions.

Where Article 3.2 of the Special Conditions sets out a maximum percentage of estimated total eligible cost to be financed by the European Community, and the

eligible costs at the end of the Action are less than the estimated total cost specified in Article 3.1 of the Special Conditions, the contribution of the European Community may be limited to the amount produced by multiplying the actual expenditure by the percentage laid down in Article 3.2 of the Special Conditions.

#### 21.5. No profit

The Humanitarian Organisation accepts that the financial contribution of the European Community shall be limited to the amount required to balance income and expenditure for the Action and that it may not in any circumstances result in a profit for the Humanitarian Organisation.

### **Article 22. Payment of the balance**

#### 22.1. Payment deadline

The Commission shall establish the total eligible costs of the Action and, when applicable, pay the balance due to the Humanitarian Organisation within 45 calendar days following the acceptance of the Final reports.

#### 22.2. Notification of the final amount

The Commission shall notify the Humanitarian Organisation of the Final Amount and the amounts to be paid or recovered.

If the Humanitarian Organisation does not agree with the Final Amount, it may request clarification of this amount explaining why the calculation should be revised. Such a request will be sent to the Commission in writing within two months following the date of notification of the final amount or, in the absence of such notification, following the date on which payment of the balance or the recovery notice is received. Requests reaching the Commission after this deadline shall not be admissible. Within 45 calendar days following receipt of an admissible request, the Commission shall provide the requested clarification in writing.

#### 22.3. Currency for payments

The Commission shall pay in EUR.

#### 22.4. Suspension of payments

The Commission may suspend payments at any time following presumed infringements of the Grant Agreement. The purpose of such a suspension is to give time to check whether the presumed infringements have in fact occurred and, where appropriate, to rectify them. The Commission shall inform the Humanitarian Organisation in writing of the grounds for the suspension of payments.

As soon as circumstances allow, the Commission shall end the suspension of payments and inform the Humanitarian Organisation accordingly in writing.

### 22.5. Late payment interests

The Commission shall pay interest for late payment. A late payment is a payment which takes place after expiry of the time-limit set in [Article 22.1](#) herein.

The applicable rate is the rate applied by the European Central Bank for its main refinancing operations, as published in the C series of the Official Journal of the European Union, on the first day of the month in which the payment was due, increased by three and a half percentage points.

The interest on late payment shall cover the period from the day following the payment deadline until the date of actual payment. The interest shall not be treated as a receipt for the Action for the purposes of determining the final amount within the meaning of [Article 20](#) herein.

Suspension of payments by the Commission in the sense of [Article 22.4](#) herein shall not be considered as late payment.

### 22.6. Reduction of grants

Where the Action is not carried out at all, or is not carried out properly, in full or on time, the Commission may, by duly reasoned decision, reduce the grant on the basis of the actual implementation of the Action and the results achieved and the eligibility of the indirect costs claimed by the Humanitarian Organisation. The Humanitarian Organisation may contest the Commission decision in accordance with the procedures laid down in [Article 22.2](#) herein.

Equally, when the Grant Agreement is wrongfully terminated in the sense of [Article 16.1](#) herein, or if it is terminated on the grounds set out in [Articles 16.2](#) and [16.3, b\), d\), e\), f\) or g\)](#) the Commission may, by duly reasoned decision, reduce the amount of the grant by refusing the eligibility of the indirect costs claimed by the Humanitarian Organisation. The Humanitarian Organisation may contest the Commission decision in accordance with the procedures laid down in [Article 22.2](#) herein.

This is without prejudice to the Commission's right to impose financial and administrative sanctions in accordance with the provisions of the Financial Regulation and its Implementing Rules.

## **Article 23. Controls and Audits**

### 23.1. Right of Access

The Humanitarian Organisation shall give the Commission or any other organisation authorised by the Commission access to any location where the Action is implemented and to all documents and information, including information in electronic format, necessary to assess, or audit the implementation of the Action and the Grant Agreement. After notification, the audit missions by Commission representatives should be planned and completed in a collaborative manner between the Humanitarian Organisation and Commission representatives.

The Humanitarian Organisation shall ensure that its implementing partners and contractors give the same access, especially with regard to financial and

accounting documents. To this effect, the Humanitarian Organisation will include the necessary provisions in its agreements and contracts with implementing partners and contractors.

