

Informacija o potpisivanju Sporazuma o donaciji sa Evropskom investicionom bankom za potrebe finansiranja realizacije projekta "Program unapređenja crnogorskog obrazovanja"

Vlada Crne Gore je 6. novembra 2019. godine potpisala Finansijski ugovor o kreditu br. 06-5924/1 sa Evropskom investicionom bankom (EIB) za finansiranje realizacije projekta „Program unapređenja crnogorskog obrazovanja“. Predmetnim ugovorom predviđeno je ulaganje u sistem obrazovanja vrijedno 40.54 miliona Eura, od čega 18 miliona Eura predstavljaju kreditna sredstva, dok je 21.34 miliona Eura predviđeno učešće države Crne Gore kroz obavezno nacionalno ko-finansiranje. Osim kreditnih i budžetskih sredstava, projekat je inicijalno obuhvatao do 2.9 miliona Eura donacije od strane EIB iz ERI (Economic Resilience Initiative) fonda, obezbijedene za tehničku podršku Jedinici za implementaciju projekta (PIU - Project Implementation Unit) za realizaciju projekta prema legislativi i standardima EU i EIB-e. Navedena jedinica PIU je formirana Sporazumom o saradnji na projektu između Ministarstva prosvjete, nauke i inovacija i Uprave za kapitalne projekte, potpisanim u oktobru 2021. godine, dok je implementacija započela 1. juna 2023. godine prvim zvaničnim sastankom između predstavnika resornog ministarstva i konsultanata ispred firme „NIRAS SR" d.o.o. Beograd, koji čine PIU tim.

Realizacijom Projekta „Program unapređenja crnogorskog obrazovanja“, predviđeno je:

Ugovorna obaveza	Obuhvat	Prvobitno planirani troškovi	Izmijenjeni troškovi
Izgradnja 5 novih škola	<ol style="list-style-type: none">1. Gimnazija u Podgorici, inicijalne procijenjene vrijednosti radova je cca 6.86 mil. Eura;2. Osnovna škola u City kvartu, inicijalne procijenjene vrijednosti radova je cca 7.96 mil. Eura;3. Osnovna škola na Zabjelu, inicijalne procijenjene vrijednosti radova je cca 4.8 mil. Eura;4. Osnovna škola na Karabuškom polju u Tuzima, inicijalne procijenjene vrijednosti radova je cca 2.48 mil. Eura.	22.1 miliona	33.98 miliona

	5. Osnovna škola „Vladimir Nazor“ u naselju Masline u Podgorici, inicijalne procijenjene vrijednosti cca 7.8 mil. Eura		
Rekonstrukcija i nadgradnja/dogradnja 3 vrtića	1. Postojeći vrtić na Zabjelu – rekonstrukcija sa nadgradnjom 2. Postojeći vrtić u Momišićima – rekonstrukcija sa dogradnjom, 3. Postojeći vrtić u Kotoru, naselje Tabačina – rekonstrukcija sa nadgradnjom.	5.24 miliona	8.9 miliona
Adaptacija 10 srednjih stručnih škola širom Crne Gore	1. JU Srednja stručna škola, Bar; 2. JU Srednja stručna škola „Vukadin Vukadinović“, Berane; 3. JU Srednja stručna škola, Berane; 4. JU srednja elektro-ekonomska škola, Bijelo Polje; 5. JU Srednja stručna škola, Cetinje; 6. JU Srednja mješovita škola „Ivan Goran Kovačić“, Herceg Novi; 7. JU Gimnazija „30. septembar“, Rožaje; 8. JU SSŠ „Sergije Stanić“, Podgorica 9. JU SMŠ “Bećo Bašić” Plav 10. JU SMŠ “Danilo Kiš”, Budva	2.5 miliona	5.5 miliona
Opremanje škola informatičkom opremom	Nabavka robe	5 miliona	6.34 miliona
Opremanje srednjih stručnih škola opremom karakterističnom za njihova usmjerenja	Nabavka robe	2 miliona	2.6 miliona
Opremanje većine škola i vrtića školskim mobilijarom i namještajem	Nabavka robe	2.5 miliona	3.8 miliona
ERI grant za konsultante	Usluge – Tehnička pomoć	1.2 miliona	2.8 miliona
UKUPNO:		40.54 mil. Eur	63.92 mil. Eur

Kako se sa realizacijom projekta nije počelo odmah nakon potpisivanja finansijskog ugovora, bilo je neophodno da se revidiraju procijenjene vrijednosti svakog

segmenta projekta pojedinačno. Ovo posebno zbog višestrukog uvećanja procijenjenih vrijednosti za sve pod-projekte, a sve usljed nestabilnosti na tržištu i inflatornih kretanja u proteklom periodu.

Nakon revizije stavki projekta, došlo se do činjenice da je za realizaciju svih segmenata u novim uslovima neophodno izdvojiti **63.92 miliona Eura**, bez uračunatog PDV-a, koji bi se svakako morao plaćati za onaj dio sredstava koji predstavljaju kontribuciju Države kroz nacionalno ko-finansiranje.

Kako je članom 6.3 Finansijskog sporazuma, predviđeno da Zajmoprimac – Ministarstvo finansija, u slučaju povećanja troškova, preuzima obavezu da obezbijedi nedostajuća sredstva za realizaciju svih stavki projekta, Promoter - Ministarstvo prosvjete, nauke i inovacija je, u situaciji, kada su analize pokazale da se, usljed promjene cijena, vrijednost projekta povećala za preko 21 milion Eura, potražilo alternativne načine za obezbjeđivanje sredstava.

Projektni tim Ministarstva prosvjete, nauke i inovacija je, uz značajnu podršku EIB-e, aplicirao za WBIF (Western Balkan Investment Fund) poziv sa jednim brojem projekata koji su dio ovog aranžmana, a čija je faza zrelosti to dozvoljavala.

Nakon uspješne aplikacije, zvanično smo obaviješteni od strane EIB-e da je prikupljeno 4.529.034,00 Eura iz ovog fonda, dok je EIB tragom ove uspješne aplikacije, a zbog velike važnosti projekta, obezbijedio dodatnih 6.464.830,00 Eura donacije, primjenom internih mehanizama banke za bilateralne EU donatore.

U prethodnom periodu je pripremljen i usaglašen Sporazum o donaciji od strana potpisnica (Evropska investiciona banka, Ministarstvo prosvjete, nauke i inovacija, kao i Uprava za kapitalne projekte), te odbijeno pozitivno mišljenje od strane Ministarstva finansija Crne Gore. Potpisivanje Sporazuma o donaciji se, prema najavi Evropske investicione banke, planira za predstojeću sedmicu, u periodu od 15. do 19. januara 2024. godine.

Contract Number (FI N°) 97.316

Operation Number (Serapis N°) 2018-0231

European Western Balkans Joint Fund Grant/ WB-IG07-MNE-SOC-01

“MONTENEGRO EDUCATION PROGRAMME”

GRANT AGREEMENT

between

MONTENEGRO

(represented by MINISTRY OF EDUCATION, SCIENCE AND INNOVATION)

and

THE CAPITAL PROJECTS ADMINISTRATION OF MONTENEGRO

and

THE EUROPEAN INVESTMENT BANK

Podgorica, __ December 2023

Luxembourg, __ December 2023

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THIS GRANT AGREEMENT (THE “**AGREEMENT**”) IS MADE BETWEEN:

MONTENEGRO

represented by the **MINISTRY OF EDUCATION, SCIENCE AND INNOVATION**, having its official address at Vaka Đurovića bb, 81000 Podgorica, Montenegro, represented by _____ and _____,

(the “**Beneficiary**” and the “**Implementing Entity 1**”)

of the first part,

The CAPITAL PROJECTS ADMINISTRATION OF MONTENEGRO, having its official address at Arsenija Boljevića 2a (City Mall, 3rd floor), 81000 Podgorica, Montenegro represented by _____ and _____

(the “**Administration**” and the “**Implementing Entity 2**”)

of the second part,

The EUROPEAN INVESTMENT BANK

having its seat at 98-100 blvd Konrad Adenauer, Luxembourg, L-2950 Luxembourg, represented by _____ and _____

(the “**Bank**”)

of the third part,

each individually a “**Party**” and collectively the “**Parties**”,

WHEREAS:

- A. The Beneficiary has stated that, it is undertaking a project consisting of the construction and/or renovation of public education infrastructure including kindergartens (pre-primary), elementary (primary) schools, gymnasium (secondary) school and vocational schools, as more particularly described in the Finance Contract FI No 89.406 (as such term is defined below) (the “**Project**”).
- B. The total cost of the Project, as estimated by the Bank, is EUR 63.927,715 (sixty-three million nine hundred twenty seven thousand and seven hundred fifteen) and the Beneficiary has stated that it intends to finance the Project as follows:

Source	Amount (EUR m)
Total Credit from the Bank	18.00
ERI TA grants	2.8
Other funding sources (including State Budget, EU Grants and loans from International Financial Institutions)	32.43
WBIF Investment Grants (excluding the fees)	
• WB-IG07-MNE-SOC-01	4.51
• Bilateral Donors Group	6.48
TOTAL	63.92

- C. In order to fulfil the financial plan set out in Recital (B), the Beneficiary has requested the support of the Bank in order to obtain funding from the European Western Balkan Joint Fund (the “**Fund**” or the “**EWBJF**”).
- D. In accordance with the General Conditions, on 13th January 2023 the Assembly of Contributors of the Fund approved the Project as eligible to benefit from grant support from the resources of the Fund for an amount of up to EUR 10,993,864. (ten million nine hundred and ninety three thousand eight hundred sixty four euros).
- E. Under the terms of this Agreement, and having regard to the statements and facts cited in these Recitals, the Bank will make available to the Beneficiary a grant in a maximum amount of EUR 10,993,864.00 (ten million nine hundred ninety three thousand eight hundred sixty four euros) (the “**Grant**”), of which: (i) an investment grant for the financing of the Eligible Costs for Works and/or Supplies in an amount of up to EUR 9,622,726.00 (nine million six hundred twenty two thousand and seven hundred twenty six euros) (the “**Investment Grant**”) and (ii) a technical assistance grant, for the financing of the Eligible Costs for the Services, in amount of EUR 1,371,138 (one million three hundred seventy one thousand one hundred thirty eight) (the “**Technical Assistance Grant**”).
- F. On 6 November 2019, the Beneficiary and the Bank entered into a finance contract FI No. 89.406 (as amended on 24 August 2023 under Amendment Letter No.1) (the “**Finance Contract**”) under which a credit in a total amount of EUR 18,000,000.00 (eighteen million euros) to be used, *inter alia*, to finance the Project which remains subject to appraisal and approval pursuant to the Finance Contract.
- G. On 22 May 2007, the Beneficiary and the Bank signed a framework agreement governing the Bank’s activities in the territory of Montenegro, which is in full force and effect and shall continue to be in full force and effect during the term of this Agreement (the “**Framework Agreement**”). The financing of the Project falls within the scope of the Framework Agreement.
- H. This Agreement concerns a European Union contribution in the form of a grant from the “Instrument for Pre-Accession Assistance Multi-Country Programme”, through the Fund, in order to support financially and technically the Project, part of which has also been co-financed by the loan made available by the Bank.

- I. The Beneficiary will implement the Project through the Implementing Entities (as such term is defined below) and shall have general supervision of and responsibility for the implementation of the Project and shall carry out and implement the Project pursuant to all applicable rules and regulations and this Agreement.
- J. The Bank considers that access to information plays an essential role in the reduction of environmental and social risks, including human rights violations, linked to the projects it finances and has therefore established its transparency policy, the purpose of which is to enhance the accountability of the Bank (and its subsidiaries) towards its stakeholders and the citizens of the European Union in general.
- K. The processing of personal data shall be carried out by the Bank in accordance with applicable European Union legislation on the protection of individuals with regard to the processing of personal data by European Union institutions and bodies and on the free movement of such data.
- L. The Bank supports the implementation of international and EU standards in the field of anti-money laundering and countering the financing of terrorism and promotes tax good governance standards. It has established policies and procedures to avoid the risk of misuse of its funds for purposes which are illegal or abusive in relation to applicable laws. The EIB Group statement on tax fraud, tax evasion, tax avoidance, aggressive tax planning, money laundering and financing of terrorism is available on the Bank's website and offers further guidance to EIB contracting counterparties.¹

¹ <http://www.eib.org/about/compliance/tax-good-governance/index.htm?f=search&media=search>

NOW THEREFORE it is hereby agreed as follows:

Definitions

In this Agreement:

- “Agreement”** means this grant agreement, including its Recitals and its Annexes, as may be supplemented or amended from time to time.
- “Agreement Terms”** means the core terms and conditions of this Agreement, excluding its Annexes.
- “Authorisation”** means an authorisation, permit, consent, approval, resolution, licence, exemption, filing, notarisation or registration.
- “Assembly of Contributors”** means the governing body of the Fund that consists of representatives of the Contributors.
- “Bank’s Grant Account”** means the Euro denominated account opened and maintained by the Bank in its name in accordance with the General Conditions, through which the amounts corresponding to the Grant will be transferred to the Beneficiary and deployed exclusively for the payment of the Eligible Costs.
- “Beneficiary’s Grant Account”** the Euro denominated account opened and maintained by the Ministry of Finance of Montenegro, in its name at a financial institution acceptable to the Bank for the exclusive purpose of receiving the amounts corresponding to the Grant, and through which the amounts corresponding to Grant will be deployed exclusively for the payment of the corresponding Eligible Costs to the Economic Operators.
- “Business Day”** means a day (other than a Saturday or Sunday) on which the Bank and commercial banks are open for general business in Luxembourg.
- “Confidential Information”** means any document, information or other material, provided in connection with or pursuant to this Agreement, and which is, cumulatively, in written or other permanent (including electronic) form, and clearly and conspicuously identified as confidential.
- “Contract”** means any public work contract, supply contract or service contract (as all such terms are defined in Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement, as amended from time to time) concluded in writing and on terms satisfactory to the Bank and following a public procurement procedure as prescribed in Article 10 (*Procurement procedure and changes to Contracts*) between the Beneficiary and/or the Administration and one or more Economic Operators, having as their object the provision of Works, Supplies and/or Services.
- “Contributor”** means, in accordance with the General Conditions, any EBRD member state represented by any public entity of that member state, any contributor accepted by the Steering Committee of the WBIF and the Assembly of Contributors as a contributor to the Fund, any bilateral financial institution of an EBRD member state or any international intergovernmental organisation that has made a financial contribution to the Fund, including the Bank and the European Commission.
- “Contribution Arrangement”** means the agreement entered into between a Contributor, EBRD and the Bank in relation to resources contributed to the Fund.
- “Communication and Visibility”** means communication and visibility activities in respect of the Grant in accordance with GAF and Article 12 (*Communication, Visibility and Transparency*).

