

ANNEX II

GENERAL CONDITIONS APPLICABLE TO EUROPEAN COMMUNITY GRANT CONTRACTS FOR EXTERNAL AID

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CONTENTS

General and administrative provisions

1	General obligations	2
2	Obligations regarding information and financial and technical reports	2
3	Liability	3
4	Conflict of interests	3
5	Confidentiality	3
6	Publicity	4
7	Ownership/use of results and equipment	4
8	Evaluation of the Operation	4
9	Amendment of the Contract	4
10	Assignment	5
11	Termination of the Contract	5
12	Duration of execution of the Operation, extension, suspension and end date	6
13	Applicable law and competent courts	6

Financial provisions

14	Eligible costs	7
15	Payment and interest on late payment	8
16	Accounts and technical and financial checks	10
17	Final amount of Community financing	12
18	Repayment of the grant	12

GENERAL AND ADMINISTRATIVE PROVISIONS

Article 1 – General obligations

- 1(1) The Beneficiary shall ensure that the Operation is carried out in accordance with the Description of the Operation contained in Annex 1, either alone or in partnership with one or more NGOs or institutions.

The Beneficiary may subcontract a limited portion of the Operation (works and services), preferably to local operators. The bulk of the Operation must, however, be undertaken by the Beneficiary and partners if applicable.

If implementation of the Operation involves the conclusion of contracts by the Beneficiary, the contract-award procedures set out in Annex IV shall apply. The partners, the subcontractors and the supplies must originate in the Community or the country or countries eligible for grants under the programme of which the Operation is part.

The Community recognises no contractual link between itself and the Beneficiary's partner(s) or between itself and a subcontractor. The Beneficiary alone shall be accountable to the Commission for the implementation of the Operation. The Beneficiary undertakes to ensure that the conditions imposed upon him under this Contract also apply to all partners and subcontractors involved.

- 1(2) The Beneficiary must implement the Operation with the requisite degree of care, efficiency, transparency and diligence, as required by best practice in the field concerned, and in compliance with this Contract.

To that end, the Beneficiary shall mobilise all the financial, human and material resources required for full implementation of the project, as specified in the Description of the Operation, endeavouring to use local human and material resources.

- 1(3) If the Beneficiary or any of the Beneficiary's partners, subcontractors or agents indulges in corrupt practices in connection with this or any other operation financed by the Commission, the latter may suspend the Operation or terminate the Contract in accordance with Article 11(3).

Article 2 – Obligations regarding information and financial and technical reports

- 2(1) The Beneficiary must provide the Commission with full information on the implementation of the Operation. To that end, the Beneficiary must draw up intermediate reports and a final report. These reports shall consist of a technical portion and a financial portion. The Commission may request additional information at any time; that information must be supplied within 30 days of the request.

- 2(2) The Beneficiary must send the Commission intermediate reports in accordance with the provisions below. Every report must provide a complete account of all aspects of implementation for the period covered.

The report shall be laid out in such a way as to allow comparison of the objective(s), the means envisaged or employed, the results expected and obtained and the budget details for the Operation. The report must contain a plan of action for the next phase of the Operation's implementation.

- 2(3) The final report must contain a detailed description of the conditions in which the Operation took place, information on the steps taken to identify the Community¹ as the source of financing and on considerations which could be used to evaluate the Operation's impact, a final statement of all the eligible costs of the Operation, plus a full summary of the Operation's income and expenditure and payments received.
- 2(4) The reports shall be submitted, in the same language as the Contract, at the following intervals:
- A if payments follow option 1 or option 3 in Article 15(1): a single and final report shall be forwarded to the Commission within six months of the end of the Operation's duration of execution as defined in Article 2 of the Special Conditions;
 - B if payments follow option 2 in Article 15(1):
 - an intermediate report must accompany every request for payment;
 - the final report shall be forwarded within six months of the end of the Operation's duration of execution as defined in Article 2 of the Special Conditions.
- 2(5) The Special Conditions may stipulate that the Beneficiary must supply an extra copy of the reports for the Commission Delegation in charge of monitoring the Operation.
- 2(6) If the Beneficiary fails to supply a final report by the final report deadline laid down in Article 2(4), and fails to furnish an acceptable and sufficient written explanation of the reasons why he is unable to comply with this obligation, the Commission may terminate the Contract in accordance with the first indent of Article 11(3) and recover the amounts already paid.

