Financing Agreement for the Interreg programme (Interreg VI-C) Interreg Europe 2021-2027

CCI 2021TC16RFIR001

Preamble

The State Chancellery of the Republic of Moldova acting on behalf of the Republic of Moldova hereinafter referred to as "the Partner Country",

and

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

and

the Hauts-de-France Region, legally represented by the Head of the Managing Authority of the Programme, hereinafter referred to as "France",

hereinafter collectively referred to as "the Parties",

STRESSING the common objective and understanding to make the (Interreg VI-C) Interreg Europe 2021-2027 ("the Programme") a success and to cooperate in a steadfast way to achieve that common goal,

RECALLING their reciprocal commitments to implement the Interreg Europe Programme in respect of shared values such as the respect for and safeguarding of human rights and fundamental freedoms, democratic principle the rule of law and the horizontal principles for the implementation of cohesion policy programmes as listed in Article 9 of Regulation (EU) 2021/1060.

UNDERLINING their reciprocal commitments to implement the Interreg Europe Programme 2021-2027 by respecting provisions allowing for the sound financial management of the programme by the Parties, the fair treatment of participants, and the management and consultation appropriate to the nature of the cooperation between the Parties,

have agreed as follows:

Part One - General Provisions and principles

Article 1 - Purpose of this Agreement

This Agreement sets out the conditions of financing and implementing the Interreg Europe Programme for the period of 2021 to 2027 ("the Programme") in the Partner Country with the financial contribution of the European Regional Development Fund ("ERDF"), the Instrument for Pre-accession Assistance ("IPA III") and the Neighbourhood, Development and International Cooperation Instrument - Global Europe ("NDICI"), all together referred to as "Interreg funds" and of the national contribution of the Programme.

The Member State authorities commit to implement this agreement as a tool to implement the Union budget in accordance with Regulation (EU, Euratom) 2018/1046 ("the Financial

Regulation")[1] within the meaning of Article 59 (6) of Regulation (EU) 2021/1059, and not to implement an international agreement as referred to in Articles 216 to 219 of the Treaty of the Functioning of the European Union (TFEU).

Article 2 – Basic acts

1. The Programme shall be implemented by the Republic of Moldova and France, Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland and Ukraine under the terms and conditions established in this Agreement and its annexes, in accordance with the following basic acts, including any correction or amendment thereto and including the relevant EU acts supplementing them:

   a. Regulation (EU) 2021/1060[2] of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy;

   b. Regulation (EU) 2021/1058[3] of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund;

   c. Regulation (EU) 2021/1059[4] of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments;

   d. Regulation (EU) 2021/947[5] of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009;

   e. Regulation (EU) 2021/1529[6] of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III);

   f. Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU)

[1] OJ L 193, 30.7.2018, p. 1
[2] OJ L231, 30.06.2021, p. 159
[3] OJ L231, 30.06.2021, p. 60
[4] OJ L231, 30.06.2021, p. 94
[5] OJ L209, 14.06.2021, p. 1
[6] OJ L330, 20.09.2021, p. 1

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No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (the "Financial Regulation").

2. In so far as provisions of the basic acts set out in paragraph one together with relevant acts supplementing them are applicable to the Partner Country by virtue of this Agreement, they are to apply as if they were terms of this Agreement.

Article 3 - Definitions

1. For the purpose of this Agreement, the definitions and provisions set out in Article 2 of Regulation (EU) 2021/1059 and Article 2 of Regulation (EU) 2021/1060 shall apply.
2. For the purpose of this Agreement, the following additional definitions shall apply:

   (1) "The Programme" means the Interreg Europe Programme for the 2021 to 2027 programming period, including the related documents as corrected or amended, such as for example:

      a. The programme document (CCI 2021TC16RFIR001) as approved by Commission Decision C(2022) 4868 of 5 July 2022, amended by Commission Decision C(2023) 8860 of 11 December 2023 and as last amended by Commission Decision C(2024) 5422 of 23 July 2024.

      b. The "Programme Manual";

      c. The "Description of Management and Control System".

      d. The "Rules of Procedure for the Monitoring Committee of the Programme".

   (2) "EU Restrictive Measures" means restrictive measures adopted pursuant to the Treaty on European Union (TEU) and to the TFEU.

Article 4 - Total budget and financial contributions to the Programme

1. The financing plan is set out in Annex I.
2. The total budget of the Programme is set at EUR 493,103,338.
3. The total EU financial allocation to the Programme is set at EUR 394,482,670.
4. The EU allocation shall be split in yearly commitments as set out in Table 1 of Annex I.
5. The total budget in paragraph 2 shall also include EUR 98,620,668 of national contribution from the participating countries.

   The breakdown of the respective financial contributions by priority, and indicating whether the national contribution is made up of a public or private contribution or both, is set out in Table 2 of Annex I.
6. The EU co-financing rate at the level of the Programme shall be no higher than 80 % of the eligible expenditure. The co-financing rate for each priority is set out in Table 2 of Annex I.
7. Nothing in this Agreement can be interpreted as implying a financial commitment of the Union in relation to credits, which have not yet been approved by adoption of the EU budget.

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8. Pursuant to the percentage set out in Article 27(5) of Regulation (EU) 2021/1059, a maximum amount of EUR 29,220,938 out of the EUR 394,482,670 of the financial contribution of Interreg funds shall be used for the technical assistance budget of the Programme.

   The amount of the funds allocated to technical assistance shall be identified as part of the financial allocation of each priority of the programme. It shall not take the form of a separate priority or a specific programme and is set out in column (a2) in Table 2 of Annex I.

9. The Parties shall ensure that in the implementation of the Programme no economic resources from the financial contribution referred to in this Article are made available directly or indirectly to, or for the benefit of, entities, individuals or group of individuals falling into the scope of EU Restrictive Measures. In the event that the Party identifies that a project partner could fall under the scope of EU Restrictive Measures, the Party shall promptly inform the Commission.

Article 5 - Programme area

The programme area covers the 27 Member States of the EU (242 NUTS2 regions), Norway (7 regions), Switzerland (7 regions), Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia, the Republic of Moldova, and Ukraine[7].

Article 6 - Execution period of this Agreement

The execution period of this Agreement will start on the entry into force or provisional application in accordance with Article 58 of this Agreement and ends 15 years after this date.

Part Two - Implementation of the programme

Section One - Rules applicable to the whole of the Programme

Article 7 - Implementation principles

1. The Programme shall be implemented under shared management with the concerned Member State in conformity with the principles referred to in Article 63 of the Financial Regulation and in accordance with the terms and the conditions set out in this Agreement, the Parties' applicable legislation, the Programme documents and the written confirmation by the Partner Country concerning its participation in the Programme for the programming period 2021 to 2027.
2. The participating countries shall fully cooperate with the joint programme authorities as listed in Article 12 of this Agreement to implement the Programme and shall support the efficient functioning of the management and control system as defined in Section Five of this Agreement.

[7] Following the unprovoked Russia's full-scale invasion of Ukraine and its impact, only the territories under the control of the sovereign Government of Ukraine are eligible under the programme. Regions under Russia's military control will not be eligible.

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3. Implementing provisions such as formal requirements towards beneficiaries, rules for project assessment, approval, contracting, and eligibility of expenditure as well as reporting and payment procedures are set out in the documents enumerated under article 3 of this Agreement. Such implementing provisions shall be binding for the implementation of the Programme.

Article 8 – Horizontal principles

The participating countries shall ensure compliance with the principles and respect the rights referred to in Article 9 of Regulation (EU) 2021/1060.

Article 9 - Partnership principle

In accordance with Article 8 of Regulation (EU) 2021/1060 and the European code of conduct on partnership established by Commission Delegated Regulation (EU) No 240/2014, the participating countries shall organise and implement a comprehensive partnership in accordance with their institutional and legal framework, taking into account the specific characteristics of the Programme.

Article 10 – Territorial Development

The Programme may provide support to integrated territorial development in accordance with Articles 20 and 21 of Regulation (EU) 2021/1059 and Articles 28 to 34 of Regulation (EU) 2021/1060.

Article 11 – Discontinuation of the Programme

1. With regard to this Programme, the participation of a partner country shall be discontinued:

   (a) if none of the partner countries covered by the Programme has signed the relevant financing agreement by 31 December of the year following the year when the first budget commitment was made; or

   (b) if the Programme cannot be implemented as planned due to problems in relations between the participating countries.

   (c) in any other duly justified cases.

2. The participating Member States and, where applicable, the remaining participating partner countries, shall request that:

   (a) the Interreg programme be discontinued, in particular where the main joint development challenges thereof cannot be achieved without the participation of that partner country;

   (b) the allocation to that Interreg programme be reduced, in accordance with the applicable rules and procedures; or

   (c) the Interreg programme be continued without the participation of that partner country

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The Commission may decide to discontinue the programme, in accordance with the applicable rules and procedures referred to in Regulation (EU) 2021/1059, before the expiry date of the period of execution at the request of the Monitoring Committee or the participating Member States or on its own initiative after having informed the monitoring committee.

Section– Two - Programme authorities and bodies

Article 12.1 - List of programme authorities

The Programme shall be managed and implemented in accordance with the rules on management and control system referred to in Regulation (EU) 2021/1060 and Regulation (EU) 2021/1059 by the following programme authorities: the managing authority referred to in Article 12(3), supported by the joint secretariat referred to in Article 12(4), the body assuming the accounting function referred to in Article 12(6) and the audit authority referred to in Article 12(7).

The national authority of the Republic of Moldova referred to in Article 12(3) shall cooperate with the programme authorities.

Article 12.2 - Monitoring committee

1. The participating countries shall set up, in agreement with the managing authority, a committee to monitor the implementation of the Programme ("monitoring committee") within three months of the date of notification to the participating Member States of the Commission decision approving the Programme in accordance with Article 28(1) of Regulation (EU) 2021/1059.
2. The composition of the monitoring committee of the Programme shall be agreed by the Programme partners and shall take into account the number of participating Member States and partner countries in the Programme.
3. The composition shall also ensure a balanced representation of:
   (a) the relevant authorities, including intermediate bodies;
   (b) bodies jointly set up in the whole programme area or covering a part thereof, including European Grouping of Territorial Cooperation (EGTCs); and
   (c) representatives of the programme partners referred to in Article 9.
4. The functions of the monitoring committee are set out in Article 30 of Regulation (EU) 2021/1059.

Article 12.3 - Managing authority, national authority and contact point

1. In accordance with Article 45(1) of Regulation (EU) 2021/1059, the participating countries have identified, for the purposes of Article 71 of Regulation (EU) 2021/1060, the Hauts-de-France Region as the single managing authority.
2. The functions of the managing authority are set out in Article 46 of Regulation (EU) 2021/1059.

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3. The Partner Country has identified the State Chancellery of the Republic of Moldova as the national authority, which shall assume ultimate responsibility for the implementation of the Programme in its own territory and shall ensure the cooperation with the managing authority, the other programme authorities, the monitoring committee and the Commission.
4. The national authority shall support the managing authority in all its regularity tasks, such as programme management, management verifications, financial management, including recoveries, monitoring, reporting, evaluation, and communication.
5. The monitoring committee member from the Partner Country representing the national authority and its deputy shall be the main contact persons for the programme authorities and management bodies related to the implementation of the Programme in the Partner Country.
6. The national authority of the Republic of Moldova shall be identified as the contact point for the managing authority (the "contact point") to provide information about the Programme, calls of proposals, current projects and achievement to potential beneficiaries and partners. If the national authority of the Republic of Moldova delegates the tasks of the contact point to another institution, it should inform the Commission and the managing authority.
7. The contact point shall support the managing authority and partners with regard to the tasks provided for in Article 36(2) to (6) of Regulation (EU) 2021/1059

Article 12.4 – Joint secretariat and branch offices

1. The managing authority, after consultation with the participating countries, shall set up a joint secretariat, with staff taking into account the programme partnership in accordance with Article 46(2) of Regulation (EU) 2021/1059.

2. The joint secretariat, including one or more branch offices, shall assist the managing authority and the monitoring committee in carrying out their respective functions. The joint secretariat shall also provide information to potential beneficiaries about funding opportunities under the Programme and shall assist beneficiaries and partners in the implementation of operations in accordance with Article 46(2) of Regulation (EU) 2021/1059.