“Disbursement Date”	means the date on which disbursement of a Tranche is made by the Bank.
“Disbursement Request”	means a request for disbursement of any part the Grant, in form and substance set out in Annex 3 (<i>Model Request for Disbursement</i>).
“Economic Operator”	means the natural or legal person, or an association thereof - whether formal or informal - with which the Beneficiary and/or Administration concludes a Contract.
“Effective Date”	has the meaning given to it in Article 32 of this Agreement.
“EIB Statement of Environmental and Social Principles and Standards”	means the statement published on EIB’s website that outlines the standards that the Bank requires of the projects that it finances and the responsibilities of the various parties.
“Eligible Costs”	<p>means the total amount of expenditure and costs (including costs relating to Works, Supplies and Services, if relevant, and net of taxes and duties payable by the Implementing Entities, which:</p> <ul style="list-style-type: none"> (a) have been incurred during the Implementation Period by the Implementing Entities for the Project, in respect of Works, Supplies and/or Services relating to items specified in the GAF; and (b) are eligible for financing under this Agreement (in particular, but not limited to, Article 9 (<i>Eligible Costs</i>)); and (c) correspond to Works, Supplies and/or Services which have been the object of one or several Contracts, awarded in accordance with Article 10 (<i>Procurement procedure and changes to Contracts</i>). <p>For the purpose of calculating the equivalent in euro of any sum spent in another currency, the Bank shall apply the reference exchange rate computed and published for that currency by the European Central Bank on the date of the relevant invoice issued by the Economic Operator (or, failing such a rate, the relevant exchange rate or rates then prevailing on any financial market reasonably chosen by the Bank).</p>
“End Date”	means the date when: (i) the Grant is applied in full towards the Project under the terms hereof; and (ii) any recoverable sums that must be paid to the Bank under Article 20 (<i>Recovery</i>) (if any) have been paid to the Bank.
“EIB Environmental and Social Standards”	means the EIB Environmental and Social Standards of 2018 which are published on the Bank’s website and which describe the environmental and social requirements that all EIB-financed projects must meet and the responsibilities of the various parties, including the Beneficiary and the Implementing Entities.
“Environment”	<p>means the following, in so far as they affect human health and social well-being:</p> <ul style="list-style-type: none"> (a) fauna and flora; (b) soil, water, air, climate and the landscape; (c) cultural heritage; and (d) the built environment, <p>and includes, without limitation, occupational and community health and safety.</p>
“Environmental and Social Documents”	means (a) each Environmental and Social Impact Assessment Study (ESIA); (b) each ESIA's Non-Technical Summary and Stakeholder Engagement Plan.

“Environmental and Social Impact Assessment Study (ESIA)”	means a study as an outcome of the environmental and social impact assessment identifying and assessing the potential environmental and social impacts associated with the proposed project and recommending measures to avoid, minimise and/or remedy any impacts. This study is subject to public consultation with direct and indirect project stakeholders and shall be compliant with Environmental and Social Standards.
“Environmental and Social Standards”	means: (a) Environmental Laws and Social Laws applicable to the Project, the Beneficiary and the Implementing Entities; (b) the EIB Environmental and Social Standards; and (c) the Environmental and Social Documents.
"Environmental Law"	means: (a) EU Law, including principles and standards save for any derogation accepted by the Bank for the purpose of this Contract based on any agreement between Montenegro and the EU; (b) national laws and regulations of Montenegro; and (c) international treaties and conventions signed and ratified by or otherwise applicable and binding on Montenegro, in each case of which a principal objective is the preservation, protection or improvement of the Environment.
"Environmental or Social Approval"	means any permit, licence, authorisation, consent or other approval required by an Environmental Law or a Social Law in connection with the construction or operation of the Project.
"Environmental or Social Claim"	means any claim, proceeding, formal notice or investigation by any person in respect of the Environment or Social Matters affecting the Project including any breach or alleged breach of any Environmental and Social Standard.
“EU Law”	means the <i>acquis communautaire</i> of the European Union as expressed through the Treaties of the European Union, the regulations, directives, delegated acts, implementing acts, and the case law of the Court of Justice of the European Union.
“EU Body” or “EU Bodies”	means the Bank, the agents of the Bank, the European Court of Auditors, the European Commission, agents of the European Commission (including OLAF and external agents engaged by the European Commission), the European Public Prosecutor’s Office any other European Union institution or European Union body which is entitled to verify the use of the Grant.
“Finance Contract”	has the meaning given to it in Recital F.
“Financial Identification Form”	means a document in the form specified in Annex 2 (<i>Financial Identification Form</i>), to be provided with each and every disbursement request, identifying the Beneficiary’s Grant Account into which the disbursements of the Grant under this Agreement shall be made pursuant to Article 5 (<i>Disbursement of the Grant</i>).
“Financing of Terrorism”	means the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences listed in Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (as amended, replaced or re-enacted from time to time).

“Framework Agreement”	as the meaning given to it in Recital G.
“Fund”	has the meaning given to it in Recital C.
“GAAP”	means generally accepted accounting principles in Montenegro, including IFRS.
“GAF”	means the Grant Application Form submitted by the Beneficiary to WBIF and approved by the Assembly of Contributors of the WBIF on 13 January 2023, as annexed in Annex 1 to this Agreement.
“General Conditions”	means the General Conditions of the Fund adopted by the Assembly of Contributors and the Managers of the Fund on 7 November 2006 and subsequently amended on 2 October 2009, on 16 June 2016 and on 4 September 2023.
“Grant”	has the meaning given to it in Recital E.
“Guide to Procurement”	means the Guide to Procurement published on the Bank’s website that informs the promoters of projects financed in whole or in part by the Bank of the arrangements to be made for procuring works, goods and services required for the Project.
“IFRS”	means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.
“ILO”	means the International Labour Organisation.
“ILO Standards”	means any treaty, convention or covenant of the ILO signed and ratified by or otherwise applicable and binding on Montenegro, and the Core Labour Standards (as defined in the ILO Declaration on Fundamental Principles and Rights at Work).
“Implementation Period”	means the period of the eligibility of costs which shall start from the Effective Date and end on the earliest of (i) the final date in GAF (final date in the signature page of the GAF), or any other date communicated by the Bank to the Beneficiary in line with the date specified in the annual implementation report (AIR) submitted to the Fund or (ii) the date on which the Works, Supplies and/or Services financed in whole or in part by the Grant have been fully delivered and accepted by the Beneficiary, to the satisfaction of the Bank.
“Implementation Report”	means the implementation report in form and substance set out in Annex 4 (<i>Form of Implementation Report</i>), as amended from time to time at the discretion of the Bank communicated to the Beneficiary and as further described in Article 11.2 of this Agreement.
“Implementing Entities”	means: <ul style="list-style-type: none"> (i) the Ministry of Education, Science and Innovation of Montenegro (Implementing Entity 1); and (ii) the Public Works Administration of Montenegro (Implementing Entity 2).
“Intellectual Property Rights”	means any copyright and related rights, rights in designs, database rights, rights in computer software, domain names, trademarks, service marks, patents, trade names or any applications for any of the foregoing, rights in confidential information (including know-how and trade secrets) or similar rights or obligations, moral rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.
“Interim Tranche”	means any of the Tranches of the Grant that shall be disbursed under this Agreement, except for the first Tranche and the last Tranche.
“Investment Grant”	has the meaning given to it in Recital E.

"Money Laundering"

means:

- (a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;
- (b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
- (c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity; or
- (d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.

"Personal Data"

has the meaning given to it in article 3 of Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p.39-98), as amended, supplemented and consolidated from time to time.

"Prohibited Conduct"

means any Financing of Terrorism, Money Laundering or Prohibited Practice.

"Prohibited Practice"

means any:

- (a) Coercive Practice, meaning the impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of a party to influence improperly the actions of a party;
- (b) Collusive Practice, meaning an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (c) Corrupt Practice, meaning the offering, giving, receiving or soliciting, directly or indirectly, of anything of value by a party to influence improperly the actions of another party;
- (d) Fraudulent Practice, meaning any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party in order to obtain a financial (including, for the avoidance of doubt, taxation related) or other benefit or to avoid an obligation; or
- (e) Obstructive Practice, meaning in relation to an investigation into a Coercive, Collusive, Corrupt or Fraudulent Practice in connection with this Grant or the Project, (a) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (b) acts intending to materially impede the exercise of the contractual rights of audit or access to information;
- (f) A theft which means the misappropriation of property belonging

to another party;

- (g) Tax Crime, meaning all offences, including tax crimes relating to direct taxes and indirect taxes and as defined in the national law of Montenegro, which are punishable by deprivation of liberty or a detention order for a maximum of more than one year; or
- (h) Misuse of EIB Group Resources and Assets, meaning any illegal activity committed in the use of the EIB Group's resources or assets (including the funds lent under this Contract) knowingly or recklessly.

"Project"

has the meaning given to it in Recital A.

"Project Implementation Unit"

means a team of professional and support staff with the necessary administrative powers as well as physical and financial resources necessary to implement the Project.

"Records"

has the meaning given to it in Article 9.4 of this Agreement.

"Relevant Person"

means with respect to the Beneficiary and the Administration, which is:

- (a) a sovereign counterparty; any ministries, other central executive government bodies, central bank or other governmental sub-divisions, or any of their officials or representatives, or any other person acting for any of them, on its behalf or under its control, having the authority to manage and/or supervise the Grant or the Project; and
- (b) a public authority counterparty, any official or representative, or any other person acting for it, on its behalf or under its control, having the authority to manage and/or supervise the Grant or the Project.

"Sanctioned Person"

means any individual or entity (for the avoidance of doubt, the term entity includes, but is not limited to, any government, group or terrorist organisation) who is a designated target of, or who is otherwise a subject of, Sanctions (including, without limitation, as a result of being owned or otherwise controlled, directly or indirectly, by any individual or entity, who is a designated target of, or who is otherwise a subject of, Sanctions).

"Sanctions"

means the economic or financial sanctions laws, regulations, trade embargoes or other restrictive measures (including, in particular, but not limited to, measures in relation to the financing of terrorism) enacted, administered, implemented or enforced from time to time by any of the following:

- (a) the United Nations including, *inter alia*, the United Nations Security Council;
- (b) the European Union including, *inter alia*, the Council of the European Union and the European Commission, and any other competent bodies/institutions or agencies of the European Union;
- (c) the government of the United States of America, and any department, division, agency, or office thereof, including, *inter alia*, the Office of Foreign Asset Control (OFAC) of the United States Department of the Treasury, the United States Department of State and/or the United States Department of Commerce; and

- (d) the government of the United Kingdom, and any department, division, agency, office or authority including, *inter alia*, the Office of Financial Sanctions Implementation of His Majesty's Treasury and the Department for International Trade of the United Kingdom.

“Services”	means the services (as such term is used in Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement) specified in the GAF, for the implementation of the Project.
“Side Letter Agreement”	means the Side Letter Agreement to the General Conditions dated 16 June 2016 between the European Union and the Bank and amended on 12 November 2021.
“Social Law”	means each of: <ul style="list-style-type: none">(a) any law, rule or regulation applicable in Montenegro relating to Social Matters;(b) any ILO Standards; and(c) any United Nations treaty, convention or covenant on human rights signed and ratified by or otherwise applicable and binding on Montenegro.
“Social Matters”	means all, or any of, the following: (i) labour and employment conditions, (ii) occupational health and safety, (iii) protection and empowerment of rights and interests of indigenous peoples, ethnic minorities and vulnerable groups, (iv) cultural heritage (tangible and intangible), (v) public health, safety and security, (vi) involuntary physical resettlement and/or economic displacement and loss of livelihood of persons, and (vii) public participation and stakeholder engagement.
“Supplies”	means the supplies (as such term is used in Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement) specified in the GAF, for the implementation of the Project.
“Technical Assistance Grant”	has the meaning given to it in Recital E.
“Tranche”	means each disbursement from the Grant made or to be made under this Agreement.
“Union Emblem”	means the logo of the European Union with the twelve yellow stars on a blue background as being used by all the institutions, bodies, offices and agencies of the European Union in accordance with The Interinstitutional <i>style guide</i> of the Publications Office of the European Union and <i>The Use of the EU Emblem in the Context of EU Programmes and in Non-EU Countries – Guidelines for beneficiaries and other third parties</i> as developed by the European Commission and as updated from time to time. These guidelines are available at: http://ec.europa.eu/dgs/communication/services/visual_identity/pdf/us_e-emblem_en.pdf .
“WBIF”	means the Western Balkans Investment Framework.
“Works”	means the works (as such term is defined in Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement) specified in the GAF, for the implementation of the Project.