Furthermore, where payments follow option 2 in Article 15(1) and the Beneficiary fails to present an intermediate report and a request for payment by the end of each twelve-month period following the date laid down in Article 2(1) of the Special Conditions, the Beneficiary must inform the Commission of the reasons why he is unable to do so, and must provide a summary of the state of progress of the Operation. If the Beneficiary fails to comply with this obligation, the Commission may terminate the Contract in accordance with the first indent of Article 11(3) and recover the amounts already paid.

Article 3 - Liability

- 3(1) The Community cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Beneficiary while the Operation is being carried out. The Community cannot therefore accept any claim for compensation or increases in payment in connection with such damage or injury.
- 3(2) The Beneficiary shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them while the Operation is being carried out. The Beneficiary shall discharge the Community of all liability associated with any claim or action brought as a result of an infringement by the Beneficiary or the Beneficiary's employees or individuals for whom those employees are responsible of rules or regulations, or as a result of violation of a third party's rights.

Article 4 – Conflict of interests

The Beneficiary undertakes to take all precautions necessary to avoid conflicts of interests and shall inform the Commission immediately of any situation giving rise to or likely to give rise to any such conflict.

¹ Where the grant is financed out of the European Development Fund, mentions of Community financing must be read as referring to European Development Fund financing.

Article 5 - Confidentiality

The Commission and the Beneficiary undertake to preserve the confidentiality of the reports referred to in Article 2 and of any document, information or other material communicated to them in confidence.

Article 6 - Publicity

- 6(1) Unless the Commission requests otherwise, any notice or publication by the Beneficiary concerning the Operation, including at a conference or seminar, must specify that the Operation has received funding from the European Community.

The Beneficiary must take all necessary steps to publicise the fact that the Community has financed or co-financed the Operation. To that end, the Beneficiary shall refer to the Operation and the Community financial contribution in information given to the final recipients of the Operation, in internal and final reports and in any dealings with the media.

- 6(2) Any publication by the Beneficiary, in whatever form and by whatever medium, including the Internet, must carry the following warning: "This document has been produced with the financial assistance of the European Community. The views expressed herein are those of [name of Beneficiary] and can therefore in no way be taken to reflect the official opinion of the European Commission."

Article 7 – Ownership/use of results and equipment

- 7(1) Ownership, title and industrial and intellectual property rights in the results of the Operation and the reports and other documents relating to it shall vest in the Beneficiary.
- 7(2) Notwithstanding the provisions of the first paragraph, the Beneficiary shall grant the Commission the right to use freely and as it sees fit all documents deriving from the Operation, whatever their form.
- 7(3) By the end of the implementation period for the Operation, the equipment, vehicles and supplies paid for by the Community grant must be transferred to any local partners of the Beneficiary or to the final recipients of the Operation. Copies of the title transfers must be attached to the final report.

Article 8 - Evaluation of the Operation

- 8(1) If the Commission performs an intermediate or subsequent (ex-post) evaluation, the Beneficiary must undertake to provide the Commission or its authorised agents with any document or information likely to help that evaluation to be successfully concluded, and grant them the access rights described in Article 16(2).
- 8(2) If one party carries out or commissions an evaluation in the context of the Operation, it must provide the other party with a copy of the evaluation report.

Article 9 - Amendment of the Contract

- 9(1) Any modification of the Contract, including the annexes thereto, must be set out in writing in an amendment.

If the request for an amendment comes from the Beneficiary, the latter must submit that request to the Commission one month before the amendment is intended to enter into force, except in cases which are duly substantiated by the Beneficiary and accepted by the Commission.

- 9(2) However, where the amendment does not affect the basic purpose of the Operation and the financial impact is limited to a transfer within a single budget heading, or a transfer between budget headings involving a variation of less than 10% of the amount originally entered under a heading for eligible costs, the Beneficiary may apply the amendment and shall inform the Commission accordingly. This method may not be used to amend headings for administrative costs or the contingency reserve.

Changes of address, changes of bank account and changes of auditor may simply be notified, although this does not affect the Commission's option to oppose the Beneficiary's choice of bank account or auditor. Changes of bank account must be specified in the request for payment, which must conform to the model attached as Annex V.

The Commission reserves the right to require that the auditor referred to in Article 7(1) of the Special Conditions be replaced if considerations which were unknown when the Contract was signed cast doubt on the auditor's independence or professional standards.