Article 12.5 – National controller

1. By way of derogation from point (a) of Article 74(1) of Regulation (EU) 2021/1060 and without prejudice to Article 45(5) of the Regulation (EU) 2021/1059, the Member States, and where applicable, the partner country in the Interreg programme, may decide that management verifications referred to in point (a) of Article 74(1) of Regulation (EU) 2021/1060 are to be done through the identification by the respective country of the body or person responsible for the verification on its territory (the "national controller").

   The Republic of Moldova has identified the Ministry of Finance as the national controller that will support the managing authority in its control tasks on the territory of Republic of Moldova.

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2. Once appointed, the national controller shall ensure that the management verifications are carried out in accordance with paragraphs 3 to 9 of Article 46 of Regulation (EU) 2021/1059.

Article 12.6 – The accounting function

The accounting function shall be carried out by the POM Oost-Vlaanderen (Provincial Development Agency East Flanders), in accordance with Article 47 of Regulation (EU) 2021/1059.

Article 12.7 – Audit authority and group of auditors

1. The participating countries have identified the National Authority for the Audit of European Funds (Autorité nationale d'Audit pour les Fonds européens - AnAFe) as the single audit authority, located in France.

2. A group of auditors shall assist the audit authority, which is composed of representatives from all participating countries who shall be responsible for audits carried out in their respective territory.

3. The Partner Country has appointed Court of Accounts of the Republic of Moldova as its representative in the group of auditors.

4. The functions of the audit authority and the group of auditors are described in Article 48 of Regulation (EU) 2021/1059.

Section Three – Eligibility provisions

Article 13 – Hierarchy of eligibility rules

Eligibility of operations and expenditure under the Programme shall be governed by Articles 63 to 68 of Regulation (EU) 2021/1060, Articles 5 and 7 of Regulation (EU) 2021/1058 and Articles 37 to 44 of Regulation (EU) 2021/1059.

Article 14 – Project partnership

Partnership within operations implemented under this Agreement shall be ensured in accordance with Article 23 of Regulation (EU) 2021/1059.

Article 15 – Selection of operations

Operations shall be selected in accordance with the rules set out in Article 22 of Regulation (EU) 2021/1059.

The monitoring committee shall establish and apply criteria and procedures which are non-discriminatory and transparent, ensure accessibility to persons with disabilities, gender equality and shall act in accordance with the European Convention on Human Rights and the

Protocols 1, 4, 6, 7, 12, 13, and 16 thereto and Article 14 of the Universal Declaration of Human Rights and in line with the Paris Agreement and UN Sustainable Development Goals.

Article 16 – Procurement rules applied by entities implementing operations under the Programme

Where the implementation of an operation requires procurement of service, supply or works contracts by a beneficiary from the Partner Country, the procurement procedures set out in Annex II shall apply.

Section Four – Financial provisions

Article 17 – General provision

In accordance with the principles of sound financial management, the Programme budget shall be implemented in a way to ensure that actions financed from the budget are implemented correctly and effectively in accordance with the basic acts referred to in Article 2(1).

Article 18 – Budget commitments

Based on Commission Implementing Decision C(2022) 4868 of 5 July 2022 , as last amended by Commission Implementing Decision C(2024) 5422 of 23 July 2024, approving the Programme ("programme approval decision"), the Commission shall make budget commitments of "Interreg funds", in annual instalments for each Fund for the period between 1 January 2023 and 31 December 2027.

Article 19 – Payments

1. Payments by the Commission shall take the form of pre-financing, interim payments and payments of the balance of the accounts for the accounting year.

   In accordance with Article 51(2) of Regulation (EU) 2021/1059, the Commission shall pay a pre-financing based on the total support from each Interreg fund, as set out in the Commission decision approving each Interreg programme pursuant to Article 18 of Regulation (EU) 2021/1059, subject to available funds, in yearly instalments as follows and before 1 July of the years 2022 to 2026, or, in the year of the approving decision, not later than 60 days after that decision is adopted:

   (a) 2021: 1 %;

   (b) 2022: 1 %;

   (c) 2023: 3 %;

   (d) 2024: 3 %;

   (e) 2025: 3 %;

   (f) 2026: 3 %.

   When making a pre-financing, the Commission shall take into account the actual financial needs of the Programme.

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2. The contribution from Interreg funds to the Programme shall be paid into a single account with no national subaccounts, managed by the POM Oost-Vlaanderen (Provincial Development Agency East Flanders).

3. Payment applications shall be submitted to the Commission by the POM Oost-Vlaanderen (Provincial Development Agency East Flanders).

4. The POM Oost-Vlaanderen (Provincial Development Agency East Flanders) shall, as a general rule, make its payments to the lead or sole partner in full and no later than 80 days from the date of submission of the payment claim by the lead or sole beneficiary, unless the Partner Country is subject to EU restrictive measures.

   However, the deadline of 80 days may be interrupted if information submitted by the lead or sole beneficiary does not allow the POM Oost-Vlaanderen (Provincial Development Agency East Flanders) to establish whether the amount is due.

Article 20 – Interruption of payment deadlines

1. The Commission may interrupt the payment deadline, including for pre-financing under Article 19(2) for a maximum period of 6 months if any of the following conditions is met:

   (a) there is evidence to suggest a serious deficiency for which corrective measures have not been taken;

   (b) the Commission has to carry out additional verifications following receipt of information that expenditure in a payment application may be linked to an irregularity.

2. The managing authority may agree to extend the interruption period by 3 months.

Article 21 – Suspension of payments

1. The Commission may suspend all or part of payments, including for pre-financing under Article 19(2) after having given the managing authority the opportunity to present its observations, if any of the following conditions is met:

   (a) the managing authority has failed to take the necessary action to remedy the situation giving rise to an interruption under Article 20;

   (b) there is a serious deficiency;

   (c) the expenditure in payment applications is linked to an irregularity that has not been corrected;

   (d) there is a reasoned opinion by the Commission in respect of an infringement procedure (under Article 258 TFEU) on a matter that puts at risk the legality and regularity of expenditure.

2. The Commission shall end the suspension of all or part of payments when the managing authority has taken the measures remedying the elements referred to in paragraph 1.

Article 22 – Reimbursement of Technical Assistance

1. Technical assistance to this Programme shall be reimbursed by the Commission to the managing authority as a flat rate.
2. The maximum amount to be reimbursed by the Commission to the managing authority for technical assistance shall correspond to the amount set out in Table 2 of Annex I.

Article 23 – Submission and examination of accounts

Submission and examination of accounts shall comply with the rules set out in Chapter II under Title VII of Regulation (EU) 2021/1060.

Article 24 – Decommitments

The Commission shall apply the rules on the procedure for decommitments and on exceptions to the decommitment rules as set out in Articles 105 to 107 of Regulation (EU) 2021/1060.

Article 25 – Foreign Exchange provisions and transfer of funds

1. In accordance with Article 38(5) of Regulation (EU) 2021/1059, expenditure paid in another currency shall be converted into euro by each partner using the monthly accounting exchange rate of the Commission applicable on the day in which that expenditure was submitted for verification.
2. The Partner country shall undertake measures to enable beneficiaries from the Republic of Moldova, where applicable, to:
   (a) receive funds provided under the EU financial contribution for the purposes of the Programme and open specific bank accounts, including accounts in Euro;
   (b) make payments in line with contractual requirements for the implementation of all activities necessary for the implementation of the operation, including the possibility of the lead beneficiary to redistribute the grant amount to the other beneficiaries.

Section Five – Sound financial management with regard to the implementation of the Programme

Article 26 – General provision

1. The participating countries shall respect the principles of sound financial management, transparency and non-discrimination and shall ensure the visibility of the EU action when they manage EU funds. To that end, the participating countries shall fulfil their respective control and audit obligations and assume the resulting responsibilities laid down in this Agreement.
2. The participating countries shall agree on a management and control system for the Programme in accordance with Articles 69 to 72, 74 to 76 and 78 to 82 of Regulation (EU) 2021/1060 and Articles 22, 30(2) and 46 to 49 of Regulation (EU) 2021/1059 and the Document "Description on Management, and Control System" and shall ensure its

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functioning in accordance with sound financial management and the key requirements listed in Annex XI to Regulation 2021/1060.

3. For the purposes of the application of this section, the programme authorities and bodies shall cooperate closely with the Parties in accordance with their respective laws and regulations.

4. When exercising their duties in territory of the Republic of Moldova, the programme authorities, EU agents and EU investigative bodies shall act in a manner consistent with the law of the Republic of Moldova.

5. When executing tasks relating to budget implementation, the Parties shall take all the necessary and appropriate measures, including legislative, regulatory and administrative measures, to effectively protect the financial interests of the EU.

Article 27 – Scope of management verifications

The national controller from the Republic of Moldova, supported by the national authority, shall carry out management verifications in its territory to verify that:

a) the co-financed products and services have been delivered,

b) the operations comply with Article 74(1)(a) of Regulation (EU) 2021/1060, the programme and the conditions for support of the operation.

The managing authority shall satisfy itself that the expenditure of beneficiaries participating in an operation has been verified by the national controller.

Article 28 – Audits and review proceedings

1. The EU shall have the right to carry out the appropriate technical, scientific, financial audits and review proceedings including to conduct on-the-spot checks in accordance with Articles 48 and 49 of Regulation (EU) 2021/1059 and Article 79 of Regulation (EU) 2021/1060 on the premises of any natural person residing in or legal entity established in the Partner country and receiving Union funding, as well as any third party involved in the implementation of Union funding residing or established in the Partner Country.

2. Such reviews and audits may be carried out by the agents of the institutions and bodies of the Union, in particular of the Commission, the European Anti-Fraud Office (OLAF), the European Court of Auditors, the European Public Prosecutor's Office (EPPO), or by other persons mandated by the Commission in accordance with the applicable Union law provisions.

3. The agents of the institutions and bodies of the EU, in particular the agents of the Commission, OLAF and the European Court of Auditors, as well as other persons mandated by the Commission, shall have appropriate access to premises, works and documents (in electronic versions, paper versions, or both) and to all the information required in order to carry out such audits, reviews and checks, as referred to in paragraph 1, in accordance with Article 82 of Regulation (EU) 2021/1060 and Article 40 of this Agreement. Such access shall include the right to obtain physical or electronic copies of, and extracts from, any document or the contents of any data medium held by audited natural or legal persons, or by the audited third party.

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4. The Partner Country shall not prevent or raise any undue obstacle to the right of entrance in the Partner Country and to the access to the premises of the audited persons, of the agents and other persons referred to in paragraph 2 that are mandated to carry out on the spot checks on the grounds of the exercise of their duties referred to in this Article.

5. Access to all information and documents requested by the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article shall be granted on conditions of protecting the business secrets and the confidentiality of the investigations with regard to third parties in accordance with Article 72(1)(e) and Annex XII (section 1.5), Annex XIV (section 1.1 and 2.4), Annex XV (sections 2.4(g) and 2.5) and Annex XVI (section 4.1.6) of Regulation (EU) 2021/1060 applicable to the agents and other persons referred to in paragraph 2. Documents must be accessible and filed in a manner permitting easy inspection.

6. The Republic of Moldova and, where relevant, the programme authorities, shall be notified of on-the-spot checks by the agents or external auditors appointed or mandated by the managing authority, the audit authority, the Commission, OLAF or the European Court of Auditors.

7. Notwithstanding the suspension or termination of this Agreement under Articles 54 and 55, the reviews and audits under this Article may be carried out for 5 years also after the date on which the suspension or termination takes effect.

Article 29 - Audit by the audit authority and the group of auditors

In compliance with Articles 48 and 49 of Regulation (EU) 2021/1059, the audit authority shall be assisted by the member of the group of auditors from the Republic of Moldova of the Programme and shall be responsible for carrying out an appropriate number of audits, including audits on operations and audits of accounts in its territory in order to provide independent assurance to the Commission that management and control systems function effectively and that expenditure included in the accounts submitted to the Commission is legal and regular.

Article 30 – Prevention and detection of irregularities, fraud and other criminal offences affecting the financial interests of the EU

1. The national authority and the national controller supporting the managing authority shall ensure the legality and regularity of expenditure included in the accounts submitted to the Commission and shall take all required actions to prevent, detect and report irregularities and fraudulent operations concerned with the Programme.