Interpretation

In this Agreement

- a) In the event that a different meaning is given to a capitalized term in a particular Annex, such definition will have the meaning given to it in that Annex solely for the purposes of that Annex.
- b) The headings used in this Agreement, and any references made to the said headings, are for convenience of reference only, and therefore will not constitute a part of this Agreement and will not be taken into consideration in the interpretation of, or affect the meaning of, this Agreement.
- c) References to Recitals, Articles, Annexes, are, save of explicitly stipulated otherwise, references respectively to recitals to, articles of and annexes to this Agreement.
- d) References to a provision of law are references to that provision as amended or re-enacted, and references to any other agreement or instrument are references to that other agreement or instrument as amended, novated, supplemented, extended or restated.
- e) References to a public organisation will include its successors, and if a public organisation ceases to exist or ceases to perform its functions without a successor, references to such public organisation will be deemed to include a reference to any public organisation or any organisation or entity which has taken over either or both the functions and responsibilities of such public organisation.
- f) References containing terms such as “includes” and “including”, whether or not used with the words “without limitation” or “but not limited to”, will not be deemed limited by the specific enumeration of items but will, in all cases, be deemed to be without limitation and construed and interpreted to mean “includes without limitation” and “including without limitation”.
- g) General words introduced or followed by the word “other” or “including” or “such as” or “in particular” will not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
- h) Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each gender include all other genders.
- i) Whenever a document is required to be “certified”, such requirement will mean that the relevant document is certified as a true and complete copy of an instrument in full force and effect, and un-amended as of the date of the relevant copy.

ARTICLE 1 – Subject

- 1.1** The purpose of this Agreement is to set out the rights and obligations of the Parties in relation to the use of the Grant to finance the Eligible Costs for the Works, Supplies and Services.
- 1.2** For the purposes of this Agreement, and unless otherwise expressly specified, whenever this Agreement provides for an obligation, undertaking or any other measure or action of the Beneficiary, the Beneficiary shall be under the obligation to:
- (a) perform such obligation, undertaking, measure or action; and
 - (b) procure that such obligation, undertaking, measure or action is performed by the Implementing Entities.
- 1.3** The Beneficiary and the Administration as being the Implementing Entity 2 shall use their best endeavours:
- (a) to read and acknowledge the content of this Agreement, in form and substance as agreed with the Bank; and
 - (b) to provide the evidence to the Bank, in form and substance satisfactory to it, that the best effort obligation under limb (a) of this Article has been duly fulfilled.
- 1.4** The Beneficiary and the Administration as being the Implementing Entity 2 shall:
- (a) implement the Project co-financed by the Grant in accordance with the provisions of this Agreement and the Finance Contract;
 - (b) implement the Project and the related Contracts under its responsibility and in accordance with the provisions of this Agreement (including, for the avoidance of doubt, the GAF), with a view to achieving the Project objectives laid down in section 16 of the GAF and the expected Project results laid down in section 27 of the GAF;
 - (c) use the Grant exclusively for the purposes set out herein, and in accordance with the terms and conditions set out in this Agreement. In doing so, the Beneficiary shall fulfil its obligations with the requisite care, efficiency, transparency and diligence, in line with the principle of sound financial management and with the best practices in the field; and
 - (d) comply with the Environmental and Social Standards when implementing the Project and when entering into the Contracts.
- 1.5** On the date of entry into force of this Agreement, the Beneficiary represents that the Beneficiary is not in any of the following circumstances (to the extent applicable):
- (a) in the past 5 (five) years, itself or persons having powers of representation, decision-making or control over it have been convicted by a final judgment or a final administrative decision for grave professional misconduct, where such conduct denotes wrongful intent or gross negligence, which would affect their ability to implement the Grant and which is for one of the following reasons:
 - (i) negligently providing misleading information that may have a material influence or fraudulently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract or an agreement;
 - (ii) entering into agreements with other persons aimed at distorting competition;
 - (iii) attempting to unduly influence the decision-making process of the contracting authority during the award procedure;
 - (iv) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure; or
 - (b) it has been subject to a decision on exclusion contained in the published early detection and exclusion system database set up by the European Commission; or
 - (c) in the past 5 (five) years, has been the subject of a final judgment or administrative decision by a national court or authority because it was created with the intent to illegally

circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business; or

- (d) in the past 5 (five) years, itself or persons having powers of representation, decision-making or control over it have been the subject of a final judgment for fraud, Prohibited Conduct, participation in a criminal organisation, Money Laundering or the Financing of Terrorism, terrorist offences or offences linked to terrorist activities, or inciting, aiding, abetting or attempting to commit such offences; or child labour and other forms of trafficking in human beings

provided that the Bank may decide not to exclude the Beneficiary if the Beneficiary can provide evidence that remedial measures have been adopted to demonstrate its reliability despite the existence of a ground for exclusion, or where it is indispensable to ensure the continuity of the service, for a limited duration and pending the adoption of remedial measures, or where an exclusion would be disproportionate taking into account the circumstances.

ARTICLE 2 – Entry into Force and Duration

The Agreement is effective from the Effective Date and shall remain valid for as long as any rights, obligations or liabilities arising out of its provisions remain outstanding, unless it is otherwise terminated, in accordance with the provisions of Article 23 (*Termination*).

ARTICLE 3 – Structure of the Agreement

3.1 The Agreement consists of these executed Agreement Terms and the following Annexes, which form an integral part of this Agreement (including all of its subsequent amendments and supplements as the case may be):

- (a) Annex 1: Grant Application Form (GAF)
- (b) Annex 2: Financial Identification Form
- (c) Annex 3: Model Request for Disbursement
- (d) Annex 4: Form of Implementation Report

3.2 In the event of any ambiguities, conflicts or inconsistencies between the provisions of the Agreement Terms and the provisions of the Annexes, the provisions of the Agreement Terms shall prevail.

ARTICLE 4 – Amount of the Grant

4.1 Under the terms and conditions of this Agreement, the Bank shall make available to the Beneficiary the Grant in an aggregate amount of up to EUR 10,993,864 (ten million nine hundred ninety three thousand eight hundred sixty four euros), comprising the Investment Grant and the Technical Assistance Grant to be used exclusively for financing the Eligible Costs of the Project, subject to deduction of, if applicable any negative interest accrued on the cash balance deposited on the Bank's Grant Account and any other losses and costs incurred in accordance with Article 4.9.

4.2 The Beneficiary shall use the proceeds of the Grant exclusively to finance the Eligible Costs in respect of the Works, Supplies and Services. For the avoidance of doubt, the Grant shall neither be used to pay taxes, duties and charges arising out of, or in connection with, the implementation of the Project nor shall it be used to pay value added tax (VAT) to the extent that VAT is recoverable.

4.3 The Beneficiary: (i) acknowledges that the Grant is provided by the Bank from the resources of the Fund and in accordance with the General Conditions and the Side Letter; and (ii) agrees that the Bank may terminate this Agreement according to Article 23 (*Termination*) and recover any or all parts of the Grant according to Article 20 (*Recovery*) if, in opinion of the Bank, in accordance

with its applicable policies and procedures, the Grant is not used in compliance with the terms of this Agreement and the General Conditions.

- 4.4** The final amount of the Eligible Costs that will be financed by the Grant shall be determined after the completion of the part of the Project that will be financed by the Grant, on the basis of the final invoices issued by the Economic Operators, as paid by the Beneficiary and/or the Administration as being the Implementing Entity 2 (as applicable), audited by an independent expenditure verification external auditor the selection of which requires the prior written approval of the Bank, but at the cost of the Beneficiary and/or the Administration as being the Implementing Entity 2. For the avoidance of doubt, the expenses for the external auditor shall not be financed by the Grant.
- 4.5** The amount of the Grant shall become final only after the Bank has approved the final Implementation Report (including the expenditure verification report), without prejudice to subsequent audits, checks and investigations by the Bank, the Contributors (including the Commission on behalf of the Union), OLAF, EPPO or the Court of Auditors of the European Union. Notwithstanding the preceding, the Bank may proceed to recover any amounts of the Grant that are found to have been used in breach of this Agreement or the General Conditions through the audits, checks, and/or investigations referred to in the preceding sentence.
- 4.6** If the total cost of the Project exceeds the estimated figure set out in Recital B, the Beneficiary shall procure, on its own account and without delay, the additional financing required to cover the full cost of the Project so as to enable the Project to be completed in accordance with the GAF, and shall communicate to the Bank in a timely manner, for prior consultation, the source of such additional funds.
- 4.7** The Beneficiary is required to return to the Bank to an account to be designated by the Bank for this purpose and within 30 (thirty) calendar days from receipt of the Bank's relevant request, any amount of the Grant, that is in the opinion of the Bank and in accordance with its applicable policies and procedures:
- (a) unduly paid to the Beneficiary;
 - (b) not used in accordance with this Agreement (which includes, for the sake of clarity, the GAF) and the General Conditions;
 - (c) corresponding to Contracts with respect to which it has been determined that the relevant Economic Operators have been involved in any Prohibited Conduct in connection with the implementation of the Project or are Sanctioned Persons; or
 - (d) exceeding the final amount of the Eligible Costs incurred, as further specified in Articles 6.5 and 20 (*Recovery*).
- 4.8** The Grant shall not have the purpose or effect of producing a profit for the Beneficiary.
- 4.9** The Parties agree that the Bank has the right to:
- (a) deduct from the Grant Amount, if applicable, any negative interest on the cash balance of the Bank's Grant Account, which may accrue up until the date when the Bank disburses the Grant to the Beneficiary; and
 - (b) deduct from the Grant Amount, any other loss or costs incurred on the Bank's Grant Account, including (but not limited to) any applicable bank charges relating to the maintenance of the Bank's Grant Account and loss or costs relating to exchange of currency.

ARTICLE 5 – Disbursement of the Grant

- 5.1** Subject to the terms and conditions under this Agreement, the Bank shall disburse the Grant in euros into the Beneficiary's Grant Account. The details of the Beneficiary's Grant Account shall be provided to the Bank in the form provided in Annex 2.
- 5.2** In respect of each Disbursement Request, the Beneficiary shall send to the Bank a duly completed, signed and stamped Financial Identification Form and identify therein the Beneficiary's Grant Account into which the disbursements of the Grant are requested to be made.

- 5.3** Provided that the conditions specified in Article 6 are met, the Bank may disburse the requested Tranche in euros into the Beneficiary's Grant Account within 70 (seventy) calendar days from the conditions (a) and (b) below have been fulfilled:
- (a) the Bank has received from the Fund the amount corresponding to the requested tranche of the Grant; and
 - (b) each of the terms and conditions applicable to the requested Tranche set out in Article 6 and Article 7 below has been fulfilled in form and substance to the satisfaction of the Bank.
- 5.4** However, the Bank may suspend the deadline for disbursement specified in Article 5.3 by promptly notifying the Beneficiary if, at the time the Bank receives the Disbursement Request from the Beneficiary, an amount in respect of and equal to the disbursement requested has not been received by the Bank from the Fund. The deadline shall start to run again from the date when the Bank receives the necessary funds from the Fund (of which it shall inform the Beneficiary as soon as practicable).

ARTICLE 6 – Disbursement Amounts

- 6.1** The total amount of disbursements under this Agreement corresponding to the Investment Grant, which will be used for the financing of the Eligible Costs in respect of the Works and Supplies shall not exceed EUR 9,622,726 (nine million six hundred twenty-two thousand and seven hundred twenty-six euros). The total amount of disbursements under this Agreement corresponding to the Technical Assistance Grant, which will be used for the financing of the Eligible Costs in respect of the Services shall not exceed EUR 1,321,138 (one million nine hundred twenty one thousand one hundred thirty eight euros).
- 6.2** The amount of each Tranche shall be in a minimum amount of EUR 500.000 (five hundred thousand euros).
- 6.3** The amount of the first Tranche of the Grant shall not exceed the amount in euro corresponding to the value notified by the Beneficiary to the Bank of the forecasted payments for Eligible Costs (as set out in the first Implementation Report) to be made by the Beneficiary and/or the Administration as being the Implementing Entity 2 to the Economic Operators over the first 12 (twelve) months following the date of the Disbursement Request.
- 6.4** Each of the Interim Tranches may amount up to 100% (one hundred per cent) of the forecasted payments to be made to Economic Operators over the 12 (twelve) months following the date of the submission of each respective Disbursement Request by the Beneficiary to the Bank, provided that and up to the extent such forecasted payments intended to cover the Eligible Costs have not already been made or are not envisaged to be made from the funds disbursed by the Bank under the Finance Contract.
- 6.5** If the total amount of the Grant disbursed by the Bank in accordance with this Article 6 (*Disbursement Amounts*) exceeds the final total amount of the Eligible Costs incurred by the Beneficiary and/or the Administration as being the Implementing Entity 2 under the Contracts, then such excess shall be recovered by the Bank pursuant to Article 20 (*Recovery*) and shall be returned to the Fund.
- 6.6** In order for the Bank to verify the final total amount of the Eligible Costs, the Beneficiary shall, *inter alia*:
- (a) ensure that the invoices issued by the Economic Operators for payments under the Contracts include, as a minimum, the following information:
 - (i) the name and address of the Economic Operator;
 - (ii) the title and any unique identification code of each Contract;
 - (iii) the amount requested for payment, in euros, quoting separately the amount corresponding to any taxes, customs and duties that may be payable; and
 - (iv) an identification of the Works, Supplies and/or Services delivered that are covered by the invoice or, if the payment is requested as an advance, a clear statement to this effect; and

- (b) ensure, and include terms to this effect in each Contract, that if the terms and conditions for payment of the Economic Operator agreed in the relevant Contract include categories or items of expenditure that are paid to the Economic Operator at actual cost, when such expenditure is incurred by the Economic Operator in a currency other than Euro the amount of such expenditure to be claimed for payment by the Economic Operator shall be calculated by converting into Euro the amount actually incurred by the Economic Operator in a different currency, at the exchange rate computed and published for that currency by the European Central Bank on the date of the relevant invoice issued to the Economic Operator (or, failing such a rate, the relevant exchange rate or rates then prevailing on any financial market reasonably chosen by the Bank).

ARTICLE 7 – Conditions of Disbursement

7.1 Subject to Article 4 (*Amount of the Grant*) and to the fulfilment of the conditions precedent specified in Articles 7.2, 7.3, 7.4 and 7.5 below, the Bank shall disburse the Grant in accordance with the provisions set out in Articles 5 (Disbursement of the Grant), 6 (Disbursement Amounts) and 7 (Conditions of Disbursement).