Article 10 – Assignment

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

Article 11 - Termination of the Contract

- 11(1) The Beneficiary may terminate the Contract at any time by serving two months' written notice. In this event, the Beneficiary shall be entitled to payment of the grant only for the part of the Operation carried out, although this does not affect the Commission's right in cases of wrongful termination to claim full or partial repayment of amounts already paid out.

- 11(2) In exceptional and duly justified cases, the Commission may decide to terminate the Contract by serving two months' written notice, without being required to pay compensation. In this event, the Beneficiary shall be entitled to payment of the grant only for the part of the Operation carried out.

- 11(3) The Commission may terminate the Contract, without giving notice and without paying compensation of any kind, where the Beneficiary:

- fails, without justification, to fulfil any of the obligations imposed and, after being given notice by letter to comply with those obligations, still fails to do so or to furnish a satisfactory explanation within 30 days of sending of the letter;
- is declared bankrupt, is wound up or is the subject of any similar proceeding;
- changes legal personality, unless an addendum acknowledging that fact is drawn up;
- fails to comply with articles 4 or 10 or falls into the situations described in Articles 1(3) or 16(6);
- makes false or incomplete statements to obtain the grant provided for in the Contract or provides reports that do not reflect reality;
- commits financial irregularities.

In that event the Commission may demand full or partial repayment of the amounts already paid out under the Contract.

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

- 11(4) Termination of the Contract for financial irregularities shall be without prejudice to the application of other administrative measures or penalties which may be imposed in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests.

Article 12 – Duration of execution of the Operation, extension, suspension and end date

- 12(1) The Beneficiary must inform the Commission without delay of any circumstances likely to hamper or delay the implementation of the Operation. The Beneficiary may make a request, no later than one month before the end of the Operation's duration of execution, for the latter to be extended. The request must be accompanied by all the supporting evidence needed for its appraisal.
- 12(2) The Beneficiary may suspend implementation of all or part of the Operation if circumstances (chiefly *force majeure*) make it too difficult or dangerous to continue. The Beneficiary must inform the Commission without delay and provide all the necessary details. The Commission may terminate the Contract in accordance with Article 11(2). If the Contract is not terminated, the Beneficiary shall endeavour to minimize the duration of the suspension and may resume implementation of the Operation once the conditions are right, after informing the Commission. The Operation's duration of execution is extended by an amount of time equivalent to the duration of the suspension. This is without prejudice to any amendments to the Contract which may be required to adapt the Operation to new circumstances of implementation.
- 12(3) The Contract shall come to an end 24 months after the end of the Operation's duration of execution, as defined in Article 2 of the Special Conditions.

The Commission notifies the Beneficiary of any postponement of the end date.

Article 13 – Applicable law and competent courts

- 13(1) This Contract shall be governed by Belgian law.
- 13(2) Any dispute between the Commission and the Beneficiary which arises from implementation of this Contract and to which no amicable settlement could be found shall be referred to the Brussels courts.

FINANCIAL PROVISIONS

Article 14 - Eligible costs

14(1) To be considered eligible in the context of the Operation, costs must:

- be necessary for carrying out the Operation, be provided for in the Contract and comply with the principles of sound financial management, in particular value for money and cost-effectiveness;
- have been incurred during the duration of execution of the Operation, as defined in Article 2 of the Special Conditions, without prejudice to the eligibility of the costs of preparing the Operation (if Article 7(1) of the Special Conditions foresees their financing) or of the costs of the final audit;
- have actually been incurred, be recorded in the Beneficiary's or Beneficiary's partners' accounts, be identifiable and verifiable, and be backed by originals of supporting evidence.

14(2) The following direct costs shall be eligible:

- the cost of staff assigned to the Operation, corresponding to actual salaries plus social security charges and other remuneration-related costs; salaries and costs must not exceed those normally borne by the Beneficiary, and rates must not exceed those generally accepted on the market in question;
- travel and subsistence costs for staff taking part in the Operation, provided they correspond to market rates and do not exceed the rates generally accepted by the Commission (including economy-class air fares);
- purchase costs for equipment (new or used) and services (transport, rent, etc.), provided they correspond to market rates;
- costs of consumables and supplies;
- expenditure on subcontracting or expenditure incurred by the Beneficiary's partners;
- costs deriving directly from the requirements of the Contract (dissemination of information, specific evaluation of the Operation, audit, translation, reproduction, insurance, targeted training for those involved in the Operation, etc.) including financial service costs (in particular the cost of transfers and financial guarantees);
- taxes, without prejudice to the terms of Article 14(5).