2. The national authority, the national controller, the National Anticorruption Centre and the member of the group of auditors from the Republic of Moldova shall cooperate with the Commission, OLAF, the European Court of Auditors and the programme authorities on all matters related to preventing, detecting, and reporting the irregularities, including those concerned with any suspected or established fraud and recover the amounts unduly paid.

3. Financial corrections by the managing authority or the Commission shall be made in accordance with Article 33 or 34 respectively.

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4. The recovery of irregular expenditure, including by offsetting, by the Commission, the managing authority and the lead partner shall be made as set out in Article 32.

5. The authorities and bodies listed in paragraph 2 shall decide on a case by case basis whether to conduct on-the-spot checks and inspections jointly, including where both parties are competent to conduct investigations.

6. Where a beneficiary from the Republic of Moldova or any other third party resists an on-the-spot check or inspection, the national authority, the National Anticorruption Centre and the representative in the group of auditors, acting in accordance with national rules and regulations, shall assist the Commission or .OLAF, ECA or the programme authorities, to allow them to fulfil their duty in carrying out all on-the-spot checks or inspections. This assistance shall include taking the appropriate interim measures to protect the financial interests of the Union that shall not be less effective than those applicable under national law to protect the national financial interests, including those necessary to safeguard evidence.

7. The Commission or OLAF, ECA or the managing authorities shall inform the authorities of the Republic of Moldova of the result of such checks and inspections. In particular the Commission or OLAF shall report as soon as possible to the managing authority and the national authority and the National Anticorruption Centre any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

8. Article 30(2) shall also apply to checks and inspections under paragraphs 4 to 6 of this Article.

9. For the purposes of proper implementation of this Article, the Commission or OLAF or the programme authorities and the national authority, the national controller, the National Anticorruption Centre and the representative in the group of auditors from the Republic of Moldova shall regularly exchange information and, at the request of one of the Parties to this Agreement, consult each other, unless prohibited by European EU legislation or laws from the Republic of Moldova and regulations.

10. Information exchanged between the Commission or OLAF, the programme authorities and the national authority shall be treated in accordance with Articles 40 and 41.

Article 31 - Irregularities reporting

The national authority shall report to the managing authority and to the audit authority on irregularities including fraud in accordance with the criteria for determining the cases of irregularity to be reported, the data to be provided and the format for reporting set out in point 1.3 of Section 1 of Annex XII to the Regulation (EU) 2021/1060.

Article 32 - Recovery

The managing authority and the participating countries' authorities shall comply with their recovery obligations for all kind of partners, meaning public and non-public, as set out in Article 52 of Regulation (EU) 2021/1059.

Article 33 - Financial corrections by the managing authority

In accordance with Article 103 of Regulation (EU) 2021/1060, the participating countries shall protect the Union budget and apply financial corrections by cancelling all or part of the support from the Funds to an operation or programme where expenditure is found to be irregular. They should inform the Commission of any expenditure which is detected and/or reported by the competent national authorities as being irregular, including the cases of expenditure that is only suspected to be irregular.

Article 34 - Financial corrections by the Commission

In accordance with the rules and procedure set out in Article 104 of Regulation (EU) 2021/1060, the Commission shall make financial corrections by reducing support from the Funds to a programme where it concludes that:

(a) there is a serious deficiency, which has put at risk the support from the Funds already paid to the programme;

(b) expenditure contained in accepted accounts is irregular and was not detected and reported by the managing authority;

(c) the managing authority has not complied with its obligations under Article 33 to detect and report the expenditure that is found or suspected by the competent national authorities as irregular, prior to the opening of the financial correction procedure by the Commission.

Section Six - Various legal provisions

Article 35 - Visa facilitation

1. The Partner Country shall facilitate the issuing of visas to the personnel of the Programme authorities and management bodies listed in Article 12 of this Agreement and to the beneficiaries in terms of Article 2(9) of Regulation (EU) 2021/1060 for travel related with the implementation and management of the Programme and this Agreement. Visas shall be granted as speedily as possible.
2. Paragraph 1 shall apply, where relevant, to other natural persons and persons representing legal persons participating in implementing operations.
3. The Commission shall encourage the participating Member States to facilitate in equal terms the issuing of visas to all actors referred to in paragraphs 1 and 2 of this Article from the Partner Country for travel related with the implementation of the Programme and this Agreement.

Article 36 – VAT excise duties, customs duties and other indirect taxes

Value added tax ("VAT") excise duties, customs duties and any other indirect taxes shall not be eligible for Union support, except for operations, investments and small projects funds listed under Article 64(1)(c) of Regulation (EU) 2021/1060.

Article 37 - Permits and authorisations

1. The competent authority of the Republic of Moldova, in accordance with national law, shall provide in a timely manner all necessary permits or authorisations required for the

implementation of operations under this Agreement in the Partner Country and, in particular, to enable the managing authority to issue the document referred to in Article 22(6) of Regulation (EU) 2021/1059 to the lead beneficiary.

2. The Partner Country shall ensure, as far as it is under the control of the authorities of the Republic of Moldova, that the conditions for the persons referred to in Article 35(1) to access services in the Partner Country that are directly related to the implementation of the programmes or activities are the same as for the nationals from the Republic of Moldova, including as regards any fees.

Article 38 - Intellectual property rights (including "Use of studies")

1. With regard to communication and visibility material, the participating countries shall ensure that the managing authority includes into each Grant Contract the necessary conditions and clauses in accordance with Article 49(6) of Regulation (EU) 2021/1060.
2. With regard to the acquisition of all necessary intellectual property rights with regard to information technology, studies, drawings, plans, publicity, patents and any other material made in order to facilitate planning, implementation, monitoring and evaluation purposes, the participating countries shall ensure that the managing authority includes into each Grant Contract the necessary conditions and clauses in accordance with the applicable law of the participating countries.
3. The Partner Country shall ensure that the Commission, the French Government or agents thereof, shall have access and the right to use such materials, or to publish it. The Commission will only use such material for its own purpose as set out in points 2.1 to 2.6 of Annex IX to Regulation (EU) 2021/1060.

Article 39 - Availability of documents

The Partner Country shall ensure that beneficiaries in the Partner Country financed under the Programme keep all supporting documents related to an operation in accordance with Article 82 of Regulation (EU) 2021/1060.

Article 40 – Processing, protection and transfer of personal data

1. Personal data of natural persons participating in the Programme shall be collected, recorded, stored and transferred in databases of the Programme authorities and management bodies in accordance with the respective law of the participating countries on the processing of personal data.
2. The participating countries and the programme authorities shall process personal data only where necessary for the purpose of carrying out their respective obligations under this Agreement and the basic acts set out in Article 2(1), in particular for monitoring, reporting, communication, publication, evaluation, financial management, verifications and audits and, where applicable, for determining the eligibility of participants.
3. The participating countries as well as Programme authorities and management bodies shall ensure personal data are protected in accordance with the participating countries' respective legislation.
4. Such data shall be transferred to the EU control bodies listed in Article 28(2) and for the purposes of their activities.

Article 41 - Disclosure of information

With the exception of information covered by the obligations on communication and visibility referred to in Articles 44 and 45 and without prejudice to Article 28(4) and Article 40, the Parties shall consult each other before disclosing to the public any document, information or other material directly related to the implementation of this Agreement.

Section Seven - Monitoring, evaluation, communication and visibility

Article 42 – Set-up, functioning and functions of the Monitoring Committee

The set-up, the functioning and the functions of the Monitoring Committee shall comply with Articles 28, 29 and 30 of Regulation (EU) 2021/1059 and are detailed in the Programme document "Rules of Procedure for the Monitoring Committee of the Programme".

Article 43 - Evaluation

1. The national authority shall support the managing authority in its tasks with regard to evaluations during the programming period.
2. In accordance with Article 35 of Regulation (EU) 2021/1059, evaluations are related to one or more of the following criteria: effectiveness, efficiency, relevance, coherence and Union added value, with the aim to improve the quality of the design and implementation of programmes.

   Evaluations may also cover other relevant criteria, such as inclusiveness, non-discrimination and visibility, and may cover more than one programme.

Article 44 - Communication

1. The managing authority has identified a communication officer for the Programme.
2. The national authority of the Republic of Moldova shall support the managing authority and partners (as referred to in Article 8(1) of Regulation (EU) 2021/1060) in the Partner Country with regard to the tasks provided for in this Article.

   The communication officer for the Programme shall also support the communication coordinator in France with regard to its tasks for visibility, transparency and communication activities.
3. The Partner Country shall support the managing authority in its tasks to ensure that communication and visibility material including at the level of beneficiaries is made available upon request without additional costs or a significant administrative burden to Union institutions, bodies, offices or agencies, managing authority and beneficiaries and that a royalty free, non-exclusive and irrevocable licence to use such material and any pre-existing rights attached to it is granted to the Union.

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Article 45 - Visibility

1. The Programme authorities and the Partner Country shall ensure:
   (a) the visibility of support in all activities relating to operations supported by the Interreg Funds with particular attention to operations of strategic importance;
   (b) communication to citizens of participating countries of the role and achievements of the Funds through a single website portal providing access to all programmes involving that Member State.

   They support the managing authority in carrying out its responsibilities referred to in Article 49(2) to (6) of Regulation (EU) 2021/1060.
2. The Programme authorities, the Partner Country and beneficiaries shall use appropriately and in accordance with Article 36 of Regulation (EU) 2021/1059 the term 'Interreg" next to the emblem of the Union when carrying out visibility, transparency and communication activities.

Part Three - Mutual rights and obligations with regard to the implementation and financial management of the Programme

Article 46 –Implementing provisions between France and the Partner Country

Concerning the budget allocated to "technical assistance" (TA), due to the exceptional situation, the national TA contribution for the Republic of Moldova for the 2021-2027 period will be financed by the programme from the Interreg IVC surplus amount (Monitoring Committee decision of 11 July 2023).

Part Four - Final provisions

Article 47 - Addresses of and communication between the Parties

The working language of the Programme shall be English.

All communications concerning the implementation of this Agreement shall be in writing, shall refer expressly to the Programme and shall be sent to the following addresses:

For the EU:

European Commission
Directorate-General for Regional and Urban Policy
1049 Brussels
Belgium

For France legally represented by the Head of the Managing Authority of the Programme:

Hauts-de-France Region
151 Avenue du président Hoover
59555 Lille, France

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For the Republic of Moldova:

State Chancellery, Government Building
1, Piata Marii Adunări Nationale Street
Chisinau, MD 2033
Republic of Moldova

Article 48 - Interpretation of this Agreement

1. Subject to any explicit provision to the contrary, the terms used in this Agreement and its Annexes shall bear the same meaning as attributed to them in the basic acts referred to in Article 2(1).
2. Where contradictions exist between the provisions in this Agreement and in its Annexes, the provisions contained in this Agreement shall prevail.
3. Where contradictions exist between the provisions in, on the one hand, this Agreement and Annexes and, on the other hand, in the Basic Acts, the provisions contained in the basic acts shall prevail.
4. Subject to any explicit provision to the contrary in this Agreement, references to this Agreement are references to such Agreement as corrected, amended, supplemented or replaced from time to time.
5. Any references made in this Agreement and its Annexes to the basic acts are references to such instruments as amended, supplemented or replaced from time to time.
6. Headings in this Agreement and in its Annexes have no legal significance and do not affect its interpretation.
7. The Parties shall consult each other in order to resolve any disagreement relating to the interpretation of this Agreement.

Article 49 - Partial invalidity and unintentional lacunae

1. If a provision of this Agreement is or becomes invalid, or if this Agreement contains unintentional lacunae, this will not affect the validity of the other provisions of this Agreement.
2. When applying this Agreement, the Parties will fill any invalid provision or unintentional gap by a provision which best suits the purpose and intent of this Agreement, in compliance with the basic acts and in accordance with Article 53.

Article 50 - Consultations between Parties

1. Without prejudice to Article 41, any question relating to the execution or interpretation of this Agreement shall be subject to consultation between the Parties to this Agreement leading, where necessary, to an amendment of this Agreement.

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2. The Parties shall also consult each other in case the monitoring committee is not able to take a decision in accordance with Article 11.

3. Any Party shall inform the other Parties in case a correction, amendment, supplement or replacement of the applicable law that may affect the implementation of the Programme or this Agreement.