7.2 The disbursement of the first Tranche is conditional upon receipt by the Bank, in form and substance satisfactory to it, on or before the date falling 7 (seven) Business Days before the date of the Disbursement Request for the first Tranche, of the following documents or evidence:

- (a) evidence that the execution of this Agreement by the Beneficiary and the Administration has been duly authorised and that the person(s) signing this Agreement on behalf of the Beneficiary and the Administration is/are duly authorised to do so, together with the specimen signature of such person(s);
- (b) evidence that the Beneficiary and the Administration has issued or obtained all necessary Authorisations required in connection with this Agreement and the Project;
- (c) a legal opinion issued by the Protector of the Property Legal Interests of Montenegro (Zaštitnik imovinsko pravnih interesa Crne Gore), confirming, among others:
 - (i) the legal capacity of the Beneficiary;
 - (ii) the powers, authority and legal capacity of the signatories on behalf of the Beneficiary by a decision of the competent authority of the Beneficiary;
 - (iii) the due execution and approval of this Agreement by the Parliament of the Beneficiary;
 - (iv) the validity and enforceability of the choice of Luxembourgish law as the proper and applicable law of this Agreement, and the submission by the Beneficiary to the jurisdiction of the Court of Justice of the European Union, and the enforcement and recognition of the latter's judgments in any proceedings taken in Montenegro;
 - (v) the legal, valid, binding and enforceable obligations as a matter of law of the Beneficiary under this Agreement (in both cases assuming legal, valid, binding and enforceable obligations under Luxembourgish law) and confirmation that the execution, delivery and performance by the Beneficiary of this Agreement and the obligations contained therein, do not violate nor are in breach of the laws of Montenegro and shall not cause any material breach of any agreement or undertaking by which the Beneficiary is bound;
 - (vi) confirmation that no exchange control restrictions are in place or consents are required in order to permit the receipt of all amounts to be disbursed hereunder on the Beneficiary's Grant Account and to permit the repayment of the Grant and the payment of interest and any other amounts due under Article 20 (*Recovery*) of this Agreement, if applicable, and
 - (vii) if no Authorisation is required, confirmation that no consents, approvals, orders or authorisations of, or registration, declaration or filing with any governmental or public body or authority of Montenegro are required for the valid authorisation, execution or performance by the Beneficiary of its obligations under this Agreement and for the enforcement of this Agreement.

- (d) a legal opinion issued by the Protector of the Property Legal Interests of Montenegro (Zaštitnik imovinsko pravnih interesa Crne Gore), confirming, among others:
- (i) the legal capacity of the Administration;
 - (ii) the powers, authority and legal capacity of the signatories on behalf of the Administration by a decision of the competent authority of the Administration;
 - (iii) the due execution of this Agreement by the Administration;
 - (iv) the legal, valid, binding and enforceable obligations of the Administration as a matter of law of Montenegro under this Agreement (in both cases assuming legal, valid, binding and enforceable obligations under Luxembourgish law) and confirmation that the execution, delivery and performance by the Administration of this Agreement and the obligations contained therein, do not violate nor are in breach of the laws of Montenegro and shall not cause any material breach of any agreement or undertaking by which the Administration is bound;
 - (v) confirmation that no consents, approvals, orders or authorisations of, or registration, declaration or filing with any governmental or public body or authority of Montenegro are required for the valid authorisation, execution or performance by the Administration of its obligations under this Agreement and for the enforcement of this Agreement.

7.3 The disbursement of each of the Interim Tranche shall be subject to each of the following conditions:

- (a) the Beneficiary has provided to the Bank supporting documentation in form and substance satisfactory to the Bank, substantiating that it has incurred Eligible Costs, as determined in accordance with this Agreement, amounting to no less than 70% (seventy per cent) of the immediately preceding disbursement and 100% (one hundred per cent) of all other previously disbursed Tranches (including the first Tranche), if any, (taking also into account Eligible Costs incurred and covered from the funds already disbursed or envisaged to be disbursed by the Bank under the Finance Contract) provided that after the requested disbursement (i) investment leverage ratio is not lower than the amount set out in section 26 of the GAF, and (ii) the cumulative amount of all disbursed Interim Tranches together with the first Tranche does not exceed 90% (ninety per cent) of the maximum Grant amount referred to in Article 4.1; and
- (b) the Bank has received from the Beneficiary and has approved, an updated Implementation Report demonstrating compliance with the conditions set out in this Article 7 (*Conditions of Disbursement*); and

7.4 The disbursement of the last Tranche shall be subject to the following conditions:

- (a) that no later than 30 (thirty) calendar days after the disbursement of the last Interim Tranche as per Articles 5.2 and 7.3, the Beneficiary will have provided to the Bank supporting documentation in form and substance satisfactory to the Bank, substantiating that it has incurred (i) the Eligible Costs covered or to be covered by the last Tranche; and (ii) all Eligible Costs under the Contracts approved by the Bank together with the corresponding report from an independent external auditor in order for the final amount of the Grant to be established; and
- (b) the Bank shall have received any other documentation or evidence which the Bank has notified the Beneficiary is necessary or desirable in form and substance satisfactory to the Bank.

7.5 The disbursement of each Tranche, (including the first Tranche, the Interim Tranche and the last Tranche), shall be subject to the following conditions:

- (a) that the Bank has received, in form and substance satisfactory to it, on or before the date falling 15 (fifteen) Business Days before the date of the Disbursement Request for the proposed Tranche, the following documents or evidence:
 - (i) evidence that each relevant Contract has been duly signed by the Beneficiary and/or the Administration and each Economic Operator;

- (ii) a certified copy of all Contracts executed by and between the Beneficiary and/or the Administration is provided to the Bank (if not in English certified English translation);
- (iii) evidence demonstrating that, following drawdown of the relevant Tranche, the aggregate amount of the Grant disbursed under this Agreement will not exceed the aggregate Eligible Costs incurred or contractually committed by the Beneficiary and/or the Administration as being the Implementing Entity 2 up to the date of the disbursement request for the relevant Tranche;
- (iv) evidence that the project implementation unit (“**PIU**”) dedicated to the Project, and as described in section 20 of the GAF, has been established and is operating, to the satisfaction of the Bank, to act as the Bank’s correspondent for all technical, administrative and monitoring matters concerning the Project, whereby such PIU shall, *inter alia*, be adequately staffed with competent personnel and with the technical assistance provided by an experienced consultant company under the terms and references satisfactory to the Bank;
- (v) a copy of any other authorisation or other document, opinion or assurance which the Bank has notified the Beneficiary and/or the Administration is necessary or desirable in connection with: (1) the entry into and performance of, and the transactions contemplated by, this Agreement or the legality, validity, binding effect or enforceability of the same; and (2) compliance with Article 18 (*Integrity Commitments*) of this Agreement by the Beneficiary and the Administration as being the Implementing Entity 2;
- (vi) for respect of disbursements that will finance in whole or part a component of the Project requiring an environmental impact assessment, the Beneficiary shall provide:
 - (1) a copy of the ESIA;
 - (2) the environmental consent(s) issued by the competent authority.
- (b) that the Bank has received and approved the relevant Implementation Report(s) in accordance with the GAF and is satisfied that the Project is being satisfactorily implemented; and
- (c) the Bank shall have received any other documentation or evidence which the Bank has notified the Beneficiary is necessary or desirable in form and substance satisfactory to the Bank.

7.6 In addition to the conditions precedent in the Articles above, the disbursement of each Tranche, including the Interim Tranches and the last Tranche, but excluding the first Tranche, shall be subject to the condition that, to the satisfaction of the Bank, the Beneficiary has submitted and the Bank has accepted:

- (a) all the reports (including the expenditure verification report and updated Implementation Report prior to the date of the Disbursement Request;
- (b) an expenditure verification report prepared by an independent external auditor, acceptable to the Bank, which shall examine whether the costs declared and claimed for payment from the Grant pursuant to Article 6 (*Disbursement Amounts*) are real, accurately recorded and eligible according to this Agreement, *it being understood that*:
 - (i) the Beneficiary shall procure that the terms of reference for the external auditor and the form of the expenditure verification report to be prepared by such external auditor are agreed with the Bank before the engagement of the external auditor;
 - (ii) the first such expenditure verification report shall cover the period from the Effective Date until the date of the Disbursement Request by the Beneficiary of the second Tranche of the Grant and each subsequent expenditure verification report shall cover the period from the date of the preceding disbursement request to the date of the next disbursement request; and

- (iii) the last expenditure verification report which, for the avoidance of doubt, shall be submitted within 12 months after the last Tranche of the Grant, must demonstrate that the entire Grant amount (for the avoidance of doubt including the last Tranche to be disbursed) claimed/requested has been justified and supported by Eligible Costs up to the "Investment leverage ratio" as specified in section 26 of the GAF, to the satisfaction of the Bank.

- 7.7** For the disbursement of any Tranche, the Bank reserves the right to request any additional information or documents related to the disbursement as it may deem necessary for establishing the eligibility and payability of the amounts requested. For the avoidance of doubt, the request for disbursement shall not be admissible if any of the requirements, as set forth in this Article 7 (*Conditions of Disbursement*) and Article 6 (*Disbursement Amounts*), are not met.
- 7.8** The disbursements made by the Bank pursuant to this Article 7 (*Conditions of Disbursement*) shall not imply recognition of the regularity, or of the authenticity, completeness and correctness of the documents and information provided by the Beneficiary, in support of the requests for disbursement they submit to the Bank.

ARTICLE 8 – Deferment of Disbursement

- 8.1** The Bank may suspend or defer the disbursement of any Tranche by notifying in writing the Beneficiary if:
- (a) it deems that the amount indicated in the request for disbursement is not due; or
 - (b) any condition for disbursement of such referred to in Article 7 (*Conditions of Disbursement*) has not been fulfilled; or
 - (c) it considers that further checks, including on-the-spot checks, must be conducted in order to ensure that the expenditure declared is eligible; or
 - (d) it deems necessary to verify whether suspected or alleged substantial errors, irregularities or fraud have occurred in the award of any Contract and/or implementation of the Contracts or the Project; or
 - (e) the Bank decides to suspend all its disbursements pursuant to Article 19 (*Suspension of the Agreement*) of this Agreement;
 - (f) a recovery process is started pursuant to Article 20 (*Recovery*) of this Agreement;
 - (g) the Agreement is terminated pursuant to Article 23 (*Termination*) of this Agreement; or if a termination notice is served pursuant to article 5.16 of the General Conditions; or
 - (h) the Bank is requested to refund part or all amounts already disbursed to the Beneficiary pursuant to the General Conditions (article 5.10(d)).

Such suspension or deferment shall take effect on the date when the notification is sent by the Bank to the Beneficiary. Without prejudice to Article 23 (*Termination*), the time limit for the disbursement so suspended shall start running again from the date on which the Bank informs the Beneficiary in writing that the reason for deferment of disbursements has been addressed to the satisfaction of the Bank.

- 8.2** For the avoidance of doubt, the Beneficiary shall grant the Bank or the authorised representatives of the Bank the assistance and access rights specified in Article 15 (*Verifications, Control and Audits*) for the purposes of undertaking the verifications and controls referred to in Article 8.1, points (c) and (d).

ARTICLE 9 – Eligible Costs

- 9.1** In order to be considered as Eligible Costs under this Agreement, the costs covered by the requests for disbursement of the Grant submitted by the Beneficiary pursuant to Articles 5 (*Disbursement of the Grant*), 6 (*Disbursement Amounts*) and 7 (*Conditions of Disbursement*) shall:

- (a) relate to Works, Supplies and/or Services (including in respect of Communication and Visibility, if applicable) actually provided by the Economic Operators in accordance with the terms of each respective Contract; and
- (b) be included in the categories of eligible costs specified in the GAF and be covered by the overall price and budget breakdown agreed in each respective Contract; and
- (c) be incurred by the Beneficiary or the Administration as being the Implementing Entity 2 during the Implementation Period and necessary for the implementation of the Project.

For clarity in relation to limb (c) above, a cost shall be considered as “incurred” by the Beneficiary and/or the Administration as being the Implementing Entity 2 when (i) the Works, Supplies, and/or Services in relation to the Project, or part thereof, to which it corresponds, are implemented by the Economic Operator during the Implementation Period and accepted by the Beneficiary and/or the Administration as being the Implementing Entity 2 and considered eligible by the Bank, after approval of relevant operational and financial reports submitted to the Bank by the Beneficiary and/or the Administration as being the Implementing Entity 2 on the implementation of the Works, Supplies and/or Services financed by the Grant, thus excluding any payments to an Economic Operator made (1) before the Implementation Period, when the Works, Supplies and/or Services, or part thereof, to which it corresponds are implemented by the Economic Operator during the Implementation Period and accepted by the Beneficiary and considered eligible by the Bank, after approval of relevant operational and financial reports submitted to the Bank by the Beneficiary on the implementation of the Works, Supplies and/or Services financed by the Grant; and (2) during the Implementation Period, when the Works, Supplies and/or Services, or part thereof, to which it corresponds are not implemented by an Economic Operator during the Implementation Period and accepted by the Beneficiary and considered eligible by the Bank, after approval of relevant operational and financial reports submitted to the Bank by the Beneficiary on the implementation of the Works, Supplies and/or Services financed by the Grant;

- (d) comply with the requirements of applicable tax and social legislation; and
- (e) be reasonable, justified and comply with the principle of sound financial management, in particular regarding economy and efficiency; and
- (f) be identifiable and verifiable, and in particular be recorded in the accounting records of the Implementing Entities and be determined according to the GAAP and to the usual cost accounting practices of the Implementing Entities.
- (g) have not already been made or are not envisaged to be made from the funds disbursed by the Bank under the Finance Contract.