14(3) A fixed percentage of the Beneficiary's overheads which can be regarded as being assigned to the Operation, not exceeding 7% of eligible direct costs, shall be eligible as indirect costs.

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

Indirect costs shall not be eligible where the Contract concerns the financing of an Operation conducted by a body which is already receiving an operating grant from the Commission.

14(4) A contingency reserve of no more than 5% of the total amount of eligible costs may be included in the Budget for the Operation. It can be used only with the prior written (by letter) authorisation of the Commission.

14(5) The following costs shall not be considered eligible:

- provisions for possible future losses or debts;
- interest owed by the Beneficiary to any third party;
- purchases of land or buildings, except where necessary for the direct implementation of the Operation, in which case ownership must be transferred to the Beneficiary's local partners (where applicable) or the final recipients of the Operation once the latter has come to an end;

- currency exchange losses, without prejudice to the terms of Article 15(7);
- VAT which the Beneficiary is able to reclaim.

14(6) Any contributions in kind made by the Beneficiary and listed separately in Annex III shall not be considered eligible costs for Community financing.

The Beneficiary must, however, undertake to make such contributions in accordance with the terms of this Contract.

Article 15 – Payment and interest on late payment

15(1) Payment procedures are set out in Article 4 of the Special Conditions and follow one of the three options below:

Option 1 : Operations not exceeding 12 months' duration or involving Community financing of less than EUR 100 000

The Commission will make grant payments to the Beneficiary in the following manner:

- an advance of 80% of the amount referred to in Article 3(2) of the Special Conditions less contingencies within 60 days of receipt by the Commission of :
 - the Contract signed by both parties,
 - a request for payment conforming to the model attached as Annex V, and
 - a financial guarantee if it is required pursuant to Article 15(4);
- the balance within 60 days of the authorising department's recording a request for final payment, conforming to the model attached as Annex V and accompanied by the final report, subject to approval of that report in accordance with Article 15(2).

Option 2 : Operations exceeding 12 months' duration and involving Community financing of EUR 100 000 or more

The Commission will make grant payments to the Beneficiary in the following manner:

- an advance of 80% of that part of the forecast budget for the Operation's first 12 months which is being financed by the Community (excluding contingencies), as specified in Article 4 of the Special Conditions, within 60 days of receipt by the Commission of :
 - the Contract signed by both parties,
 - a request for payment conforming to the model attached as Annex V, and
 - a financial guarantee if it is required pursuant to Article 15(4);
- intermediate annual payments of the amount indicated in Article 4 of the Special Conditions, within 60 days of the authorising department's recording a request for payment, conforming to the model attached as Annex V and accompanied by an intermediate report, subject to approval of that report in accordance with Article 15(2);
- the balance within 60 days of the authorising department's recording a request for final payment, conforming to the model attached as Annex V and accompanied by the final report, subject to approval of that report in accordance with Article 15(2).

Intermediate payments can be made only if the expenditure actually incurred represents at least 70% of the amount of the previous payment, as proven by the relevant intermediate report. The sum of the advance and the intermediate payments cannot exceed 90% of the amount referred to in Article 3(2) of the Special Conditions.

Option 3 : All Operations

The Beneficiary will receive the grant from the Commission as a one off payment within 60 days of the authorising department's recording a request for final payment, conforming to the model attached as Annex V and accompanied by the final report, subject to approval of that report in accordance with Article 15(2).

Reports must be presented in accordance with the stipulations of Article 2.

- 15(2) The payment deadline of 60 calendar days referred to in Article 15(1) above shall expire on the date on which the Commission's account is debited. Without prejudice to the terms of Article 11(3), the Commission may halt the countdown towards this deadline by notifying the Beneficiary that the request for payment is inadmissible, either because the amount in question is not due or because the relevant report cannot be approved and the Commission thinks it necessary to conduct further checks. In such cases, the Commission may request clarification, alteration or additional information, which must be produced within 30 days of the request. The countdown towards the deadline will resume on the date on which a correctly formulated request for payment is recorded.
- 15(3) Once the deadline referred to above has expired, the Beneficiary (unless the Beneficiary is a government department or public body in a Community Member State) may, within two months of late payment, claim late-payment interest at the rate applied by the European Central Bank to its main refinancing transactions in EUR on the first day of the month in which the deadline expired, plus one and a half percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline (inclusive), and the date on which the Commission's account is debited (exclusive). This interest shall not be considered income for the purposes of Article 17(3).
- 15(4) Advances of EUR 1 million or more must be fully secured by a financial guarantee remaining valid until it is released by the Commission following final payment. This provision shall not apply if the Beneficiary is a government department or public body in a Community Member State.
- 15(5) The financial guarantee shall be in conformity with or match the model below:

SPECIMEN FINANCIAL GUARANTEE FOR THE REPAYMENT OF ADVANCES

To the Commission of the European Communities,
SCR, [name and address of the relevant financial unit]
200 rue de la Loi B-1049 Brussels, hereinafter referred to as "the Commission",

Subject : Guarantee n°...
Financial guarantee for the repayment of advances payable under grant Contract
..... [Contract number and title] (quote number and title in all
correspondence)

We the undersigned, [name and address of financial institution] hereby irrevocably declare that we guarantee as primary obligor, and not merely as a surety, on behalf of [name and address of the Beneficiary], hereinafter referred to as "the Beneficiary", payment to the Commission of [amount of the advance in the currency in which it must be paid], this amount representing the part of the cost of the Operation payable as an advance under grant Contract [Contract number and title] concluded between the Beneficiary and the Commission.

Payment shall be made into account [account number] held by the Commission, without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation of receipt) stating that the Beneficiary has not repaid the advance on request or that the Contract has been terminated for any reason whatsoever. We shall not delay the payment, nor

shall, we oppose it for any reason whatsoever. We shall inform you in writing as soon as payment has been made.

We note that the guarantee will be released 60 days at the latest after the final payment provided for in the Contract.

The law applicable to this guarantee shall be that of[*name of the European Union Member State in which the financial institution issuing the guarantee is established, or "Belgium" if the financial institution is established outside the European Union*]. Any dispute arising out of or in connection with this guarantee shall be referred to the Brussels courts.

This guarantee will come into force and will take effect upon its signature.

.....
[place and date]

.....
[signature]²

15(6) Payments due from the Commission shall be made into the bank account referred to in the financial identification form in Annex V. Where provision is made for the payment of an advance of EUR 1 million or more, a bank account must be opened specifically for the Operation.

15(7) The Commission will make payments in EUR. Where necessary, actual expenditure will be converted into EUR at the rate published by the European Central Bank in the "C" series of the Official Journal on the first working day of the month in which the request for payment is made. In the case of currencies not quoted in the Official Journal, conversion shall be based on the rates published in the Financial Times on the first Tuesday of the month in which the request for payment is made.

If there is an exceptionally wide fluctuation in exchange rates, the parties will consult each other to adapt the project in order to minimise the effects of such fluctuation. If need be, the Commission may take additional measures, including the authorisation to use the contingency reserve.

15(8) Any interest accruing from the advances paid to the Beneficiary by the Commission shall be considered income for the purposes of Article 17(3). It may be used to cover eligible costs of the Operation.

Article 16 – Accounts and technical and financial checks

16(1) The Beneficiary must keep accurate and regular records and accounts of the implementation of the Operation using a dedicated double-entry book-keeping system as part of or as an adjunct to the Beneficiary's own accounts. This dedicated system shall follow the procedures dictated by professional practice. Separate accounts must be kept for each Operation, and must detail all income and expenditure. They must provide precise details of interest accruing on funds paid by the Commission.

16(2) The Beneficiary must consent to record-based or on-the-spot inspections by the Commission or the Court of Auditors of the use made of the grant, in accordance with the financial regulation applicable to the general budget of the Community (or as the case may be with the financial regulation applicable to the ACP-EC co-operation), until five years after the end date.

To that end, the Beneficiary must undertake to provide the staff of the Commission or the Court of Auditors, or their authorised agents, with appropriate rights of access to the sites and locations in which the Operation is being implemented, including access to computer systems, as well as access to all documents and computer files relating to the financial and technical management of the

² The name and title of the person(s) signing for the guarantor should be added in printed characters.

Operation. Access by authorised agents of the Commission or Court of Auditors shall be granted on condition of strict confidentiality with regard to third parties, without prejudice to public law obligations to which the Commission is subject. Documents must be easily accessible and filed in a manner which allows easy verification; the Beneficiary is obliged to inform the Commission of the precise location in which they are kept.