4. Where any of the Parties becomes aware of problems relating to the implementation of the Programme or of the execution of this Agreement, it shall establish all necessary contacts with the other Parties and the managing authority to remedy the situation and may take any necessary steps.

5. Consultation may lead to the amendment (Article 53), suspension (Article 54) or termination (Article 55) of this Agreement or to a dispute settlement procedure (Article 51).

6. Paragraph 1 shall not apply in relation to the resolution of any disagreement or other issues between France and the Commission.

Article 51 - Dispute settlement arrangements

1. Any dispute concerning the Agreement involving either the Partner Country and either France or the Commission or both, which cannot be settled within a six-month period by the consultations between the Parties provided for in Article 50, may be settled by arbitration at one of the Parties' request.

   However, the Court of Justice has the exclusive competence with respect to the interpretation and application of EU law.

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

   Where a dispute involves the Commission and France on the one hand, and the Partner Country on the other hand, and the Commission and France are acting jointly, the Commission and France shall designate one common arbitrator.

3. Unless the arbitrators decide otherwise, the procedure laid down in the Arbitration Rules 1996 of the Permanent Court of Arbitration involving International Organisations and States shall apply.

   The arbitrators' decision shall be taken by a majority thereof within a period of three months.

   Where a question concerning the interpretation of EU law is raised in the arbitration proceedings, the arbitrators shall stay the proceedings and request a Court in France to refer one or more questions for a preliminary ruling to the Court of Justice of the EU in accordance with Article 267 TFEU.

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

5. The request to pursue arbitration under paragraph 1 shall not constitute and shall not be interpreted as a waiver of privileges or immunities of any of the Parties, to which they are entitled.

6. Paragraphs one to four shall not apply in relations between the Commission and France.

Article 52 - Disputes with third parties

1. Without prejudice to the jurisdiction of any court designated in a Grant Contract set out in Article 22(6) of Regulation (EU) 2021/1059 as the competent court for disputes arising out of a contract between the managing authority and beneficiaries in the Partner Country, the EU shall enjoy in the territory of the Partner Country immunity from suit, including arbitration except as provided for in Article 51 of this Agreement, and legal process with respect to any dispute between the Commission and/or Partner Country and a third party, or between third parties, which directly or indirectly relates to the provision of financial support under the Programme to the Partner Country under this Agreement, except where the EU has expressly waived its immunity.

2. The Partner Country shall in any legal or administrative proceedings before a court, tribunal or administrative instance in the Partner Country uphold this immunity and take a position which fully considers the interests of the EU. Where necessary, the Partner Country and the Commission shall proceed with advance consultations under Article 50 on the position to take.

Article 53 - Amendment of this Agreement

1. Any amendment of this Agreement, including to replace a provision of this Agreement which is or has been declared invalid or where to fill any unintentional gap, shall be made in writing and any change to the Agreement must be agreed by all the Parties.

2. An amendment in writing will take the form of an exchange of letters upon agreement of all the Parties.

3. The Party requesting the amendment shall submit the request to the other Parties at least three months before the amendment is intended to enter into force, except in cases, which are duly justified by the requesting Party and accepted by the others.

Article 54 - Suspension of this Agreement

1. Any Party may suspend this Agreement:

   a) if one of the other Parties breaches an obligation under this Agreement.

   b) in case of breach of an international legal obligation by the other Party / one of the other Parties, in particular those relating to the respect of human rights, democratic principles and the rule of law;

   c) in serious cases of corruption provided that they have a systemic impact on the implementation of the Programme or of individual projects;

d) in case the EU adopts restrictive measures towards the Partner Country;

e) where the monitoring committee has not been able to take a decision in accordance with Article 11 or

f) where the monitoring committee has agreed on the discontinuation of the Programme in accordance with Article 12 of Regulation (EU) 2021/1059.

g) in case of *force majeure* affecting the implementation of the Programme.

"*Force majeure*" shall mean any unforeseeable and exceptional situation or event beyond the Parties' control which prevents them from fulfilling any of their obligations, not attributable to error or negligence on their part (or the part of their contractors, agents or employees) and proves to be 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 invoking *force majeure* shall inform the other Parties without delay, stating the nature, probable duration and foreseeable effects of the problem, and take any measure to minimise possible damage.

None of the Parties shall be held liable for breach of its obligations under this Agreement if it is prevented from fulfilling them by *force majeure*, provided that it takes measures to minimise any possible damage and that the other Parties are duly informed.

The other Parties shall either agree that there is a situation of *force majeure* or start consultations under Article 50 or make a notification under paragraph 2.

2. Any Party shall notify the other Parties of its intention to suspend the agreement, providing due justification. The suspension shall take effect 45 days following the date of notification or immediately by the notification in case of application of EU restrictive measures. The date on which the suspension takes effect shall constitute the reference date for the purposes of this Article.

3. Any Party may take any appropriate precautionary measure before the suspension takes place.

Prior to notification and the taking effect of the suspension, and during the suspension period, the Parties may discuss appropriate measures for avoiding or lifting the suspension.

4. As soon as the suspension has taken effect, the financial EU allocation and third country's contribution (national co-financing) referred to in Article 4 shall no longer be due.

5. Where the Parties have found that compliance with the Agreement is restored, the suspension might be lifted.

6. Where the Parties have found that compliance with the Agreement is not restored, the suspension shall remain in force, or the agreement might be terminated in accordance with Article 55.

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Article 55 - Termination of this Agreement

1. Where the suspension of this Agreement has not been lifted within a maximum period of 180 days, any Party may notify its intention to terminate the Agreement. The termination shall take effect 45 days following the date of notification, unless otherwise agreed.

2. In case of the discontinuation of the Programme pursuant to Article 11, any Party may notify its request that this Agreement is terminated before the expiry date of the period of execution.

3. The EU shall have the right to terminate this agreement if the Partner Country does not provide its contribution in accordance with Article 4(5) and shall notify its intention to terminate the Agreement. The termination shall take effect 45 days following the date of notification, unless otherwise agreed.

   The Partner Country shall have the right to terminate this agreement if the EU does not meet its obligations under Article 4(3) of this Agreement.

4. In the cases referred to in paragraph 2 and 3, this Agreement shall be terminated at the date agreed by the three Parties.

5. The date on which the termination takes effect shall constitute the reference date for the purposes of this Article.

6. Following termination of this Agreement, the financial allocation referred to in Article 4 shall no longer be due, unless suspension occurred before termination, in which case the reference date shall be that given in Article 54(2).

7. In case the Parties do not agree on an end date of the period of execution prior to the one in Article 6, this Agreement shall be terminated five years after the date of a notification pursuant to paragraph 1, 2 and 3.

Article 56 - Depositary

The Commission shall be the Depositary of this Agreement.

Article 57 - Components of this Agreement

The following Annexes shall form an integral part of this Agreement:

- the Financing plan (Annex I) ;
- the Public procurement rules (Annex II)

Article 58 – Conclusion and entry into force of this Agreement

1. This Agreement shall be considered to be concluded on the date when the last Party has signed it.

2. This Agreement shall enter into force on the date of the receipt of the last written notification by which Parties notify each other, through diplomatic channels, of the completion of their internal legal procedures required for its entry into force.

3. The Parties agree to provisionally apply the following provisions as of the date when this Agreement is concluded:

- Articles 7 to 9
- Articles 12(1) to (4)
- Articles 13 to 15
- Article 26(2)
- Article 35 to 41
- Articles 47 and 50
- Articles 57 and 58

Done in three original copies, one for each Party, in English.

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Signed, for and on behalf of the State Chancellery of the Republic of Moldova,

Artur Mija

Secretary General of the Government

.....

(signature)

Chişinău, date 27.12.2024

Signed, for and on behalf of the Commission,

Themis Christophidou

Director-General
Directorate General for Regional and Urban Policy

.....

(signature)

Brussels, date

Signed, for and on behalf of the Hauts-de-France Region,

Anne WETZEL
Directrice Europe
Région Hauts-de-France

.....

(signature)

Lille, date 18/02/2025

Annex I – Financing plan

Table 1: Financial appropriations by year (in EUR)

Fund	2021	2022	2023	2024	2025	2026	2027	Total
Interreg funds	0.00	64,827,095.00	66,754,886.00	67,831,347.00	71,929,296.00	60,072,772.00	63,067,274.00	394,482,670.00
Total	0.00	64,827,095.00	66,754,886.00	67,831,347.00	71,929,296.00	60,072,772.00	63,067,274.00	394,482,670.00

Table 2: Total financial appropriations by fund and national co-financing (in EUR)

Policy objective	Priority	Fund	Basis for calculation EU support (total eligible cost or public contribution)	EU contribution (a)=(a1)+(a2)	Indicative breakdown of the EU contribution		National contribution (b)=(c)+(d)	Indicative breakdown of the national counterpart		Total (e)=(a)+(b)	Co-financing rate (f)=(a)/(e)	Contributions from the third countries (for information)
					without TA pursuant to Article 27(1) (a1)	for TA pursuant to Article 27(1) (a2)		National public (c)	National private (d)	Total (e)=(a)+(b)	Co-financing rate (f)=(a)/(e)	Contributions from the third countries (for information)
6	1	Interreg funds	Total eligible cost	394,482,670.00	365,261,732.00	29,220,938.00	98,620,668.00	90,096,542.00	8,524,126.00	493,103,338.00	79.9999999189%	2,930,000.00
	Grand total	Interreg funds		394,482,670.00	365,261,732.00	29,220,938.00	98,620,668.00	90,096,542.00	8,524,126.00	493,103,338.00	79.9999999189%	2,930,000.00

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Annex II

Public procurement

A. General provisions

1. Principles applicable to contracts and scope (mirroring art. 160 of the Financial Regulation[1])

1. All contracts financed by a grant contract shall respect the principles of transparency, proportionality, equal treatment and non-discrimination.
2. All contracts shall be put out to competition on the broadest possible basis, except when use of negotiated procedure. The estimated value of a contract shall not be determined with a view to circumventing the applicable rules, nor shall a contract be split up for that purpose. The grant beneficiary, acting as contracting authority, shall divide a contract into lots, whenever appropriate, with due regard to broad competition.
3. Grant beneficiaries shall not use framework contracts improperly or in such a way that their purpose or effect is to prevent, restrict or distort competition.

2. Mixed contracts and common procurement vocabulary (mirroring art. 162 of the Financial Regulation)

1. A mixed contract covering two or more types of procurement (works, supplies or services), shall be awarded in accordance with the provisions applicable to the type of procurement that characterises the main subject matter of the contract in question.
2. In the case of mixed contracts consisting of supplies and services, the main subject matter shall be determined by a comparison of the values of the respective supplies or services.
3. Any references to nomenclatures in the context of procurement shall be made using the Common Procurement Vocabulary (CPV).

3. Publicity measures (mirroring art. 163 of the Financial Regulation with thresholds of 178.1 and point 5 of its Annex I)

1. For procedures with a value equal to or greater than EUR 300 000 for service and supply contracts or than EUR 5 000 000 for works contracts the grant beneficiary shall publish in the *Official Journal of the European Union*:
    a) a contract notice to launch a procedure, except in the case of negotiated procedure;
    b) a contract award notice on the results of the procedure.
2. If applicable, the prior information notice for calls for tender following the restricted procedure or the open procedure as referred to, respectively, in points (a) and (b) of point 4.1, shall be sent to the Publications Office by electronic means as early as possible.

   The award notice shall be sent when the contract is signed except where, if still necessary, the contract was declared secret or where the performance of the contract must be accompanied by special security measures, or when the protection of the essential interests of the Union or the beneficiary country so requires, and where the publication of the award notice is deemed not to be appropriate.
3. Procedures with a value below the above-mentioned thresholds shall be advertised by

[1] Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union

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appropriate means.

4. In addition to the advertising provided for in paragraph 1 and in point 30.2, procurement procedures may be advertised in any other way, in particular in electronic form. Any such advertising shall refer to the notice published in the Official Journal of the European Union, if the notice has been published, and shall not precede the publication of that notice, which alone is authentic.

   Such advertising shall not introduce any discrimination between candidates or tenderers nor contain details other than those contained in the contract notice, if the notice has been published.