9.2 The following costs shall not be considered eligible for the purpose of this Agreement:

- (a) return on capital;
- (b) debts and debt service charges;
- (c) provisions for losses or debts;

- (d) interest owed by the Beneficiary or the Administration as being the Implementing Entity 2 (as applicable):
 - (i) to the Bank under the Finance Contract; or
 - (ii) to any third party.
- (e) doubtful debts owed by the Beneficiary or the Administration to any third party;
- (f) currency exchange losses except if such costs and/or losses have been incurred as a result of exchange into local currencies and/or US Dollars and only for the purposes of implementing the Grant;
- (g) any costs of transfers of the Grant that may be charged by the bank(s) involved in the transfer;
- (h) commissions, transaction charges or other costs to be paid to third party banks (including for the avoidance of doubt the bank(s) where Beneficiary's Grant Account is held);
- (i) costs declared by the Beneficiary in the framework of another action receiving a grant financed from the European Union budget (including through the European Development Fund, and grants awarded by a European Union member state and financed from the European Union budget and grants awarded by other bodies than the European Commission for the purposes of implementing the European Union budget);
- (j) items already financed from other sources;
- (k) purchases of land, buildings, or second hand assets;
- (l) contributions in kind, to the extent they have been accounted for in the total cost of the Grant or the Project;
- (m) excessive or reckless expenditures;
- (n) taxes (including without limitation value added tax), duties and charges payable by the Beneficiary or the Administration, to the extent that they are recoverable;
- (o) all cost incurred with the Beneficiary's and/or the Administration's staff implementing the Agreement;
- (p) costs incurred during and related to the suspension of the implementation of (part of) this Agreement (with the exception that certain minimum costs considered necessary to allow for the resumption of the suspended activities once the conditions allow (such as, but not limited to, costs incurred for maintaining the security of the site) may be eligible); and
- (q) the cost of independent external auditor for the provision of expenditure report as referred to in Article 7.6.

9.3 The Beneficiary shall comply with the conditions specified in Article 9.1 before submitting any Disbursement Request to the Bank, whereby for the avoidance of doubt, in relation to Article 9.1. point (c), the Beneficiary may have commenced the procurement procedure to award the relevant Contract, and such Contract with the Economic Operator may have been signed by the Beneficiary or the Administration as being the Implementing Entity 2 before the start of the Implementation Period, provided that the Works, Supplies and/or Services for which costs are claimed for payment from the Grant are delivered by the Economic Operator to and accepted by the Beneficiary or the Administration as being the Implementing Entity 2 during the Implementation Period (thus excluding any Works, Supplies and/or Services which may be delivered before the start, or after the end of the Implementation Period).

9.4 The Beneficiary shall, in cooperation with the Administration as being the Implementing Entity 2, provide the Bank with evidence and supporting documentation acceptable to the Bank, that the Beneficiary has incurred Eligible Costs amounting to 100% (one hundred per cent) of the first Tranche; on the earlier of: (i) 360 days from the date of disbursement of the first Tranche, or (ii) 15 Business Days prior to the Disbursement Request for the last Tranche in accordance with Article 7 (Conditions of Disbursement). For the avoidance of doubt, for the last Tranche such evidence of Eligible Costs shall be provided under the expenditure verification report as per Article 7.6(b).

9.5 The Beneficiary undertakes to prepare, compile and keep full, accurate and systematic records of all data and documentation in its authentic and original form, including (but not limited to) all

hard copies and originals of documents, e-mails or other electronically stored information on the implementation of the Project and the Contracts, and the use of the Grant, in such form and detail as is necessary and sufficient to establish accurately that the activities have been carried out and the cost identified in its reports to the Bank have been duly incurred in accordance with the provisions of this Agreement (the “**Records**”). The Beneficiary further undertakes:

- (a) to prepare the Records in substance and in form as to enable the income and expenditure related to the Works, Supplies, Services, to be easily traced, identified and verified;
- (b) to keep or to procure the Records to be kept by the Administration as being the Implementing Entity 2, for a period of 6 (six) years following the End Date and in any case until any on-going audit, verification, appeal, litigation or pursuit of claim, arising out of or in connection with this Agreement or a Contract has been disposed of; and
- (c) to make the Records easily accessible and filed so as to facilitate their examination by the Bank and by the EU Bodies and the Fund in accordance with this Agreement.

ARTICLE 10 – Procurement procedure and changes to Contracts

- 10.1** The Beneficiary and the Administration as being the Implementing Entity 2 undertake to procure Works, Supplies and Services for the Project by acceptable procedures complying, to the Bank’s satisfaction, with the Bank’s policy as described in the Guide to Procurement.
- 10.2** The Beneficiary and the Administration as being the Implementing Entity 2 shall maintain an effective mechanism for the remedy of complaints available to any party having had an interest in obtaining a particular contract and who has been or risk being harmed by an alleged infringement, for all contracts to be financed solely by the Bank.
- 10.3** The Beneficiary and the Administration as being the Implementing Entity 2 shall include in the tender documents for all contracts to be financed by the Bank a reference to the above-mentioned mechanism for reviewing complaints related to the procurement process.
- 10.4** The Beneficiary and the Administration as being the Implementing Entity 2 undertake to inform, and consult with, the Bank before enacting any amendment, extension, waiver, suspension, rescission or termination of a signed Contract and the reasons thereof, as well as supply to it, upon the Bank’s request, any relevant documentation at least 30 (thirty) calendar days in advance of the date when such changes are intended to become applicable.
- 10.5** Without prejudice to the general duty under the Guide to Procurement for the promoter/Implementing Entity to effectively prevent, identify and remedy conflicts of interest, the Beneficiary shall and shall procure that the Administration as being the Implementing Entity 2 ensure that prior to the award of any contract financed under the Project:
 - (i) the Beneficial Owners of the successful bidder (including joint venture partners and subcontractors) who are Close Associates or Family Members of the representative(s), member(s) of the management bodies or senior officer(s) of the Beneficiary or the Administration as being the Implementing Entity 2 are identified and promptly communicated to the Bank. Any such relationship shall for the purpose of this Article and Guide to Procurement constitute a conflict of interest and be promptly notified to the Bank; and
 - (ii) adequate measures are adopted to address any potential conflicts of interest such as a financial, economic or other personal interest (i) between the Beneficial Owner(s) identified as per paragraph (a) above and any senior officer(s) or representatives of the Beneficiary or the Administration as being the Implementing Entity 2 and in each case, such measures shall be promptly notified to the Bank.

For the purposes of this Article 10.5:

“**AML Directives**” means the 4th AML Directive and the 5th AML Directive.

“**4th AML Directive**” means Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing as amended, supplemented or restated.

“**5th AML Directive**” means Directive 2018/843 of the European Parliament and of the Council of 19 June 2018 on anti-money laundering and terrorist financing as amended, supplemented or restated.

“**Beneficial Owner(s)**” has the meaning given to such term in the AML Directives.

“**Close Associate(s)**” means "persons known to be close associates" as defined in the AML Directives.

“**Family Member(s)**” has the meaning given to such term in the AML Directives.

ARTICLE 11 – Information, Monitoring and Reporting

- 11.1** The Beneficiary shall cooperate and shall ensure/procure that the Administration as being the Implementing Entity 2 cooperates, at all times with the Bank and the Economic Operators in relation to the provision of the Works, Supplies and Services.
- 11.2** The Beneficiary, shall provide the Bank with full information on the implementation of this Agreement, of the Project and of the Contracts. To this end, the Beneficiary shall provide to the Bank semi-annual interim Implementation Reports by 31 July with a reporting date of 30 June, and by 31 January for the whole previous calendar year and a final Implementation Report within 30 (thirty) calendar days of the end of the relevant Implementation Period, each consisting of a narrative section and a financial section, whereby:
- (a) the narrative section of each report must provide a full account of the aspects of the progress in tendering for and, after signature, the implementation of the Contracts and the delivery of the Works and Supplies for the period covered. The final report shall provide a detailed description of the results and impact of the Works and Supplies.
 - (b) the financial section shall consist of statements of expenditure, listing the Eligible Costs, determined in accordance with Article 9 (*Eligible Costs*) and the GAF, incurred in the period covered by the report and claimed for payment from the Grant, in the currency of expenditure and in its equivalent Euro amount, calculated in accordance with Article 6.6(b), and indicating for each item of expenditure its title, amount, relevant category of expenditure, and the reference of the document evidencing it.
- 11.3** Within 60 (sixty) days from the end of the Implementation Period, the Beneficiary, shall provide the Bank with a final report covering the full Implementation Period, providing a detailed description of the activities carried out and verifying that the full amount of the Grant has been utilised for Eligible Costs (the “**Project Completion Report**”). The Project Completion Report shall be drafted in English, in form and substance satisfactory to the Bank and financial information shall be consolidated in EUR.
- 11.4** The Beneficiary and the Administration as being the Implementing Entity 2 shall, inform the Bank immediately:
- (a) Information concerning the Project:
 - (i) of a genuine allegation or complaint or information with regard to any Prohibited Conduct related to the Project;
 - (ii) should the Beneficiary or the Administration becomes aware of any fact or information confirming or reasonably suggesting that (a) any Prohibited Conduct has occurred in connection with the Project, or (b) any of the funds invested in the share capital (or budget as applicable) of the Beneficiary or the Administration or in the Project was derived from an illicit origin or from activities involving Sanctioned Persons or from any action or activity which is in breach of any Sanctions;
 - (iii) of any proceeds of this Grant being made available, directly or indirectly, to any Sanctioned Persons or used in breach of any Sanctions;
 - (iv) of any measures taken to seek damages from the persons responsible for any loss resulting from any Prohibited Conduct; and
 - (v) of any breach of the representations and warranties given under or in connection with this Agreement,

and set out the action to be taken with respect to such matters.

- (b) Information concerning the Beneficiary and the Implementing Entity:
- (i) of any fact or event which results in any Relevant Person in respect of the Beneficiary or the Administration being a Sanctioned Person;
 - (ii) unless prohibited by law, any material litigation, arbitration, administrative proceedings or investigation carried out by a court, administration or similar public authority, which, to the best of their knowledge and belief, is current, imminent or pending against the Beneficiary, the Administration or any Relevant Person in respect of the Beneficiary or any Relevant Person in respect of the Administration, or the controlling entities of the Administration, in connection with Prohibited Conduct related to the Grant or the Project;
 - (iii) if the Beneficiary or the Administration should become aware of any fact or information suggestive of the commission of any of the acts stated in Article 18 (*Integrity Commitments*) and shall facilitate investigations by EU Bodies or by other competent European Union institutions or bodies in connection with any alleged or suspected occurrence of a Prohibited Conduct or violation of any Sanctions and shall provide EU Bodies or any other competent European Union institutions or bodies, or ensure that EU Bodies or any other competent European Union institutions or bodies are provided, with all necessary assistance for the purposes described in Article 18 (*Integrity Commitments*);
 - (iv) of any measure taken by the Beneficiary or the Administration prohibited by Article 18 (*Integrity Commitments*) of this Agreement.
- 11.5** If the Beneficiary fails to submit to the Bank, by the deadlines set out in Articles 11.2, any of the reports due, or fails to furnish an acceptable and sufficient written explanation of the reasons why it is unable to comply with this obligation to the satisfaction of the Bank, or fails to comply with the obligations set out in Article 11.3 above, the Bank may terminate the Agreement, in accordance with the provisions of Article 23 (*Termination*), and recover any amounts of the Grant already disbursed under this Agreement and not substantiated in accordance with Article 20 (*Recovery*), including through assigning its rights to recover to the European Commission, in accordance with Article 22 (*Assignment*).
- 11.6** The Bank may request clarifications, corrections (in case of errors) or additional information or documents in relation to any of the reports submitted by the Beneficiary or to any of the information provided by the Beneficiary or the Administration pursuant to this Article 11 (*Information, Monitoring and Reporting*), which must be supplied within 30 (thirty) calendar days of such request.

ARTICLE 12 – Communication, Visibility and Transparency

- 12.1** The Beneficiary shall take all appropriate measures to publicise the fact that the Project and the Contracts have received funding from the Fund in accordance with section 35 of the GAF. Information given to the press, all related publicity material, official notices, reports and publications, shall acknowledge that the Project and the Contracts are carried out “*with the financial assistance of the European Western Balkans Joint Fund under the Western Balkans Investment Framework*” and shall display in an appropriate way the Union Emblem.
- 12.2** Where equipment or vehicles and major supplies have been purchased using funds provided by the European Union through the Fund, the Beneficiary shall, and shall require Contractors to, include appropriate acknowledgments on such vehicles, equipment and major supplies as well as ensure EU and Bank visibility through outdoor promotion (display project boards, billboards, commemorative plaques etc.)
- 12.3** The Beneficiary agrees to extend an invitation to the Bank and to the European Commission to participate in any and all events it may organise in relation to this Agreement or the Contracts, over the duration of this Agreement. Such events may include any regular or technical working meetings among the Parties in the context of the Project supported by the Grant.

Where high-level visits are planned, the Parties will inform each other and consider coordinating these visits and agreeing on joint messages.

- 12.4** The Beneficiary shall include, in its regular reports to the Bank submitted in accordance with Article 11 (*Information, Monitoring and Reporting*), information on measures implemented to ensure the visibility of the Fund's financial contribution, and shall communicate to the Bank any other progress and situation reports, publications, press releases and updates relevant to this Agreement, as and when they are issued.
- 12.5** The Beneficiary and the Administration as being the Implementing Entity 2 authorise the Bank and the European Commission to publish, on an annual basis, the following information in relation to this Agreement: the title, nature and purpose of this Agreement, the name, address and nationality of the Beneficiary and the Administration, and the maximum amount of the financial assistance provided under this Agreement.
- 12.6** If the Beneficiary or the Administration as being the Implementing Entity 2 publishes on its website any information in relation to the Grant or the Contract(s), the Beneficiary as applicable shall provide the Bank with the address of such website and hereby authorises the publication of such address on the Bank's website.

ARTICLE 13 – Conflict of Interests

- 13.1** The Beneficiary and the Administration as being the Implementing Entity 2 undertakes to take all necessary precautions to prevent, mitigate or end any conflict of interests arising out of or in connection with this Agreement and the Project.

There is a conflict of interest where the impartial and objective exercise of the functions of any person implementing this Agreement is compromised:

- (a) for reasons involving family, emotional life, political or national affinity, economic interest, or any other shared interest with another third party;
- (b) by virtue of that person's duties and tasks as a member of staff towards his employer.