16(3) The documents referred to in Article 16(2) include:

A Works, supplies and services :

- bids from suppliers, service providers or other firms;
- contracts or order forms;
- invoices and proofs of payment or settled invoices; if supplies come from the Beneficiary's stocks, invoices shall reflect the price paid at the time of purchase; a copy of the purchase invoice must be attached;
- for fuel and oil, the Beneficiary shall keep a summary list of the distance covered, the average consumption of the vehicles used, fuel costs and maintenance costs.

B Staffing costs :

- a statement of expenditure on expatriate and/or European-based staff (where implementation is taking place in Europe) per month of effective work; expenditure will be assessed on the basis of unit prices per verifiable block of time worked and will be broken down into gross salary, social security charges, insurance and net salary;
- a statement of expenditure on locally recruited staff on fixed-term Contracts, with details of remuneration paid in cash or kind, duly substantiated by the person in charge locally, broken down into gross salary, social security charges, insurance and net salary.

16(4) If the size of the grant is EUR 100 000 or more, a final audit will be carried out when the Operation ends, for the auditor to certify the accounts of the Operation. If, furthermore, the Operation's duration of execution exceeds 18 months, an annual audit will be carried out for every 12-month period of implementation after the start of the Operation; the final audit serving as annual audit for the last period.

The audit report must cover in particular :

- Analysis and checking of the nature, legality and regularity of expenditure ;
- Checking of the utilisation of advances ;
- Audit of third-party accounts ;
- Reconciliation of expenditure with the dedicated accounts referred to in Article 16(1) above and with the Budget for the Operation ;
- Checking of the project's income (including Community advances, interest on advances, co-financing and other income generated by the project) ;
- Information on the precise physical location of the original documentary evidence for use in the event of checks by the Commission and Court of Auditors.

The auditor, by sampling, will in addition carry out physical spot-checks (existence, conformity) of the Operation.

Without prejudice to the terms of Article 11(3), the audit must not interrupt the implementation of the Operation. It must be carried out in accordance with international standards in this field.

16(5) The Beneficiary may fulfil the obligations referred to in Article 16(4) by submitting either audit reports for the Operation or its own annual audit report, provided that the audit is carried out by the independent audit practice referred to in Article 7 of the Special Conditions.

16(6) If the Beneficiary fails to comply with the fundamental obligations set out in this Article 16, the Commission may terminate the Contract in accordance with Article 11(3). In addition, the

Beneficiary may be ruled ineligible for further Community financing for a period determined by the Commission.

Article 17 – Final amount of Community financing

- 17(1) The total amount to be paid by the Commission to the Beneficiary may not exceed the maximum grant established by Article 3(2) of the Special Conditions, even if the overall actual expenditure exceeds the estimated total budget set out in Annex III.
- 17(2) If the eligible costs at the end of the Operation are less than the estimated total cost specified in Article 3(1) of the Special Conditions, the Community contribution shall be limited to the amount produced by multiplying the actual expenditure by the percentage laid down in Article 3(2) of the Special Conditions.
- 17(3) The Beneficiary accepts that the grant can under no circumstances result in a profit for the Beneficiary, and must be limited to the amount required to balance income and expenditure for the Operation.

Article 18 – Repayment of the grant

- 18(1) In the cases referred to in Articles 11(1) (except wrongful termination), 11(2) and 17, the Beneficiary undertakes to repay to the Commission within 60 days of receiving a request from the latter any amounts paid in excess of the final amount due.
- 18(2) In the event of wrongful termination of the Contract by the Beneficiary as referred to in Article 11(1), and in the cases specified in Article 11(3), the Commission may request full or partial repayment of amounts paid to the Beneficiary. The Commission shall determine the manner and the deadline for such full or partial repayment.
- 18(3) Should the Beneficiary fail to repay such amounts within the deadline set by the Commission, the Commission may (unless the Beneficiary is a government department or public body in a Community Member State) increase the amounts due by adding interest at the rate applied by the European Central Bank to its main refinancing transactions in EUR on the first day of the month in which the deadline expired, plus one and a half percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline set by the Commission (inclusive), and the date on which payment is actually made (exclusive).
- 18(4) Bank charges incurred by the repayment of amounts due to the Commission shall be borne entirely by the Beneficiary.
- 18(5) The recovery decision drawn up by the Commission and transmitted to the Beneficiary owing a repayment to the Commission shall be enforceable within the meaning of Article 256 of the EC Treaty.
- 18(6) Amounts to be repaid to the Commission may be offset against amounts of any kind due to the Beneficiary. This shall not affect the parties' option to agree on payment in instalments.