5. Publication of certain information on a contract award may be withheld where its release would impede law enforcement, or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators or might prejudice fair competition between them.

B. Types of procedures

4. Procurement procedures (mirroring art. 164 of the Financial Regulation)

1. Procurement procedures for awarding concession contracts or public contracts, including framework contracts shall take one of the following forms:
   a) open procedure;
   b) restricted procedure;
   c) negotiated procedure, including without prior publication;
   d) competitive procedure with negotiation;
   e) procedures involving a call for expression of interest.
2. In open procedures any interested economic operator may submit a tender.
3. In restricted procedures and competitive procedures with negotiation, any economic operator may submit a request to participate by providing the information that is requested by the grant beneficiary. The grant beneficiary shall invite all candidates, that satisfy the selection criteria and that are not in any of the situations for exclusion or rejection referred to in Articles 136(1) and 141(1) of the Financial Regulation[2], to submit a tender.

   Notwithstanding the first paragraph, the grant beneficiary may limit the number of candidates to be invited to participate in the procedure on the basis of objective and non-discriminatory selection criteria, which shall be indicated in the contract notice or the call for expression of interest. The number of candidates invited shall be sufficient to ensure genuine competition.
4. In all procedures involving negotiation, the grant beneficiary shall negotiate with tenderers the initial and any subsequent tenders or parts thereof, except their final tenders, in order to improve their content. The minimum requirements and the criteria specified in the procurement documents shall not be subject to negotiation. A grant beneficiary may award a contract on the basis of the initial tender without negotiation where it has indicated in the procurement documents that it reserves the possibility to do so.
5. The grant beneficiary may use:
   a) the open or restricted procedure for any purchase;
   b) the procedures involving a call for expression of interest for contracts with a value

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[2] Other provisions on situations of exclusion and rejection in this document should be understood as referred to Articles 136(1) and 141(1) of the Financial Regulation

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below the thresholds referred to in point 3 of this Annex, to preselect candidates to be invited to submit tenders in response to future restricted invitations to tender, or to collect a list of vendors to be invited to submit requests to participate or submit tenders;

c) the competitive procedure with negotiation, for the service contracts for social and other specific services[3], and for cases where this is justified by the specific circumstances linked, inter alia, to the nature or the complexity of the subject matter of the contract or to the specific type of contract, as further detailed in point 7.2;

d) the negotiated procedure without prior publication for specific types of purchases falling outside the scope of Directive 2014/24/EU or in the clearly defined exceptional circumstances set out in this Annex.

5. **Thresholds and procedures** (mirroring point 38 of Annex I of the Financial Regulation)

1. The procurement procedures in the field of external actions shall be as follows:
   a) the restricted procedure as provided for in point 4.1.b of this Annex;
   b) the open procedure as provided for in point 4.1.a of this Annex;
   c) the local open procedure;
   d) the simplified procedure.
2. The use of procurement procedures according to thresholds shall be as follows:
   a) the open or restricted procedure may be used for:
      i. service and supply contracts and service concession contracts with a value of at least EUR 300 000;
      ii. works contracts and works concessions contracts with a value of at least EUR 5 000 000;
   b) the local open procedure may be used for:
      i. supply contracts with a value of at least EUR 100 000 and less than EUR 300 000;
      ii. works contracts and works concessions contracts with a value of at least EUR 300 000 and less than EUR 5 000 000;
   c) the simplified procedure may be used for:
      i. service contracts, service concession contracts, works contracts and works concessions contracts with a value of less than EUR 300 000;
      ii. supply contracts with a value of less than EUR 100 000;
   d) contracts with a value of less than or equal to EUR 20 000 may be awarded on the basis of a single tender;
   e) payments of amounts less than or equal to EUR 2 500 in respect of items of expenditure may be carried out simply as payment against invoices, without prior acceptance of a tender.
3. In the restricted procedure referred to in point (a) of paragraph 1, the contract notice shall state the number of candidates who will be invited to submit tenders. For service contracts at least four candidates shall be invited. The number of candidates allowed to submit tenders shall be sufficient to ensure genuine competition. The list of selected candidates shall be published on the grant beneficiary's website.

   If the number of candidates satisfying the selection criteria or the minimum capacity levels is less than the minimum number, the grant beneficiary may invite to submit a tender only those candidates who satisfy the criteria to submit a tender.
4. Under the local open procedure referred to in point (c) of paragraph 1, the contract notice shall be published at least in the official gazette of the recipient State or in any equivalent

[3] As referred to in Annex XIV to Directive 2014/24/EU

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publication for local invitations to tender.

5. Under the simplified procedure referred to in point (d) of paragraph 1, the contracting authority shall draw up a list of at least three tenderers of its choice, without publication of a notice. Tenderers for the simplified procedure may be chosen from a list of vendors as referred to in point (b) of point 9. 1 advertised by a call for expression of interest.

   If, following consultation of the tenderers, the contracting authority receives only one tender that is administratively and technically valid, the contract may be awarded provided that the award criteria are met.

6. For legal services not covered in point (g) of point 6.1, the contracting authorities may use the simplified procedure, whatever is the estimated value of the contract.

6. Use of a negotiated procedure without prior publication of a contract notice (mirroring point 11 of Annex I of the Financial Regulation)

1. Where the grant beneficiary uses the negotiated procedure without prior publication of a contract notice, it shall comply with the arrangements on negotiation set out in point 7.1. The grant beneficiary may use the negotiated procedure without prior publication of a contract notice, regardless of the estimated value of the contract, in the following cases:
   a) where no tenders, or no suitable tender, or no request to participate or no suitable request to participate as provided for in paragraph 2 have been submitted in response to an open procedure or restricted procedure after that procedure has been completed, provided that the original procurement documents are not substantially altered;
   b) where the works, supplies or services can only be provided by a single economic operator under the conditions set out in paragraph 3 and for any of the following reasons:
      i. the aim of the procurement is the creation or acquisition of a unique work of art or an artistic performance;
      ii. competition is absent for technical reasons;
      iii. the protection of exclusive rights, including intellectual property rights, must be ensured;
   c) in so far as is strictly necessary where, for reasons of extreme urgency brought about by unforeseeable events, it is impossible to comply with the time limits laid down in point 22 of this Annex and where the justification of such extreme urgency is not attributable to the contracting authority;
   d) for new services or works consisting in the repetition of similar services or works entrusted to the economic operator to which the same grant beneficiary awarded an original contract, provided that those services or works are in conformity with a basic project for which the original contract was awarded after publication of a contract notice, subject to the conditions set out in paragraph 4;
   e) for supply contracts:
      i. for additional deliveries which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations, where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance; when Union institutions award contracts on their own account, the duration of such contracts shall not exceed three years;
      ii. where the products are manufactured purely for the purpose of research, experimentation, study or development; however, such contracts shall not include quantity production to establish commercial viability or to recover research and development costs;

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iii. for supplies quoted and purchased on a commodity market;

iv. for purchases of supplies on particularly advantageous terms, from either an economic operator which is definitively winding up its business activities, or the liquidators in an insolvency procedure, an arrangement with creditors, or a similar procedure under national law;

f) for building contracts, after prospecting the local market;

g) for contracts for any of the following:

i. legal representation by a lawyer in arbitration or conciliation or judicial proceedings;

ii. legal advice given in the preparation of the proceedings referred to in point (i), or where there is tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings, provided that the advice is given by a lawyer;

iii. arbitration and conciliation services;

iv. document certification and authentication services which must be provided by notaries;

2. A tender shall be considered unsuitable where it does not relate to the subject matter of the contract and a request to participate shall be considered unsuitable where the economic operator is in an exclusion situation or does not meet the selection criteria.

3. The exceptions set out in points (b)(ii) and (iii) of paragraph 1 shall only apply when no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters when defining the procurement.

4. In the cases referred to in point (d) of paragraph 1, the basic project shall indicate the extent of possible new services or works and the conditions under which they will be awarded. As soon as the basic project is put up for tender, the possible use of the negotiated procedure shall be disclosed, and the total estimated amount for the subsequent services or works shall be taken into consideration in applying the thresholds referred to in point 3 of this Annex.

7. **Use of competitive procedure with negotiation** (mirroring point 12.1(b) of Annex I and Art. 164.4 of the Financial Regulation)

1. When the grant beneficiary uses the competitive procedure with negotiation, it shall take into consideration the following arrangements on negotiation:

a) the grant beneficiary shall negotiate with tenderers the initial and any subsequent tenders or parts thereof, except their final tenders, in order to improve their content. The minimum requirements and the criteria specified in the procurement documents shall not be subject to negotiation;

b) a grant beneficiary may award a contract on the basis of the initial tender without negotiation where it has indicated in the procurement documents that it reserves the possibility to do so.

2. The contracting authority may use this procedure, regardless of the estimated value of the contract, with regard to works, supplies or services fulfilling one or more of the following criteria:

a) where the needs of the contracting authority cannot be met without the adaptation of a readily available solution;

b) the works, supplies or services include design or innovative solutions;

c) the contract cannot be awarded without prior negotiations because of specific circumstances related to the nature, complexity or the legal and financial make-up of the contract or the risks attached to the subject matter of the contract;

d) the technical specifications cannot be established with sufficient precision by the

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contracting authority with reference to a standard.

8. **Use of the negotiated procedure for service, supply and works contracts** (mirroring point 39 of Annex I of the Financial Regulation)

1. Grant beneficiaries may use the negotiated procedure with a single tender in the following cases:
   a) where the services are entrusted to public-sector bodies or to non-profit institutions or associations and relate activities of an institutional nature or are designed to provide assistance to people in the social field;
   b) where the tender procedure has been unsuccessful, that is to say, where no qualitatively and/or financially worthwhile tender has been received, in which case, after cancelling the tender procedure, the grant beneficiary may negotiate with one or more tenderers of its choice, from among those that took part in the invitation to tender, provided that the procurement documents are not substantially altered;
   c) where a new contract has to be concluded after early termination of an existing contract.
2. For the purposes of point 6.1(c) operations carried out in a crisis shall be considered to satisfy the test of extreme urgency. The grant beneficiary shall establish that a situation of extreme urgency exists and shall review his or her decision regularly having regard to the principle of sound financial management.
3. Activities of an institutional nature referred to in point (a) of point 8.1 shall include services directly linked to the statutory mission of the public sector bodies.

9. **Procedure involving a call for expression of interest** (mirroring points 13.1 & 13.2 of Annex I of the Financial Regulation)

1. For contracts with a value below the thresholds referred to in point 3 of this Annex, and without prejudice to points 6 and 7 of this Annex, the grant beneficiary may use a call for expression of interest to do either of the following:
   a) to pre-select candidates to be invited to submit tenders in response to future restricted invitations to tender;
   b) to collect a list of vendors to be invited to submit requests to participate or tenders.
2. The list drawn up following a call for expression of interest shall be valid for not more than four years from the date on which the notice is published. The list referred to in the first paragraph may include sub-lists. Any interested economic operator may express interest at any time during the period of validity of the list, with the exception of the last three months of that period.

10. **Use of electronic auctions** (mirroring point 22 of Annex I of the Financial Regulation)

1. The grant beneficiary may use electronic auctions, in which new prices, revised downwards, or new values concerning certain elements of tenders are presented.

   The grant beneficiary shall structure the electronic auction as a repetitive electronic process, which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods.
2. In open, restricted or competitive procedures with negotiation, the grant beneficiary may decide that the award of a public contract is preceded by an electronic auction when the procurement documents can be established with precision.

   An electronic auction may be held on the reopening of competition among the parties to a

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framework contract as referred to point (b) of the second subparagraph of point 1.3 of Annex I of the Financial Regulation.

The electronic auction shall be based on one of the award methods set out in point 17.4 of this Annex.

3. The contracting authority which decides to hold an electronic auction shall state that fact in the contract notice. The procurement documents shall include the following details:
   a) the values of the features which will be the subject of an electronic auction, provided that those features are quantifiable and can be expressed in figures or percentages;
   b) any limits on the values which may be submitted, as they result from the specifications relating to the subject matter of the contract;
   c) the information which will be made available to tenderers in the course of the electronic auction and, where appropriate, when it will be made available to them;
   d) the relevant information concerning the electronic auction process including whether it includes phases and how it will be closed, as set out in point 10.7;
   e) the conditions under which the tenderers will be able to tender and, in particular, the minimum differences which will, where appropriate, be required when submitting the tender;
   f) the relevant information concerning the electronic equipment used and the arrangements and technical specifications for connection.
4. All tenderers who have submitted admissible tenders shall be invited simultaneously by electronic means to participate in the electronic auction using the connections in accordance with the instructions. The invitation shall specify the date and time of the start of the electronic auction.