The Beneficiary shall inform the Bank without delay of any situation constituting or likely to lead to any such conflict, during the period of validity of this Agreement.

- 13.2** The Bank reserves the right to verify that any measures put in place by the Beneficiary to prevent, mitigate or end conflicts of interests are adequate, and may require additional measures to be taken if necessary.
- 13.3** If the Beneficiary or the Administration as being the Implementing Entity 2 fail to comply with the obligations set forth in this Article, the Bank may terminate this Agreement, in accordance with the provisions of Article 23 (*Termination*).
- 13.4** The Beneficiary and the Administration as being the Implementing Entity 2 shall ensure and will include in each Contract provisions requiring the relevant Contractor to comply with any obligations or additional measure specified in this Article 13 (*Conflict of Interests*), as necessary.

ARTICLE 14 – Monitoring and Evaluation

- 14.1** If the Bank or any Contributor (including the European Commission) carries out an evaluation of, or a monitoring mission for, the Grant, the Project, or the implementation of the Contracts, the Beneficiary and the Administration as being the Implementing Entity 2 shall provide the representatives of the Bank or the Contributor, or persons authorised by them, with any document or information which will assist with the mission, and shall grant them the access rights specified at Article 15 (*Verifications, Controls and Audits*).
- 14.2** If any of the Parties carries out or commissions an evaluation of the use of the Grant or the Works, Supplies and Services financed by the Grant, it must provide to the other Party a copy of the corresponding evaluation report. The Bank reserves the right to provide a copy of such evaluation report to the Contributors.
- 14.3** In case the European Commission undertakes any evaluations pursuant to Articles 14.1 or 14.2 above, the European Commission shall share with the other Contributors any report or similar document produced following such evaluation, subject always to any applicable confidentiality agreements or restrictions.

ARTICLE 15 – Verifications, Controls and Audits

15.1 The Beneficiary and the Administration as being the Implementing Entity 2 shall allow the relevant EU Body, and any external auditor authorised by the preceding:

- (a) to verify, by examining the original documents (including the right to make copies thereof) and by means of on-the-spot checks, the execution and the implementation of the Contracts;
- (b) to conduct a full audit, if necessary, on the basis of supporting documents for the accounts, accounting documents and any other document which is relevant to the financing of the part of the Project to be financed through the Grant;
- (c) to visit the sites, installations and works comprising the Project and to conduct such checks as they may wish for purposes connected with this Agreement and the financing of the Project;
- (d) to interview representatives of the Beneficiary or the Administration as being the Implementing Entity 2 and not obstruct contacts with any other person involved in or affected by the Project; and
- (e) to review the Beneficiary's or the Administration's as being the Implementing Entity 2 books and records in relation to the execution of the Project and to be able to take copies of related documents to the extent permitted by the law.

Such verifications, controls or audits may take place up to 6 (six) years after the End Date.

15.2 Pursuant to Article 15.1, the Beneficiary and the Administration as being the Implementing Entity 2 shall provide the relevant EU Body, and any external auditor authorised by the preceding, or ensure that they are provided, with all necessary access and assistance for this purpose. Access given in accordance with this Article shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public or European Union law to which these institutions or bodies and their staff, agents or authorised representatives are subject.

15.3 The Beneficiary and the Administration as being the Implementing Entity 2 (as applicable) shall facilitate investigations by the Bank and/or the EU bodies in connection with any alleged or suspected occurrence of a Prohibited Conduct or violation of any Sanctions and shall provide the Bank and/or the EU bodies, or ensure that the Bank and/or EU bodies are provided, with all necessary assistance for the purposes described in this Article 15 (*Verifications, Controls and Audits*).

15.4 The Beneficiary shall procure, including by foreseeing terms to this effect in the Contracts, that the rights granted in accordance with this Article shall be equally granted, as necessary, by the Economic Operators.

15.5 The Beneficiary and the Administration acknowledge and agree that the Bank may be obliged to divulge such information, reports, documents and materials relating to the Beneficiary, or the Administration as being the Implementing Entity 2, the implementation of the Project, this Agreement and the Contracts to:

- (a) any EU Body as are necessary for the performance of their task in accordance with the relevant mandatory provisions of European Union law; and/or
- (b) to the members of the Assembly of Contributors.

ARTICLE 16 – Protection of Personal Data

16.1 When disclosing information (other than mere contact information relating to the Beneficiary's or the Administration's as being the Implementing Entity 2 personnel involved in the management of this Contract ("**Contact Data**")) to the Bank in connection with this Agreement, the Beneficiary and/or the Administration as being the Implementing Entity 2 (as applicable) shall redact or otherwise amend that information (as necessary) so that it does not contain any information relating to identified or identifiable individuals ("**Personal Information**") except where this Agreement specifically requires, or the Bank specifically requests in writing, the disclosure of that information in the form of Personal Information.

16.2 Before disclosing any personal data (other than Contact Data) to the Bank in connection with this Agreement, the Beneficiary and the Administration as being Implementing Entity 2 shall ensure that each data subject of those personal data:

- (a) has been informed of the disclosure to the Bank (including the categories of Personal Information to be disclosed); and
- (b) has been advised on the information contained in (or has been provided with an appropriate link to) the Bank's privacy statement in relation to its lending and investment activities set out at the relevant time at <https://www.eib.org/en/privacy/lending> (or such other address as the Bank may notify to the Beneficiary and the Administration as being the Implementing Entity 2 in writing from time to time).

ARTICLE 17 – Project Undertakings

17.1 The Beneficiary and the Administration (as applicable) shall comply with the Project Undertakings set out in Article 6 of the Finance Contract.

ARTICLE 18 – Integrity Commitments

18.1 Undertakings

(a) **Prohibited Conduct:**

- (i) The Beneficiary shall not and shall ensure that the Administration as being the Implementing Entity 2, will not engage in (and shall not, and shall ensure that the Administration as being the Implementing Entity 2 will not) authorise or permit any other person acting on its behalf to engage in) any Prohibited Conduct in connection with the Project, any tendering procedure for the Project, or any transaction contemplated by this Agreement.
- (ii) The Beneficiary undertakes to take and shall ensure that, the Administration as being the Implementing Entity 2, will take, such actions as the Bank shall reasonably request to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project.
- (iii) The Beneficiary undertakes to ensure, and shall ensure that, the Administration as being the Implementing Entity 2, will ensure, that contracts financed by the Grant include the necessary provisions to enable the Beneficiary and/or the Administration as being the Implementing Entity 2 to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct in connection with the Project.

(b) **Sanctions:** The Beneficiary shall not, and shall ensure that, the Administration as being the Implementing Entity 2, shall not (and shall, and shall ensure that the Administration as being the Implementing Entity 2 will not permit or authorise any other person to), directly or indirectly:

- (i) enter into a business relationship with and/or make any funds and/or economic resources available to, or for the benefit of, any Sanctioned Person in connection with the Project;
- (ii) use all or any part of the proceeds of this Grant or lend, contribute or otherwise make available such proceeds to any person, in any manner that would result in a breach by itself and/or by the Bank of any Sanctions;
- (iii) fund all or part of any payment under this Agreement out of proceeds derived from activities or businesses with a Sanctioned Person, a person in breach of the Sanctions or in any manner that would result in a breach by itself and/or by the Bank of any Sanctions;

It is acknowledged and agreed that the undertakings set out in this Article 18.1(b) are only sought by and given to the Bank to the extent that to do so would be permissible pursuant to any applicable anti-boycott rule of the EU such as Regulation (EC) 2271/96.

- (c) **Relevant Person:**The Beneficiary undertakes to take, and shall ensure that, as the Implementing Entity, shall undertake to take, within a reasonable timeframe appropriate measures in respect of any Relevant Person who is the subject of a final and irrevocable court ruling in connection with Prohibited Conduct perpetrated in the course of the exercise of their professional duties, in order to ensure that such Relevant Person is excluded from any of the Beneficiary's or the Administration's as being the Implementing Entity 2 activities in relation to this Agreement, the Grant and the Project.
- (d) The Beneficiary shall, and shall ensure that, the Administration as being the Implementing Entity 2, will maintain appropriate controls and safeguards designed to prevent the violation of any Sanctions.

18.2 Representations and Warranties

The Beneficiary and the Administration represent and warrant to the Bank that at the Effective Date:

- (a) neither the Beneficiary nor the Administration is a Sanctioned Person, is in breach of Sanctions; it is acknowledged and agreed that the representations set out in this paragraph (a) are only sought by and given to the Bank to the extent that to do so would be permissible pursuant to any applicable anti-boycott rule of the EU such as Regulation (EC) 2271/96;
- (b) no funds invested in the Project by the Beneficiary or the Administration are of illicit origin, including products of Money Laundering or otherwise linked to the Financing of Terrorism or activities undertaken with, directly or indirectly, any Sanctioned Persons or Sanctioned Countries or derived from any action or activity which is in breach of any Sanctions;
- (c) neither the Beneficiary, the Administration, their officials or any persons holding a public office, nor any persons acting on their behalf or under their control has committed or will commit (i) any Prohibited Conduct in connection with the Project or any transaction contemplated by the Agreement; or (ii) any illegal or unlawful activity related to Sanctions, the Financing of Terrorism or Money Laundering;
- (d) no proceeds from activities involving, directly or indirectly, any Sanctioned Persons or derived from any action or activity which is in breach of any Sanctions, will be used to repay this Grant or to pay any other sums that may be due under the terms of this Agreement including, without limitation, Article 20 (*Recovery*); and
- (e) the Project (including without limitation, the negotiation, award and performance of contracts financed or to be financed by the Grant) has not involved or given rise to any Prohibited Conduct.

The representations and warranties are deemed repeated on each date of submission of the Disbursement Request to the Bank, Disbursement Date and on the End Date.

18.3 For the purposes of this Article 18 (*Integrity Commitments*), the knowledge of: (i) any minister, state secretary, assistant minister, representative, official or advisor or any other person holding public office or function in or otherwise employed by or a director or employee of a public authority or public enterprise or a director or official of the Beneficiary, or the Administration, or any staff member of the PIU; or its (ii) any director, representative or employee shall be deemed the knowledge of the Beneficiary or the Administration. The Beneficiary and the Administration undertake to inform the Bank if either it should become aware of any fact or information suggestive of the commission of any such act.

18.4 Failure by the Beneficiary or the Administration to comply with any of the obligations, or breach of any representation and warranties, set out in this Article 18 (*Integrity Commitments*), entitles the Bank to request recovery under Article 18 (*Integrity Commitments*) and to terminate this Agreement in accordance with Article 23 (*Termination*).

ARTICLE 19 – Suspension of the Agreement

19.1 The Bank may suspend the implementation of this Agreement and suspend any undisbursed portion of the Grant if:

- (a) the award of the Contract(s) and/or implementation of the Contract(s) or the Project has been affected by substantial errors, irregularities or fraud;
- (b) the Beneficiary breached any obligation or representation under this Agreement and/or the Finance Contract;
- (c) in the Bank's sole discretion, it becomes unlawful in any applicable jurisdiction, or it becomes or is likely to become contrary to any Sanctions, for the Bank to perform any of its obligations as contemplated in this Agreement or to fund or maintain the Grant;
- (d) a Prepayment Event or an Event of Default (as these terms are defined in the Finance Contract) or any other event set out in Article 1.6.B of the Finance Contract has occurred or is pending; or
- (e) the Bank receives from the Commission a suspension notice which affects the Agreement (including as a result of the adoption of a relevant Union decision identifying a violation of human rights or in cases such as crisis entailing a change of Union policy).

19.2 For the purposes of verification of circumstances and facts under Article 19.1 (*Suspension of the Agreement*), the Beneficiary shall:

- (a) provide any information, clarification or document requested by the Bank in respect of such verification within 30 (thirty) calendar days of receipt of such request; and
- (b) grant the Bank or the authorised representatives of the Bank the assistance and access rights specified in Article 15 (*Verifications, Control and Audits*).

19.3 If such verifications indicate that the Works, Supplies and/or Services or a Contract or the Project has been affected by substantial errors, irregularities or fraud, or breach of obligations by the Beneficiary, the Administration as being the Implementing Entity 2, or the Economic Operators, the Bank may terminate this Agreement in accordance with Article 23 (*Termination*) and recover any amounts already disbursed in accordance with Article 20 (*Recovery*). Article 25 (*Liability and Indemnity*) shall apply accordingly. The Bank shall not be obliged to pay any penalty, damages or costs to and shall not be obliged to indemnify the Beneficiary or the Administration as a consequence of suspension of the implementation of this Agreement and any undisbursed portion of the Grant under this Article 19 (*Suspension of the Agreement*).

ARTICLE 20 – Recovery

20.1 The Beneficiary is obliged to repay to the Bank, within 30 (thirty) calendar days from receiving the debit note from the Bank requesting such repayment, any amounts of the Grant that have already been disbursed if:

- (a) any amount of the Grant is unduly disbursed by the Bank, or is used by the Beneficiary or the Administration as being the Implementing Entity 2 in breach of this Agreement; or
- (b) the Grant has been used in relation to Contracts with respect to which it has been determined that the relevant Economic Operators have been involved in any Prohibited Conduct in connection with the implementation of the Project, or
- (c) in the Bank's sole discretion, it becomes unlawful in any applicable jurisdiction, or it becomes or is likely to become contrary to any Sanctions, for the Bank to perform any of its obligations as contemplated in this Agreement or to fund or maintain the Grant; or
- (d) otherwise expressly stated in this Agreement and/or if recovery is otherwise justified in accordance with this Agreement, including (but not limited to) following the submission of an expenditure verification report submitted in accordance with Article 7.6(b) as a result of any verifications, controls or audits carried out pursuant to Article 15 (*Verifications, Controls and Audits*), Article 19 (*Suspension of the Agreement*) or Article 19.2.