Upon request of the Commission, the Humanitarian Organisation shall ensure that at least a copy of the documents and information mentioned in the previous paragraph is available at the Humanitarian Organisation's headquarter level.

The European Court of Auditors and the European Anti-Fraud Office (OLAF) shall have the same rights as the Commission, including the right of access, for audit and control purposes.

### 23.2. Audit

The Commission or any other organisation mandated by the Commission, may audit the Humanitarian Organisation's use made of the Community contribution. Such audits may be initiated during the implementation of the Grant Agreement until four years after Final payment of the Grant Agreement. Audit findings may entail recovery decisions by the Commission. The Humanitarian Organisation assures full assistance to the Commission or any other organisation mandated by the Commission in the course of field and headquarter audits.

### 23.3. Audit Report

If the Commission carries out or authorises an audit relating to the implementation of the Action, it must provide the Humanitarian Organisation with a copy of the audit report before it is issued. The comments of the Humanitarian Organisation will be annexed to the final audit report if provided within a reasonable deadline.

### 23.4. Record keeping

The Humanitarian Organisation shall ensure that all the relevant information is available to ensure at all times a sufficiently detailed audit trail. For each Action the Humanitarian Organisation shall therefore keep at the disposal of the Commission or any other organisation authorised by the Commission, accurate and regular records and accounts detailing all income and expenditure, and all other documents necessary to audit the implementation of the Action and the Grant Agreement. These documents will be kept in original form (as the case may be in electronic form) for a period of five years after the end of the Action. They will be submitted upon first request to the Commission or organisation authorised by the Commission within the deadline established in [Article 10.3](#) herein.

The Humanitarian Organisation's standard accounting and control procedures must permit direct reconciliation of the costs and revenue declared in respect of the Action with the corresponding accounting statements and supporting documents.



## **Article 24. Recovery**

### **24.1. Recovery order**

The Commission shall send a recovery order to the Humanitarian Organisation for the amounts paid by the Commission which exceed the final amount. The Humanitarian Organisation shall reimburse the amounts within 45 calendar days following receipt of the recovery order.

The Commission may claim payment of interests at the rate indicated in [Article 22.5](#) herein if the Humanitarian Organisation does not pay within the above time limit. These late payment interests shall be payable for the period starting on the day following the expiry of the time limit for payment until the day of payment. Any partial payment shall be used to cover the interest.

### **24.2. Offsetting**

The Commission may offset amounts to be repaid against amounts of any kind payable to the Humanitarian Organisation, after informing the Humanitarian Organisation accordingly. The Humanitarian Organisation's prior consent is not required. Both Parties may agree on payment in instalments.

### **24.3. Bank Charges**

The Humanitarian Organisation shall bear the costs of all bank charges related to the recovery of the amounts due to the Commission.

## **IV. FINAL PROVISIONS**

### **Article 25. Interpretation**

The terms used in the Grant Agreement, its Annexes and in these General Conditions shall have the same meaning as attributed to them in glossaries, guidelines, fact sheets and any other supporting documents which may be drafted by the Commission's Directorate General for Humanitarian Aid (DG ECHO).

All mentions made to Council or Commission Regulations should be understood as referring to the most recent applicable version of the legislative text as published in the Official Journal of the European Union. The Commission will inform Humanitarian Organisations on the application of any relevant modification of the mentioned Regulations. If required by the substance of the modification, references to European legislation will be updated by means of amendments.

Headings in these General Conditions have no legal significance and do not affect their interpretation.

## **Article 26. Settlement of disputes**

### 26.1. Amicable settlement

The Parties shall endeavour to settle amicably any dispute arising between them relating to the interpretation, application or fulfilment of the Grant Agreement, including with regard to its existence, validity or termination.

### 26.2. Choice of law

The Grant Agreement is governed by the European Community rules applicable and, on a secondary level, by Belgian law.

### 26.3. Jurisdiction

Any dispute between the Parties arising from the interpretation or application of the Grant Agreement that cannot be settled amicably shall be brought before the Court of First Instance of the European Communities and, in the event of an appeal, the Court of Justice of the European Communities.