   The electronic auction may take place in a number of successive phases. The electronic auction shall not start sooner than two working days after the date on which invitations are sent out.
5. The invitation shall be accompanied by the outcome of a full evaluation of the relevant tender. The invitation shall also state the mathematical formula to be used in the electronic auction to determine automatic re-rankings on the basis of the new prices and/or new values submitted. That formula shall incorporate the weighting of all the criteria fixed to determine the most economically advantageous tender, as indicated in the procurement documents. For that purpose, any ranges shall, however, be reduced beforehand to a specified value. Where variants are authorised, a separate formula shall be provided for each variant.
6. Throughout each phase of an electronic auction the contracting authority shall instantaneously communicate to all tenderers at least sufficient information to enable them to ascertain their relative rankings at any moment. It may also, where this has been previously indicated, communicate other information concerning other prices or values submitted as well as announce the number of tenderers in any specific phase of the auction. It shall not however disclose the identities of the tenderers during any phase of an electronic auction.
7. The grant beneficiary shall close an electronic auction in one or more of the following ways:
   a) at the previously indicated date and time;
   b) when it receives no more new prices or new values which meet the requirements concerning minimum differences, provided that it has previously stated the time which it will allow to elapse after receiving the last submission before it closes the electronic auction;
   c) when the previously indicated number of phases in the auction has been completed.
8. After closing an electronic auction, the contracting authority shall award the contract on the

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basis of the results of the electronic auction.

11. Electronic catalogues (mirroring point 27 of Annex I of the Financial Regulation)

1. Where the use of electronic means of communication is required, the contracting authority may require tenders to be presented in the format of an electronic catalogue or to include an electronic catalogue.
2. Where the presentation of tenders in the form of electronic catalogues is accepted or required, the contracting authority shall:
   a) state so in the contract notice;
   b) indicate in the procurement documents all the necessary information concerning the format, the electronic equipment used and the technical connection arrangements and specifications for the catalogue.
3. Where a multiple framework contract has been concluded following the submission of tenders in the form of electronic catalogues, the contracting authority may provide that the reopening of competition for specific contracts takes place on the basis of updated catalogues by using one of the following methods:
   a) the contracting authority invites contractors to resubmit their electronic catalogues, adapted to the requirements of the specific contract in question;
   b) the contracting authority notifies contractors that it intends to collect from the electronic catalogues which have already been submitted the information needed to constitute tenders adapted to the requirements of the specific contract in question, provided that the use of that method has been announced in the procurement documents for the framework contract.
4. When using the method referred to in point (b) of point 11.3, the contracting authority shall notify contractors of the date and time at which they intend to collect the information needed to constitute tenders adapted to the requirements of the specific contract in question and shall give contractors the possibility to refuse such collection of information.

   The contracting authority shall allow for an adequate period between the notification and the actual collection of information.

   Before awarding the specific contract, the contracting authority shall present the collected information to the contractor concerned so as to give it the opportunity to contest or confirm that the tender thus constituted does not contain any material errors.

C. Preparation

12. Preparation of a procurement procedure (mirroring art. 166 of Financial Regulation)

1. Before launching a procurement procedure, the grant beneficiary may conduct a preliminary market consultation with a view to preparing the procedure.
2. In the procurement documents, the grant beneficiary shall identify the subject matter of the procurement by providing a description of its needs and the characteristics required of the works, supplies or services to be bought, and shall specify the applicable exclusion, selection and award criteria. The grant beneficiary shall also indicate which elements define the minimum requirements to be met by all tenders. Minimum requirements shall include compliance with applicable environmental, social and labour law obligations established by Union law, national law, collective agreements or the applicable international social and environmental conventions listed in Annex X to Directive 2014/24/EU.

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13. **Joint procurement** (simplified adaptation of Art. 165 of the Financial Regulation)

1. Where a contract or a framework contract is of interest to two or more grant beneficiaries in the same operation, and whenever there is a possibility for realising efficiency gains, the grant beneficiaries concerned may carry out the procedure and the management of the subsequent contract or framework contract on an interinstitutional basis under the lead of one of the grant beneficiaries.

   The terms of a framework contract shall only apply between those contracting authorities that are identified for that purpose in the procurement documents and those economic operators that are party to the framework contract.

2. Where a contract or a framework contract is necessary for the implementation of a joint action between one or more grant beneficiaries from partner countries and one or more grant beneficiaries from Member States, the procurement procedure may be carried out jointly. The procedural provisions applicable will be the ones of the grant beneficiary leading the procurement procedure.

14. **Procurement documents** (mirroring point 16 of Annex I of the Financial Regulation)

1. The procurement documents shall include the following:
   a) if applicable, the contract notice or other advertising measure as provided for in point 3.4;
   b) the invitation to tender;
   c) the tender specifications, including the technical specifications and the relevant criteria;
   d) the draft contract based on the model contract.

   Point (d) of the first paragraph shall not apply to cases where, due to exceptional and duly justified circumstances, the model contract cannot be used.

2. The invitation to tender shall:
   a) specify the rules governing the submission of tenders, including in particular the conditions to maintain them confidential until opening, the closing date and time for receipt and the address to which they are to be sent or delivered or the internet address in case of electronic submission;
   b) state that submission of a tender implies acceptance of the terms and conditions set out in the procurement documents and that such submission binds the contractor to whom the contract is awarded during performance of the contract;
   c) specify the period during which a tender will remain valid and shall not be modified in any respect;
   d) forbid any contact between the contracting authority and the tenderer during the procedure, save, exceptionally, under the conditions laid down in point 23 of this Annex, and, where provision is made for an on-the-spot visit, specify the arrangements for such a visit;
   e) specify the means of proof for compliance with the time limit for receipt of tenders;
   f) state that submission of a tender implies acceptance of receiving notification of the outcome of the procedure by electronic means.

3. The tender specifications shall contain the following:
   a) the exclusion and selection criteria;
   b) the award criteria and their relative weighting or, where weighting is not possible for objective reasons, their decreasing order of importance, which shall also apply to variants if they are authorised in the contract notice;

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c) the technical specifications referred to in point 16 of this Annex;
d) if variants are authorised, the minimum requirements which they must meet;
e) the evidence of access to procurement;
f) the requirement to indicate in which country the tenderers are established and to present the supporting evidence normally acceptable under the law of that country;
g) in the case of electronic catalogues, information on the electronic equipment used and the technical connection arrangements and specifications needed.

4.The draft contract shall:

a) specify the liquidated damages for failure to comply with its clauses;
b) specify the details which must be contained in invoices and in the relevant supporting documents;
c) specify the competent court for hearing disputes;
d) specify that the contractor shall comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by the international social and environmental conventions listed in Annex X to Directive 2014/24/EU;
e) specify whether the transfer of intellectual property rights will be required;
f) state that the price quoted in the tender is firm and non-revisable, or lay down the conditions or formulas for revision of prices during the lifetime of the contract.

For the purposes of point f), if a revision of prices is set out in the contract, the grant beneficiary shall take particular account of:

a) the subject matter of the procurement and the economic situation in which it is taking place;
b) the type of contract and tasks and its duration;
c) the financial interests of the contracting authority.

15. Access to procurement documents and time limit to provide additional information (mirroring point 25.1 of Annex I of the Financial Regulation)

The grant beneficiary shall offer direct access free of charge by electronic means to the procurement documents from the date of publication of the contract notice or, for the procedures without contract notice or referred to in point 9 of this Annex, from the date of dispatch of the invitation to tender.

In justified cases, the grant beneficiary may transmit the procurement documents by other means it specifies if direct access by electronic means is not possible for technical reasons or if the procurement documents contain information of a confidential nature.

The grant beneficiary may impose on economic operators requirements aimed at protecting the confidential nature of information contained in the procurement documents. It shall announce those requirements as well as how access to the procurement documents concerned can be obtained.

D. Technical specifications and criteria for assessment

16. Technical specifications (mirroring point 17.1, 17.2 & 17.8 of Annex I of the Financial Regulation)

1. Technical specifications shall allow equal access of economic operators to the procurement procedures and not have the effect of creating unjustified obstacles to the opening up of procurement to competition.

Technical specifications shall include the characteristics required for works, supplies or

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services, including minimum requirements, so that they fulfil the use for which they are intended by the contracting authority.

2. The characteristics referred to in paragraph 1 may include as appropriate:
   a) the quality levels;
   b) environmental performance and climate performance;
   c) for purchases intended for use by natural persons, the accessibility criteria for people with disabilities or the design for all users, except in duly justified cases;
   d) the levels and procedures of conformity assessment;
   e) performance or use of the supply;
   f) safety or dimensions, including, for supplies, the sales name and user instructions, and, for all contracts, terminology, symbols, testing and test methods, packaging, marking and labelling, production processes and methods;
   g) for works contracts, the procedures relating to quality assurance and the rules relating to design and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and all the other technical conditions which the contracting authority is in a position to prescribe under general or specific regulations in relation to the finished works and to the materials or parts which they involve.

3. Unless justified by the subject matter of the contract, technical specifications shall not refer to a specific make or source, or a particular process which characterises the products or services provided by a specific economic operator, or to trademarks, patents, types or a specific origin or production with the effect of favouring or eliminating certain products or economic operators.

   Such reference shall be permitted on an exceptional basis where a sufficiently detailed and intelligible description of the e subject matter of the contract is not possible. Such reference shall be accompanied by the words 'or equivalent'.

17. Award of contracts (mirroring art. 167 of the Financial Regulation)

1. Contracts shall be awarded on the basis of award criteria provided that the contracting authority has verified the following:
   a) the tender complies with the minimum requirements specified in the procurement documents;
   b) the candidate or tenderer is not excluded or rejected;
   c) the candidate or tenderer meets the selection criteria specified in the procurement documents and is not subject to conflicts of interest which may negatively affect the performance of the contract.
2. The grant beneficiary shall apply the selection criteria to evaluate the capacity of the candidate or tenderer. Selection criteria shall only relate to the legal and regulatory capacity to pursue the professional activity, the economic and financial capacity, and the technical and professional capacity.
3. The grant beneficiary shall apply the award criteria to evaluate the tender.
4. The grant beneficiary shall base the award of contracts on the most economically advantageous tender, which shall consist in one of three award methods: lowest price, lowest cost or best price-quality ratio. For the lowest cost method, the grant beneficiary shall use a cost-effectiveness approach including life-cycle costing. For the best price-quality ratio, the contracting authority shall take into account the price or cost and other quality criteria linked to the subject matter of the contract.

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18. Exclusion and selection criteria (mirroring point 18 of Annex I of the Financial Regulation)

1. For the purpose of declaring and evidencing the absence of an exclusion situation in accordance with Article 137 of the Financial Regulation, the grant beneficiary shall accept a declaration on honour signed and dated.

2. The grant beneficiary shall indicate in the procurement documents the selection criteria, the minimum levels of capacity and the evidence required to prove that capacity. All requirements shall be related and proportionate to the subject matter of the contract. The grant beneficiary shall specify in the procurement documents how groups of economic operators are to meet the selection criteria taking into account point 18.6.

   Where a contract is divided into lots, the grant beneficiary may set minimum levels of capacity for each lot. It may set additional minimum levels of capacity in the event that several lots are awarded to the same contractor.

3. With regard to capacity to pursue the professional activity, the contracting authority may require an economic operator to fulfil at least one of the following conditions:
   a) be enrolled in a relevant professional or trade register, except when the economic operator is an international organisation;
   b) for service contracts, hold a particular authorisation proving that it is authorised to perform the contract in its country of establishment or be a member of a specific professional organisation.

4. When receiving requests to participate or tenders, the contracting authority shall accept a declaration on honour stating that the candidate or tenderer fulfils the selection criteria. The requirement to submit a declaration on honour may be waived for very low value contracts, that is, not exceeding EUR 15 000.