20.2 For the avoidance of doubt, the Bank has the right to recover any amounts of the Grant it disbursed, pursuant to Articles 5 (*Disbursement of the Grant*) and 6 (*Disbursement Amounts*), in excess of the final amount of the Eligible Costs incurred by the Beneficiary, determined in accordance with Article 9 (*Eligible Costs*) and the Beneficiary shall be obliged to repay any amounts that were disbursed by the Bank in excess of the final amount of Eligible Costs.

- 20.3** The written request from the Bank as to the aggregate amount due to be repaid by the Beneficiary shall, save in the case of manifest error, be conclusive evidence of the amount due, and any bank charges or other taxes whatsoever incurred by the Beneficiary for the repayment of the amounts due to the Bank shall be borne entirely by the Beneficiary.
- 20.4** Article 20 (*Recovery*) shall not restrict any other right of the Bank at law to require the recovery of any amounts of the Grant. In case the Bank is not able to recover any amounts of the Grant or decides, at its sole discretion, that the recovery should not be pursued, the Bank is entitled to and may, at its sole discretion and without the prejudice to other rights it has under this Agreement, assign claims against the Beneficiary to the European Commission in accordance with Article 22.2.
- 20.5** Without prejudice to the rights of the Parties to agree to repayments in instalments, if the Beneficiary fails to repay any amount by its due date, the sum shall bear interest at the rate applied by the European Central Bank to its principal refinancing operations in EUR, as published in the C series of the Official Journal of the European Union on the first day of the month in which payment was due, increased by three and a half percentage points. The interest shall be payable for the period elapsing from the day following expiry of the time limit for repayment, inclusive, up to the day of payment, exclusive. Any partial payment shall first cover the interest.

ARTICLE 21 – Amendments and Counterparts

- 21.1** Any amendments to this Agreement, including its Annexes, must be set out in writing in an instrument signed by the Parties, and shall become effective on the terms set out in the relevant addendum. The provisions of such amendments, executed in accordance with this Article, shall govern and take precedence only over those specific provisions of this Agreement that are expressly amended thereby.
- 21.2** Notwithstanding Article 21.1, the GAF may be amended from time to time in writing with the agreement of the Bank and with the approval of the Operational Board of the WBIF and/or of the Assembly of Contributors, in accordance with General Conditions or in accordance with the rules and procedures of WBIF. If there is a change to the amount of the Grant as set out in the GAF, the approval of the Assembly of Contributors of the Fund shall always be required. The GAF thus amended shall be incorporated to this Agreement as from the date of its approval in accordance with the preceding.
- 21.3** No amendments are permitted to the extent they may have the purpose or the effect of making changes to this Agreement that would call into question the award of the Grant.
- 21.4** Changes of address or of contact details may simply be notified to the other Parties in writing, in accordance with Article 27 (*Notices and Other Communications*).
- 21.5** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument.

ARTICLE 22 – Assignment

- 22.1** Except as provided in Article 22.2 (*Assignment*), a Party may not assign or transfer to a third party, or otherwise dispose of, any of its rights or obligations under this Agreement without the prior written consent of the other Party.
- 22.2** The Bank may, at its sole discretion and without the prior consent of the Beneficiary, assign to the European Commission the right to recover any amounts of the Grant unduly disbursed or not used in compliance with this Agreement, or that would otherwise need / have to be recovered in accordance with Article 20.

ARTICLE 23 – Termination

- 23.1** Subject to paragraph 23.2 below, and in addition to any other cause for termination foreseen in this Agreement, the Bank may terminate this Agreement without any liability for the Bank, upon serving a 15 (fifteen) calendar days' written notice to the other Party, if any of the following occurs, or if otherwise expressed in this Agreement:
- (a) the Beneficiary or the Administration as being the Implementing Entity 2 fails, without justification, to fulfil any of its obligations incumbent on it under this Agreement and, after being given written notice to comply with those obligations, still fails to do so or to provide adequate explanations within 30 (thirty) calendar days of transmittal of such notice;
 - (b) the Beneficiary, the Administration as being the Implementing Entity 2, or any person with powers of representation, decision-making or control in relation to either the Beneficiary or the Administration, commits or is found guilty of gross professional misconduct, or is subject to proceedings alleging any offence concerning its professional conduct, or has committed fraud, corruption, or is involved in a criminal organisation, Prohibited Conduct, violation of any Sanctions or any other illegal activity detrimental to the European Union's or the Fund's financial interests, or is subject to an allegation (other than allegations which are, in the reasonable opinion of the Bank, frivolous or vexatious) in respect of participation in a criminal organisation, fraud, financial irregularity or any other Prohibited Conduct or violation of any Sanctions;
 - (c) if any information or document given to the Bank by or on behalf of the Beneficiary or the Administration as being the Implementing Entity 2, or any representation, warranty or statement made or deemed to be made by the Beneficiary in or pursuant to this Agreement or in connection with the negotiation or performance of this Agreement is or proves to have been incorrect, incomplete or misleading;
 - (d) the Beneficiary or the Administration as being the Implementing Entity 2 undergoes any legal, financial, technical or organisational changes that might, in the opinion of the Bank, affect this Agreement substantially, or call into question the decision of the Fund to provide the Grant;
 - (e) for any reason whatsoever the Finance Contract is terminated or ceases to be valid and in full force and effect; or
 - (f) in the Bank's sole discretion, it becomes unlawful in any applicable jurisdiction, or it becomes or is likely to become contrary to any Sanctions, for the Bank to perform any of its obligations as contemplated in this Agreement or to fund or maintain the Grant; or
 - (g) any representation or warranty set out in Article 1.5 or in Article 18 (*Integrity Commitments*) proves misleading or incorrect or if the Beneficiary or the Administration as being the Implementing Entity 2 fails to comply with the obligations set out in Article 18 (*Integrity Commitments*) or fails to maintain the Records as specified in Article 9.4.
- 23.2** Upon serving or receiving a termination notice, the following provisions shall apply:
- (a) the Bank shall immediately cease all activities relating to the Grant, except those incidental to the orderly realisation, conservation and preservation of such resources and the settlement of the direct or contingent obligations to which they may be subject;
 - (b) any agreement entered into between the Bank and any third party for the purpose of implementing the Project, and which cannot be terminated early for convenience or on legal grounds without penalties or other remedies being triggered, shall not be affected and the Bank shall be entitled to continue using the Grant resources in respect of such agreement; and
 - (c) the Beneficiary shall take without undue delay all steps necessary to bring the activities to a close in a prompt and orderly manner, and to reduce further costs to a minimum.
- 23.3** Subject to Article 9 (*Eligible Costs*), the Beneficiary shall be entitled to receive only the part of the Grant corresponding to Eligible Costs incurred, in accordance with this Agreement, for Works, Supplies and Services delivered up to the date of termination, thus excluding any costs relating to existing commitments that are due to be performed after such date of termination.

ARTICLE 24 - Charges and Expenses

- 24.1** The Beneficiary shall pay any taxes, duties, fees and other impositions of whatsoever nature, including stamp duty and registration fees, which may arise out of the execution or implementation of this Agreement or any related document in accordance with the laws of Montenegro. The Beneficiary shall ensure that the expenditures financed from the Grant related to the Project will be exempted from any custom duties, VAT, fees or taxes of whatsoever nature according to the laws of Montenegro.
- 24.2** The Beneficiary shall bear any charges and expenses, including professional, banking or exchange charges incurred in connection with the preparation, execution, implementation and termination of this Agreement or any related document, including any amendment thereto, in accordance with the laws of Montenegro.

ARTICLE 25 – Liability and Indemnity

- 25.1** The Bank, the European Bank for Reconstruction and Development (as co-manager of the Fund) or the Contributors (including, for clarity, the European Union) cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Beneficiary or the Administration as being the Implementing Entity 2 while a Project is being carried out, or as a consequence of a Contract, including when such damage or injury is the result of any act or omission of the Economic Operator, or of the failure of the Economic Operator to deliver the Works, Supplies and Services in accordance with the Contract.
- 25.2** The Bank shall not be liable for any loss or damage, including reasonable counsel fees and expenses, resulting from its actions or omissions to act hereunder, except for any loss or damage arising out of its own bad faith, negligence or wilful misconduct.
- 25.3** The Beneficiary shall discharge the Bank of any and all liability arising from any claim or action brought as a result of an infringement of any applicable laws, rules or regulations, including Sanctions, by the Beneficiary, the Administration as being the Implementing Entity 2, their Contractors, employees, or individuals for whom the Beneficiary and/or the Administration as being the Implementing Entity 2, as applicable, their sub-contractors or their employees are responsible, or as a result of a violation of a third party's rights, including Intellectual Property Rights.
- 25.4** Without prejudice to any other rights of the Bank under this Agreement, the Finance Contract or under any applicable law, the Beneficiary shall indemnify and hold the Bank harmless from and against any and all claims, demands, damages, losses, costs, expenses (including reasonable counsel fees and expenses) and liabilities of any kind which the Bank may sustain or incur as a result of any act or omission committed by the Beneficiary and/or Implementing Entity as applicable or from its failure to comply with any of its obligations as set out in this Agreement.

ARTICLE 26 – Ownership of Results and Intellectual Property Rights

- 26.1** Any pre-existing Intellectual Property Rights of any of the Parties in any reports, studies, analyses or other documents or materials used by the Parties in connection with this Agreement, the Grant, or the Contracts related to the Services, shall remain with that Party.
- 26.2** Subject to any pre-existing Intellectual Property Rights of any individual or legal entity, including any of the Parties, the Intellectual Property Rights in new materials compiled or prepared by the Economic Operators in the performance of the Contracts related to the Services, including all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material, will vest in the Beneficiary.
- 26.3** Without prejudice to Article 26.2 and subject to any applicable confidentiality requirements, the Beneficiary grants the Bank, the European Bank for Reconstruction and Development, and the Contributors an irrevocable, non-exclusive, royalty-free, perpetual licence, with rights to grant sub-licences, in any new Intellectual Property Rights. In particular, the Bank, the European Bank for Reconstruction and Development and the Contributors shall have the right to use freely, including to store, modify, translate, display, reproduce by any technical procedure, publish or communicate by any medium, all documents deriving from this Agreement and the Contracts related to the Services, whatever their form. The Beneficiary shall ensure that the rights granted to the Bank, the European Bank for Reconstruction and Development and to the Contributors

pursuant to this Article 26.3 are not substantially restricted by any pre-existing Intellectual Property Rights. The Beneficiary shall provide the Bank with all the necessary information in this respect upon request.

- 26.4** In case a recognizable individual is depicted in a photograph or film produced in connection with the implementation of this Agreement, the Beneficiary shall include in the final report, submitted to the Bank in accordance with Article 11.3, a statement from such individual whereby he gives permission for such use of his image, it being understood that such requirement shall not apply in case of photographs taken or films shot in public places where random members of the public are identifiable only hypothetically, or of photographs taken or films shot of public persons acting in their public capacity.
- 26.5** The Beneficiary shall ensure that the Contracts related to the Services include clauses requiring the Economic Operators to comply with the obligations prescribed in this Article 26, as applicable.

ARTICLE 27 – Notices and Other Communications

- 27.1** Any notice or other communication to be served under this Agreement must be in writing and shall state the identification code (Serapis No. 2018-0231 – FI No. 97316“and *WB-IG07-MNE-SOC-01*”) and the title (“*MONTENEGRO EDUCATION PROGRAMME*”) of this Agreement.
- 27.2** Any notice given under or in connection with this Agreement must be in English. All other documents provided under or in connection with this Agreement must be in English or, if not in English, and if so required by the Bank, accompanied by its official translation into English and, in this case, the English translation shall prevail unless the document is a constitutional, statutory or other similar official document.
- 27.3** Except for notices relating to litigation whether pending or threatened, which shall be served at the addresses specified below exclusively by post through official letter with confirmation of receipt, all notices and correspondence in relation to this Agreement, the Project and the Works or Supplies shall be sent by post or by e-mail to the following addresses:

For the Bank

European Investment Bank

98-100, Boulevard Konrad Adenauer

L-2950, Luxembourg

Attention: GLO Enlargement and Neighbourhood
Department

E-mail address: glo-elan-wbt-secretariat@eib.org

For the Beneficiary

The Ministry of Education, Science and Innovation

Vaka Đurovića b.b., 81000 Podgorica

Crna Gora

Attention: Cabinet of Minister

Phone/Fax no: +382 20 410 100

E-mail address: cabinet@mpni.gov.me

For the Administration

Capital Projects Administration

Arsenija Boljevića 2a, City Mall, III sprat

Podgorica 81000, Crna Gora

Attention: Cabinet of Director

Phone/Fax no: +382 20 230 223

E-mail address: ukp@ukp.gov.me

- 27.4** Any change made to the above communication details shall have effect only after it has been notified in writing in paper or electronic form to the other Parties at the above addresses.
- 27.5** Notices and other communications are deemed to have been made when they are received by the receiving Party.

ARTICLE 28 – Governing Law and Jurisdiction

- 28.1** This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of the Grand Duchy of Luxembourg.
- 28.2** The Court of Justice of the European Union has exclusive jurisdiction to settle any dispute (a “**Dispute**”) arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or the consequences of its nullity) or any non-contractual obligation arising out of or in connection with this Agreement.
- 28.3** The parties agree that the Court of Justice of the European Union is the most appropriate and convenient court to settle any disputes between them and, accordingly, that they will not argue to the contrary.
- 28.4** The Beneficiary hereby waives any immunity from or right to object to the jurisdiction of these Court. A decision of the Court given pursuant to this Article shall be conclusive and binding on each Party without restrictions or reservations.

ARTICLE 29 – Non-waiver

- 29.1** No failure or delay by the Bank in exercising any of its rights under this Agreement will be construed as a waiver of such right.
- 29.2** Nothing in this Agreement will be deemed to be a waiver, express or implied, of the privileges, immunities and exemptions enjoyed by the Bank, its governors, directors, alternates, officers, employees or experts performing missions for the Bank.

ARTICLE 30 – Entire Agreement

- 30.1** This Agreement constitutes a complete and exclusive statement of the terms of the agreement between the Parties with respect to its subject matter, and supersedes all prior agreements between the Parties, whether express or implied, with respect to the same matter.