   The grant beneficiary may ask tenderers and candidates at any moment during the procedure to submit an updated declaration or all or part of the supporting documents where this is necessary to ensure the proper conduct of the procedure.

   The grant beneficiary shall require the candidates or successful tenderers to submit up- to-date supporting documents except where it has already received them for the purpose of another procedure and provided that the documents are still up-to-date or it can access them in a national database free of charge.

5. The grant beneficiary may, depending on its assessment of risks, decide not to require evidence of the legal, regulatory, financial, economic, technical and professional capacity of economic operators in the following cases:
   a) procedures for contracts awarded, with a value not exceeding the thresholds referred to in point 3 of this Annex;
   b) procedures for contracts awarded in accordance with points (b), (d), (e)(i) and (iv) and (g) of point 6.1.

   Where the grant beneficiary decides not to require evidence of the legal, regulatory, financial, economic, technical and professional capacity of economic operators, no pre-financing shall be made except in duly justified cases.

6. An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It shall in that case prove to the grant beneficiary that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment by those entities to that effect.

   With regard to technical and professional criteria, an economic operator shall only rely on

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the capacities of other entities where the latter will perform the works or services for which those capacities are required.

Where an economic operator relies on the capacities of other entities with regard to criteria relating to economic and financial capacity, the contracting authority may require that the economic operator and those entities be jointly liable for the performance of the contract.

The grant beneficiary may request information from the tenderer on any part of the contract that the tenderer intends to subcontract and on the identity of any subcontractors.

For works or services provided at a facility directly under the oversight of the grant beneficiary, the grant beneficiary shall require the contractor to indicate the names, contacts and authorised representatives of all subcontractors involved in the performance of the contract, including any changes of subcontractors.

7. The grant beneficiary shall verify whether the entities on whose capacity the economic operator intends to rely and the envisaged subcontractors, when subcontracting represents a significant part of the contract, fulfil the relevant selection criteria.

   The grant beneficiary shall require that the economic operator replaces an entity or subcontractor which does not meet a relevant selection criterion.

8. In the case of works contracts, service contracts and siting or installation operations in the context of a supply contract, the grant beneficiary may require that certain critical tasks be performed directly by the tenderer itself or, where the tender is submitted by a group of economic operators, a participant in the group.

9. The grant beneficiary shall not demand that a group of economic operators have a given legal form in order to submit a tender or request to participate, but the selected group may be required to adopt a given legal form after it has been awarded the contract if such change is necessary for the proper performance of the contract.

19. Economic and financial capacity (mirroring point 19 of Annex I of the Financial Regulation)

1. To ensure that economic operators possess the necessary economic and financial capacity to perform the contract, the contracting authority may require in particular that:
   a) economic operators have a certain minimum yearly turnover, including a certain minimum turnover in the area covered by the contract;
   b) economic operators provide information on their annual accounts showing ratios between assets and liability;
   c) economic operators provide an appropriate level of professional risk indemnity insurance.

   For the purposes of point (a), the minimum yearly turnover shall not exceed two times the estimated annual contract value, except in duly justified cases linked to the nature of the purchase, which the grant beneficiary shall explain in the procurement documents.

   For the purposes of point (b), the grant beneficiary shall explain the methods and criteria for such ratios in the procurement documents.

2. The grant beneficiary shall define in the procurement documents the evidence to be provided by an economic operator to demonstrate its economic and financial capacity. It may request in particular one or more of the following documents:
   a) appropriate statements from banks or, where appropriate, evidence of relevant professional risk indemnity insurance;
   b) financial statements or their extracts for a period equal to or less than the last three

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financial years for which accounts have been closed;

c) a statement of the economic operator's overall turnover and, where appropriate, turnover in the area covered by the contract for a maximum of the last three financial years available.

If, for any valid reason, the economic operator is unable to provide the references requested by the grant beneficiary, it may prove its economic and financial capacity by any other document which the grant beneficiary considers appropriate.

20. Technical and professional capacity (mirroring point 20, except 20.4, of Annex I of the Financial Regulation)

1. The grant beneficiary shall verify that candidates or tenderers fulfil the minimum selection criteria concerning technical and professional capacity in accordance with points 20.2 to 20.4 of this Annex.
2. The grant beneficiary shall define in the procurement documents the evidence to be provided by an economic operator to demonstrate its technical and professional capacity. It may request one or more of the following documents:
   a) for works, supplies requiring siting or installation operations or services, information on the educational and professional qualifications, skills, experience and expertise of the persons responsible for performance;
   b) a list of the following:
      i. the principal services provided and supplies delivered in the past three years, with the sums, dates and clients, public or private accompanied upon request by statements issued by the clients;
      ii. the works carried out in the last five years, accompanied by certificates of satisfactory execution for the most important works;
   c) a statement of the technical equipment, tools or the plant available to the economic operator for performing a service or works contract;
   d) a description of the technical facilities and means available to the economic operator for ensuring quality, and a description of available study and research facilities;
   e) a reference to the technicians or technical bodies available to the economic operator, whether or not belonging directly to it, especially those responsible for quality control;
   f) in respect of supplies: samples, descriptions or authentic photographs or certificates drawn up by official quality control institutes or agencies of recognised competence attesting the conformity of the products clearly identified by references to technical specifications or standards;
   g) for works or services, a statement of the average annual manpower and the number of managerial staff of the economic operator for the last three years;
   h) an indication of the supply chain management and tracking systems that the economic operator will be able to apply when performing the contract;
   i) an indication of the environmental management measures that the economic operator will be able to apply when performing the contract.

   For the purposes of point (b)(i) of the first paragraph, where necessary in order to ensure an adequate level of competition, the grant beneficiary may indicate that evidence of relevant supplies or services delivered or performed more than three years before will be taken into account.

   For the purposes of point (b)(ii) of the first paragraph, where necessary in order to ensure an adequate level of competition, the grant beneficiary may indicate that evidence of relevant works delivered or performed more than five years before will be taken into account.
3. Where the supplies or services are complex or, exceptionally, are required for a special

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purpose, evidence of technical and professional capacity may be secured by means of a check carried out by the contracting authority or on its behalf by a competent official body of the country in which the economic operator is established, subject to that body's agreement. Such checks shall concern the supplier's technical capacity and production capacity and, if necessary, its study and research facilities and quality control measures.

4. Where the grant beneficiary requires the provision of certificates drawn up by independent bodies attesting that the economic operator complies with certain environmental management systems or standards, it shall refer to the European Union Eco-Management and Audit Scheme or to other environmental management systems as recognised in accordance with Article 45 of Regulation (EC) No 1221/2009 of the European Parliament and of the Council or other environmental management standards based on the relevant European or international standards by accredited bodies. Where an economic operator had demonstrably no access to such certificates, or no possibility of obtaining them within the relevant time limits for reasons that are not attributable to that economic operator, the contracting authority shall also accept other evidence of environmental management measures, provided that the economic operator proves that those measures are equivalent to those required under the applicable environmental management system or standard.
5. A grant beneficiary may conclude that an economic operator does not possess the required professional capacity to perform the contract to an appropriate quality standard where the contracting authority has established that the economic operator has conflicting interests which may negatively affect its performance.

21. Award criteria (mirroring point 21 of Annex I of the Financial Regulation)

1. Quality criteria may include elements such as technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics, production, provision and trading process and any other specific process at any stage of the life cycle of the works, supplies or services, organisation of the staff assigned to performing the contract, after-sales service, technical assistance or delivery conditions such as delivery date, delivery process and delivery period or period of completion.
2. The grant beneficiary shall specify in the procurement documents the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender except when using the lowest price method. Those weightings may be expressed as a range with an appropriate maximum spread. The weighting applied to price or cost in relation to the other criteria shall not result in the neutralisation of price or cost. If weighting is not possible for objective reasons, the grant beneficiary shall indicate the criteria in decreasing order of importance.
3. The grant beneficiary may lay down minimum levels of quality. Tenders below those levels of quality shall be rejected.
4. Life-cycle costing shall cover parts or all of the following costs, to the extent relevant, over the life cycle of works, supplies or services:
   a) costs, borne by the contracting authority or other users, such as:
      i. costs relating to acquisition;
      ii. costs of use, such as consumption of energy and other resources;
      iii. maintenance costs;
      iv. end-of-life costs, such as collection and recycling costs;
   b) costs attributed to environmental externalities linked to the works, supplies or services during their life cycle, provided their monetary value can be determined and verified.
5. Where the grant beneficiary assesses the costs using a life-cycle costing approach, it shall

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indicate in the procurement documents the data to be provided by the tenderers and the method which it will use to determine the life-cycle costs on the basis of those data.

The method used for the assessment of costs attributed to environmental externalities shall fulfil the following conditions:

a) it is based on objectively verifiable and non-discriminatory criteria;
b) it is accessible to all interested parties;
c) economic operators can provide the required data with reasonable effort.

Where applicable, the contracting authority shall use the mandatory common methods for the calculation of life-cycle costs provided for in Union legal acts listed in Annex XIII to Directive 2014/24/EU.

E. Submission, evaluation and award decision

22. Time limits for procedures (mirroring point 41 of Annex I of the Financial Regulation)

1. For service contracts, the minimum time between the day following the date of dispatch of the letter of invitation to tender and the final date for receipt of tenders shall be 50 days. However, in urgent cases other time limits may be authorised.
2. Tenderers may put questions in writing before the closing date for receipt of tenders. The grant beneficiary shall provide the answers to the questions before the closing date for receipt of tenders.
3. In restricted procedures, the time limit for receipt of requests to participate shall be no less than 30 days from the date following that on which the contract notice is published. The period between the date following that on which the letter of invitation is sent and the final date for the receipt of tenders shall be no less than 50 days. However, in certain exceptional cases other time limits may be authorised.
4. In open procedures, the time limits for receipt of tenders, running from the date following that in which the contract notice is published, shall be at least:
   a) 90 days for works contracts;
   b) 60 days for supply contracts.

   However, in certain exceptional cases other time limits may be authorised.
5. In local open procedures, the time limits for receipt of tenders, running from the date when the contract notice is published, shall be at least:
   a) 60 days for works contracts;
   b) 30 days for supply contracts.

   However, in certain exceptional cases other time limits may be authorised.
6. For the simplified procedures referred to in point (d) of point 5.1, candidates shall be allowed at least 30 days from the date of dispatch of the letter of invitation to tender in which to submit their tenders.

23. Contacts during the procurement procedure (mirroring art. 169 of the Financial Regulation)

1. Before the time limit for receipt of requests to participate or tenders, the grant beneficiary may communicate additional information about the procurement documents if it discovers an error or omission in the text or upon request from candidates or tenderers. Information provided shall be disclosed to all candidates or tenderers.
2. After the time limit for receipt of requests to participate or tenders, in every case where contact has been made, and in the duly justified cases where contact has not been made as

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provided for in Article 151 of the Financial Regulation, a record shall be kept in the procurement file.

24. **Submission, electronic communication and evaluation** (mirroring art. 168 of the Financial Regulation)

1. The grant beneficiary shall lay down time limits for the receipt of tenders and requests to participate taking into account the complexity of the purchase, leaving an adequate period for economic operators to prepare their tenders.
2. If deemed appropriate and proportionate, the grant beneficiary may require tenderers to lodge a guarantee to make sure that the tenders submitted are not withdrawn before contract signature. The required guarantee shall represent 1 to 2 % of the total estimated value of the contract. The grant beneficiary shall release the guarantees:
   a) in respect of tenderers or tenders rejected as referred to in point 26.2.b) or c), after having provided the information on the outcome of the procedure;
   b) in respect of tenderers ranked as referred to in point 26.2.e), after the contract is signed.
3. The grant beneficiary shall open all requests to participate and tenders. However, it shall reject:
   a) requests to participate and tenders which do not comply with the time limit for receipt, without opening them;
   b) tenders already open when they are received, without examining their content.
4. A tender shall be considered irregular in any of the following cases:
   a) when it does not comply with the minimum requirements specified in the procurement documents;
   b) when it does not comply with the requirements for submission set out in point 24.3 of this Annex;
   c) when the tenderer is rejected for the following reasons:
   i. has misrepresented the information required as a condition for participating in the procedure or has failed to supply that information;
   ii. was previously involved in the preparation of documents used in the award procedure where this entails a breach of the principle of equality of treatment, including distortion of competition, that cannot be remedied otherwise.
   d) when the grant beneficiary has declared the tender to be abnormally low.
5. A tender shall be considered unacceptable in any of the following cases:
   a) when the price of the tender exceeds the grant beneficiary's maximum budget as determined and documented prior to the launching of the procurement procedure;
   b) when the tender fails to meet the minimum quality levels for award criteria.
6. Requests to participate and tenders which are suitable under point 6.2 and neither irregular under paragraph 4 nor unacceptable under paragraph 5 of this point shall be considered admissible.
7. By way of derogation from point 14.3, for all procedures involving a request to participate, the tender specifications may be split according to the two stages of the procedure and the first stage may contain only the information referred to in points (a) and (e) of point 14.3.
8. The grant beneficiary shall evaluate all requests to participate or tenders not rejected during the opening phase as laid down in paragraph 3 on the basis of the criteria specified in the procurement documents with a view to awarding the contract or to proceeding with an

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electronic auction.

9. The grant beneficiary may waive the appointment of an evaluation committee for procedures having a value of less than or equal to EUR 20 000.

10. Requests to participate and tenders which do not comply with all the minimum requirements set out in the documents shall be rejected.

25. Abnormally low tenders (mirroring point 23 of Annex I of the Financial Regulation)

1. If, for a given contract, the price or costs proposed in a tender appears to be abnormally low, the grant beneficiary shall request in writing details of the constituent elements of the price or costs which it considers relevant and shall give the tenderer the opportunity to present its observations. The grant beneficiary may, in particular, take into consideration observations relating to:

   a) the economics of the manufacturing process, of the provision of services or of the construction method;

   b) the technical solutions chosen or the exceptionally favourable conditions available to the tenderer;

   c) the originality of the tender;

   d) compliance of the tenderer with applicable obligations in the fields of environmental, social and labour law;

   e) compliance of subcontractors with applicable obligations in the fields of environmental, social and labour law;

   f) the possibility of the tenderer obtaining State aid in compliance with applicable rules.

2. The contracting authority shall only reject the tender where the evidence supplied does not satisfactorily account for the low price or costs proposed.

   The contracting authority shall reject the tender where it has established that the tender is abnormally low because it does not comply with applicable obligations in the fields of environmental, social and labour law.

26. Results of the evaluation and award decision (mirroring article 170.1 of the Financial Regulation and point 30 of Annex I)

1. The outcome of the evaluation shall be an evaluation report containing the proposal to award the contract. The evaluation report shall be dated and signed by the person or persons who carried out the evaluation or by the members of the evaluation committee. That report may be signed in an electronic system providing sufficient identification of the signatory.

   If the evaluation committee was not given responsibility to verify the tenders against the exclusion and selection criteria, the evaluation report shall also be signed by the persons who were given that responsibility by the authorising officer responsible.

2. The evaluation report shall contain the following:

   a) the name and address of the contracting authority, and the subject matter and value of the contract, or the subject matter and maximum value of the framework contract;

   b) the names of the candidates or tenderers rejected and the reasons for their rejection or to selection criteria;

   c) the references to the tenders rejected and the reasons for their rejection by reference to any of the following:

      i. non-compliance with minimum requirements as set out in point 17.1.a) of this Annex;

      ii. not meeting the minimum quality levels laid down in point 21.3 of this Annex;

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iii. tenders found to be abnormally low as referred to in point 25 of this Annex;

d) the names of the candidates or tenderers selected and the reasons for their selection;

e) the names of the tenderers to be ranked with the scores obtained and their justifications;

f) the names of the proposed candidates or successful tenderer and the reasons for that choice;

g) if known, the proportion of the contract or the framework contract which the proposed contractor intends to subcontract to third parties.

3. The contracting authority shall take its award decision providing any of the following:

a) an approval of the evaluation report containing all the information listed in point 26.2 complemented by the following:

i. the name of the successful tenderer and the reasons for that choice by reference to the pre-announced selection and award criteria, including where appropriate the reasons for not following the recommendation provided in the evaluation report;

ii. in the case of negotiated procedure without prior publication, competitive procedure with negotiation, the circumstances referred to in points 6, 7 and 8 which justify their use;

b) where appropriate, the reasons why the grant beneficiary has decided not to award a contract.

4. The grant beneficiary may merge the content of the evaluation report and the award decision into a single document and sign it in any of the following cases:

a) for procedures below the thresholds referred to in point 3 of this Annex where only one tender was received;

b) when reopening competition within a framework contract where no evaluation committee was nominated;

c) for cases referred to in points (c), (d), (e)(i), (f)(iii) and (g) of point 6.1 where no evaluation committee was nominated.

5. For a procurement procedure launched on a joint basis, the decision referred to in point 26.3 shall be taken by the grant beneficiary responsible for the procurement procedure.

6. The grant beneficiary shall decide to whom the contract is to be awarded, in compliance with the selection and award criteria specified in the procurement documents.

27. Information to candidates or tenderers (mirroring art. 170 of the Financial Regulation and point 31 of its Annex I)

1. The grant beneficiary shall notify all candidates or tenderers, whose requests to participate or tenders are rejected, of the grounds on which the decision was taken, as well as the duration of the standstill period. The standstill period shall have a duration of 10 days when using electronic means of communication and 15 days when using other means.

For the award of specific contracts under a framework contract with reopening of competition, the contracting authority shall inform the tenderers of the result of the evaluation.

2. The grant beneficiary shall inform each tenderer who is not in an exclusion situation, who is not rejected, whose tender is compliant with the procurement documents and who makes a request in writing, of any of the following:

a) the name of the tenderer, or tenderers in the case of a framework contract, to whom the contract is awarded and, except in the case of a specific contract under a framework contract with reopening of competition, the characteristics and relative advantages of the successful tender, the price paid or contract value, whichever is appropriate;

b) the progress of negotiation and dialogue with tenderers.

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However, the grant beneficiary may decide to withhold certain information where its release would impede law enforcement, would be contrary to the public interest or would prejudice the legitimate commercial interests of economic operators or might distort fair competition between them.

3. The grant beneficiary shall inform all candidates or tenderers, simultaneously and individually, by electronic means of decisions reached concerning the outcome of the procedure as soon as possible after any of the following stages:

   a) the opening phase for the cases referred to in point 24.3 of this Annex;
   b) a decision has been taken on the basis of exclusion and selection criteria in procurement procedures organised in two separate stages;
   c) the award decision.

   In each case, the grant beneficiary shall indicate the reasons why the request to participate or tender has not been accepted and the available legal remedies.

   When informing the successful tenderer, the grant beneficiary shall specify that the decision notified does not constitute a commitment on its part.

4. The grant beneficiary shall communicate the information provided for in point 27.2 as soon as possible and in any case within 15 days of receipt of a request in writing. When the grant beneficiary awards contracts on its own account, it shall use electronic means. The tenderer may also send the request by electronic means.

5. When the grant beneficiary communicates by electronic means, information shall be deemed to have been received by candidates or tenderers if the grant beneficiary can prove to have sent it to the electronic address referred to in the tender or in the request to participate.

   In such case, information shall be deemed to have been received by the candidate or tenderer on the date of dispatch by the grant beneficiary.

28. Cancellation of the procurement procedure (mirroring art. 171 of the Financial Regulation)

The grant beneficiary may, before the contract is signed, cancel the procurement procedure without the candidates or tenderers being entitled to claim any compensation. The decision shall be justified and brought to the attention of the candidates or tenderers as soon as possible.

29. Standstill period before signature of the contract (mirroring point 35 of Annex I of the Financial Regulation)

1. The standstill period shall run from either of the following dates:

   a) the day after the simultaneous dispatch of the notifications to successful and unsuccessful tenderers by electronic means;
   b) where the contract or framework contract is awarded pursuant to point (b) of point 6.1, the day after the award notice has been published in the *Official Journal of the European Union.*

   If necessary, the grant beneficiary may suspend the signature of the contract for additional examination if this is justified by the requests or comments made by unsuccessful or aggrieved candidates or tenderers or by any other relevant information received during the period set out in point 27.1 of this Annex. In the case of suspension all the candidates or tenderers shall be informed within three working days following the suspension decision.

   Where the contract or framework contract cannot be signed with the successful envisaged tenderer, the contracting authority may award it to the following best tenderer.

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2. The period set out in point 29.1 shall not apply in the following cases:
   a) any procedure where only one tender has been submitted;
   b) specific contracts based on a framework contract;
   c) negotiated procedure without prior publications referred to in point 6 except for contracts awarded in accordance with point b) of point 6.1.

F. Contract performance

30. Performance and modifications of the contract (mirroring art. 172 of the Financial Regulation and point 2.5 of Annex I)

1. Performance of the contract shall not start before it is signed.
2. The grant beneficiary may modify a contract or framework contract without a procurement procedure only in the cases provided for in paragraph 3 and provided the modification does not alter the subject matter of the contract or framework contract. The grant beneficiary shall publish in the Official Journal of the European Union a notice of modification of contract during its duration in the cases set out in points (a) and (b) of point 30.4 where the value of the modification is equal to or greater than the thresholds referred to in point 3 of this Annex.
3. A contract, a framework contract or a specific contract under a framework contract may be modified without a new procurement procedure in any of the following cases:
   a) for additional works, supplies or services by the original contractor that have become necessary and that were not included in the initial procurement, where the following conditions are fulfilled:
      i. a change of contractor cannot be made for technical reasons linked to interchangeability or interoperability requirements with existing equipment, services or installations;
      ii. a change of contractor would cause substantial duplication of costs for the contracting authority;
      iii. any increase in price, including the net cumulative value of successive modifications, does not exceed 50 % of the initial contract value;
   b) where all of the following conditions are fulfilled:
      i. the need for modification has been brought about by circumstances which a diligent grant beneficiary could not foresee;
      ii. any increase in price does not exceed 50 % of the initial contract value;
   c) where the value of the modification is below the following thresholds:
      i. the thresholds referred to point 3 of this Annex, applicable at the time of the modification; and
      ii. 10 % of the initial contract value for public service and supply contracts and works or services concession contracts and 15 % of the initial contract value for public works contracts;
   d) where both of the following conditions are fulfilled:
      i. the minimum requirements of the initial procurement procedure are not altered;
      ii. any ensuing modification of value complies with the conditions set out in point (c) of this paragraph, unless such modification of value results from the strict application of the procurement documents or contractual provisions.

   The initial contract value shall not take into account price revisions. The net cumulative value of several successive modifications under point (c) of the first paragraph shall not exceed any threshold referred to therein. The contracting authority shall apply the *ex post* publicity measures set out in point 3 of this annex.

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31. Performance guarantees and retention money guarantees (mirroring recital 115 and Art. 173 of the Financial Regulation)

1. The grant beneficiary may require a performance guarantee in relation to works, supplies and complex services in order to guarantee compliance with substantial contractual obligations and to ensure proper performance throughout the duration of the contract. The grant beneficiary may also require a retention money guarantee to cover the contract liability period.

2. A performance guarantee shall amount to a maximum of 10 % of the total value of the contract. It shall be fully released after final acceptance of the works, supplies or complex services, within a period specified in the contract. The release shall be made within:

   a) 90 calendar days for technical services or actions which are particularly complex to evaluate and for which payment depends on the approval of a report or a certificate;
   b) 60 calendar days for all other contracts for which payment depends on the approval of a report or a certificate;
   c) 30 calendar days for all other contracts.

   The guarantee may be released partially or fully upon provisional acceptance of the works, supplies or complex services.

3. A retention money guarantee amounting to a maximum of 10 % of the total value of the contract may be constituted by deductions from interim payments as and when they are made or by deduction from the final payment.

   The grant beneficiary shall determine the amount of the retention money guarantee which shall be proportionate to the risks identified in relation to the performance of the contract, taking into account its subject matter and the usual commercial terms applicable in the sector concerned.

   A retention money guarantee shall not be used in a contract where a performance guarantee has been requested and not released.

4. Subject to approval by the grant beneficiary, the contractor may request to replace the retention money guarantee by a guarantee issued by a bank or by an authorised financial institution or by a joint and several guarantee of the contractor and a third party.

5. The grant beneficiary shall release the retention money guarantee after the expiry of the contractual liability period, within a period subject to the time limits set out in paragraph 2 and to be specified in the contract.

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