ARTICLE 31 – Invalidity

- 31.1** If any provision of this Agreement is held illegal or unenforceable in a judicial proceeding, such provision will be severed and will be inoperative, and, provided that the fundamental terms and conditions of this Agreement, in particular Articles 4 (*Amount of the Grant*), 5 (*Disbursement of the Grant*), 6 (*Disbursement Amounts*), 7 (*Conditions of Disbursement*), 9 (*Eligible Costs*), 10 (*Procurement procedures and changes to Contracts*), 11 (*Information, Monitoring and*

Reporting), 12.1 (*Communication, Visibility and Transparency*), 12.5 (*Communication, Visibility and Transparency*), 15 (*Verifications, Controls and Audits*), 20 (*Recovery*), 23 (*Termination*), 25 (*Liability and Indemnity*), 28 (*Governing Law and Jurisdiction*) and 29.2 (*Non-Waiver*) remain legal and enforceable, the remainder of this Agreement will remain operative and binding on the Parties.

ARTICLE 32 – Effectiveness of this Agreement

- 32.1** The Parties hereby agree that if any amendment agreement to this Agreement is necessary in order to incorporate any terms and conditions required for the purposes of this Agreement being compliant with the requirements of the General Conditions, the Side Letter Agreement and the Contribution Arrangement(s) (the "**Mandate Agreements**"), the Parties shall in good faith seek to agree and enter into such amendment agreement ("**Amendment Agreement**") and shall use their reasonable endeavours to ensure that it becomes legally effective.
- 32.2** Other than this Article 32.2, which will become legally effective and enter into full force and effect upon the date of signature of this Agreement, this Agreement will become legally effective and enter into full force and effect upon the Bank giving written notice to the Beneficiary (the date of such notice being the "**Effective Date**") which the Bank shall do upon being reasonably satisfied that:
- (a) the Mandate Agreements have been executed and have become legally effective; and
 - (b) no Amendment Agreement is required as per Article 32.2 or any necessary Amendment Agreement has been executed and will, in accordance with its terms, become legally effective on the Effective Date.
- 32.3** If the Effective Date does not occur on or prior to the date falling 12 (twelve) months after the date of this Agreement, this Agreement shall not enter into force and no further action shall be necessary or required.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed on their behalf in 6 (six) originals in the English language, of which 2 (two) for the Bank and 2 (two) for the Beneficiary and 2 (two) for the Administration as being the Implementing Entity 2.

SIGNED by the Parties

for and on behalf of

MONTENEGRO

Represented by the MINISTRY OF EDUCATION, SCIENCE AND INNOVATION

at Podgorica, this ____ December 2023

for and behalf of
THE CAPITAL PROJECTS ADMINISTRATION OF MONTENEGRO

at Podgorica, this ____ December 2023

**for and on behalf of
THE EUROPEAN INVESTMENT BANK**

at Luxembourg, this ____ December 2023

Annex 1: Grant Application Form (GAF)

[to be inserted]

Annex 2: Financial Identification Form



FINANCIAL IDENTIFICATION

PRIVACY STATEMENT

http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id_en.htm#en

Please use CAPITAL LETTERS and LATIN CHARACTERS when filling in the form.

BANKING DETAILS ①

ACCOUNT NAME ②

IBAN/ACCOUNT NUMBER ③

CURRENCY

BIC/SWIFT CODE

BRANCH CODE ④

BANK NAME

ADDRESS OF BANK BRANCH

STREET & NUMBER

TOWN/CITY

POSTCODE

COUNTRY

ACCOUNT HOLDER'S DATA

AS DECLARED TO THE BANK

ACCOUNT HOLDER

STREET & NUMBER

TOWN/CITY

POSTCODE

COUNTRY

REMARK

BANK STAMP + SIGNATURE OF BANK REPRESENTATIVE ⑤

DATE (Obligatory)

SIGNATURE OF ACCOUNT HOLDER (Obligatory)

① Enter the final bank data and not the data of the intermediary bank.

② This does not refer to the type of account. The account name is usually the one of the account holder. However, the account holder may have chosen to give a different name to its bank account.

③ Fill in the IBAN Code (International Bank Account Number) if it exists in the country where your bank is established

④ Only applicable for US (ABA code), for AU/NZ (BSB code) and for CA (Transit code). Does not apply for other countries.

⑤ It is preferable to attach a copy of RECENT bank statement. Please note that the bank statement has to confirm all the information listed above under 'ACCOUNT NAME', 'ACCOUNT NUMBER/IBAN' and 'BANK NAME'. With an attached statement, the stamp of the bank and the signature of the bank's representative are not required. The signature of the account-holder and the date are ALWAYS mandatory.

Annex 3: Model Request for Disbursement

REQUEST FOR PAYMENT

[**Date of the request for payment**]

For the attention of: [**Name of the Bank's designated contact person and department**]

Subject:

Grant Agreement **WB-IG07-MNE-SOC-01** in respect of MONTENEGRO EDUCATION PROGRAMME in Montenegro ("**Grant Agreement**")

Request for payment number: [●].

Period covered by the request for payment: [●]

Dear Sir/Madam,

We refer to the Grant Agreement in caption. Capitalised terms used but not defined herein shall have the same meaning ascribed to in the Grant Agreement.

This request relates to the disbursement of Grant

In accordance with Articles 5 (*Disbursement of the Grant*), 6 (*Disbursement Amounts*) and 7 (*Conditions of Disbursement*) of the Agreement, I hereby request payment no.[●] under the Grant Agreement covering the cost of [Works and/or Supplies] expected to be delivered during the period from [date] to [date].

The amount requested is EUR [●]

Please find attached the following supporting documents:

- Invoice no.[●] of [date] issued by [name of Economic Operator]
- [any other documents requested under Article 7 (*Conditions of Disbursement*)]

The payment should be made to the following bank account: [</>]²

We hereby certify that the information contained in this request for payment and its supporting documentation is complete, reliable and true, that the costs incurred can be considered eligible in accordance with the Agreement and the relevant Contracts, and that this request for payment is substantiated by adequate supporting documents that can be checked.

[For the request for payment of first Tranche: We further certify that the conditions specified in Article 7.2 and 7.4 of the Agreement are met.]

[or]

[For the request for payment of second (last) Tranche: We further certify that the conditions specified in Article 7.3 and 7.4 of the Agreement are met. We undertake to provide the Bank, within 30 (thirty) calendar days after the end of the Implementation Period, with all supporting evidence and documentation justifying the amount and the eligibility of the costs covered by this payment request, for the purposes of establishing the final amount of the Grant.]

Yours faithfully,

<signature>

² Account number shown on the Financial Identification Form. In the event of change of bank account, attach a revised Financial Identification Form..

Annex 4:

Western Balkans Investment Framework (WBIF)



ANNUAL IMPLEMENTATION REPORT
for Projects benefiting from WBIF-EWBJF Grants

Reporting period:	Year	Type of report:	(First, Interim, Final)
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1	GENERAL GRANT INFORMATION		
Grant Code:	WBIF specific grant code, from MIS	Project code:	WBIF specific project code, from MIS
Lead Financial Institution:	From GAF/MIS	Beneficiary Country(ies)	From GAF/MIS
Sector:	From GAF/MIS	Type of grant:	TA, IG, IG+TA, IF
Grant approval date (by AoC):	Date from MIS/original GAF	Latest GAF revision date:	Date from MIS of last Written Procedure approval
Grant title:	From GAF/MIS		
Beneficiary responsible Authority(ies):	From GAF or from Grant Agreement between IFI and Beneficiary		
Implementing Entity(ies):	From GAF or from Grant Agreement between IFI and Beneficiary		
Grant action implementation status:	Not started/Active/Completed		
Description of TA action (actual):	Free text		
Description of IG action (actual):	Free text		

2	WBIF GRANT BREAKDOWN (EUR) (EUR, as per last approved GAF)		
Action activity	Cost	Co-funding rate	Maximum co-funding
- Works and supplies, including contingencies	From GAF	From GAF	From GAF
- Contingencies	From GAF	From GAF	From GAF
- Technical assistance 1	From GAF	From GAF	From GAF
- Technical assistance 2	From GAF	From GAF	From GAF
- Communication and visibility	From GAF	From GAF	From GAF
- Special evaluation/audit	From GAF	From GAF	From GAF
-	From GAF	From GAF	From GAF

Totals (without fees):			

3 PROJECT BUDGET AND FINANCING PLAN (EUR, actual)			
Project budget components	Cost	Eligible cost	Remarks
- Technical assistance 1			
- Technical assistance 2			
- Works and supplies			
- Communication and visibility			
- Special evaluation/audit			
-			
Sub-totals (before contingencies)			
- Contingencies			
Totals			
Sources of funding	Amount	% of total	Remarks
- Grant 1			
- Grant 2			
- Lead IFI loan			
- Own resources			
Totals			
	Amount	Updated amount	Reasons for change
Project cost as last approved GAF	From GAF		If applicable, describe changes in project budget in comparison to budget of the last approved GAF. Also provide reason for the changes
Loan amount as last approved GAF	From GAF		If applicable, describe changes in project budget in comparison to budget of the last approved GAF. Also provide reason for the changes
Grant amount as first approved GAF	From GAF		If applicable, describe changes in project budget in comparison to budget of the last approved GAF. Also provide reason for the changes

Note: any amendment to the grant as described in the last approved Grant Application Form, shall be dealt with in accordance with the procedures and conditions established in Annex 5 to the WBIF Vademecum, "Amendments to the Grant Application Form".

4	IMPLEMENTATION TIMETABLE of GRANT ACTION		
Procurement start date for TA	If in the past if considered actual, if in the future is considered forecast	Procurement end date for TA	If in the past if considered actual, if in the future is considered forecast
Procurement start date for IG	If in the past if considered actual, if in the future is considered forecast	Procurement end date for IG	If in the past if considered actual, if in the future is considered forecast
Date of signature of Grant Agreement (s)	If in the past if considered actual, if in the future is considered forecast. In case TA and IG have separate Grant Agreements, please specify	Date of signature of Loan Agreement	If in the past if considered actual, if in the future is considered forecast
Expected start date of TA action implementation (from first GAF):	From GAF/MIS	Start date of TA action implementation:	If in the past if considered actual, if in the future is considered forecast
Expected start date of IG action implementation (from first GAF):	From GAF/MIS	Start date of IG action implementation:	If in the past if considered actual, if in the future is considered forecast
Expected end date of TA action implementation (from first GAF):	From GAF/MIS	End date of TA action implementation:	If in the past if considered actual, if in the future is considered forecast
Expected end date of IG action implementation (from first GAF):	From GAF/MIS	End date of IG action implementation:	If in the past if considered actual, if in the future is considered forecast
Reasons for delay(s):	Provide reasons for delays, if any, for all above project events. Specify whether or not a delay to one phase is having an impact on another		

5 CONTRACTS SIGNED FOR THE GRANT ACTION							
Contract and amendments signed by Implementing Entity(ies) generating costs for the action							
Contract reference	Contractor / Consultant	Signature date	Type of Contract (e.g. Works, Supply, Services)	Amendment number	Contract end date	Value of Contract/ Amendment (EUR)	Procurement Award Reference (e.g. OJEU)

6 FINANCIAL PROGRESS OF GRANT ACTION		
A Incurred Expenditure		
Action budget components	During Reporting Year 01/01/20xx to 31/12/20xx	Cumulative from start of execution period to 31/12/20xx
Technical assistance 1		
Technical assistance 2		
Works and supplies		
Communication and visibility		
Special evaluation/audit		
Sub-total 1 (before contingencies)		
Contingencies (if any)		
Sub-total 2 (after contingencies, if any)		
Total costs incurred		

Note 1: reporting on incurred expenditure presented as described in the GAF's budget (investment, TA, C&V, fees, etc)

Note 2: costs incurred declared in this statement do not include ineligible expenditure

7 GRANT ACTIVITIES CARRIED OUT DURING THE REPORTING YEAR	
Action activity	Description
Works and supplies (IG)	Free text including the following points: <ul style="list-style-type: none"> Description of activities: Difficulties encountered/risks: Mitigating measures:
Technical Assistance (TA)	<ul style="list-style-type: none"> Same as above
Co-financiers' monitoring (TA)	<ul style="list-style-type: none"> Same as above
Other Services	<ul style="list-style-type: none"> Same as above

8 MONITORING ACTIVITIES	
Date / period	Description

9 EXPECTED RESULTS				
	Description (as per GAF)	Expected value (as per GAF)	Status of values identified in the GAF at project completion	Comment
Standard Output 1	From GAF	From GAF	As planned / deviation from planned	Describe reasons for any deviation from GAF
Standard Output 2	From GAF	From GAF	As above	As above
...	From GAF	From GAF	As above	As above
Standard Outcomes 1	From GAF	From GAF	As above	As above
Standard Outcomes 2	From GAF	From GAF	As above	As above
...	From GAF	From GAF	As above	As above
Project specific indicators 1	From GAF	From GAF	As above	As above
Project specific indicators 2	From GAF	From GAF	As above	As above
...	From GAF	From GAF	As above	As above
Cross sector indicators 1	From GAF	From GAF	As above	As above
Cross sector indicators 2	From GAF	From GAF	As above	As above
...	From GAF	From GAF	As above	As above

10	COMMUNICATION AND VISIBILITY ACTIVITIES	
Date / period	Description	

11	FUTURE MILESTONES EXPECTED IN NEXT REPORTING PERIOD	
	<ul style="list-style-type: none"> • Special event 1 • Special Event 2 • Major milestone 1 • Major Milestone 2 • Etc 	

Annexes

Statements of (sub-) account(s) used for the grant.

Audit report(s) – audited annual financial statements

1.

Appendix 1: Unaudited financial summary of grant account

Appendix 2: audit / cost verification reports related to grant utilization

Appendix 3: Supplementary information/document (if any)

Document comparison by Workshare Compare on Friday 22 December 2023
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