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Specific Conditions (part I)	Grant Management Regime II	Date:	01.03.2016

GRANT AGREEMENT

BETWEEN

THE NORWEGIAN MINISTRY OF FOREIGN AFFAIRS

AND

NAFASI ART SPACE

REGARDING

**TAN-16/0008 – NAFASI ART SPACE - CORE SUPPORT TO
STRATEGIC PLAN 2016-2020**

PART I: SPECIFIC CONDITIONS

PART II: GENERAL CONDITIONS

PART III: PROCUREMENT PROVISIONS

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PART I: SPECIFIC CONDITIONS

This grant agreement (the Agreement) has been entered into between:

- (1) The Norwegian Ministry of Foreign Affairs (MFA), represented by the Royal Norwegian Embassy in Dar es Salaam (the Embassy), and
 - (2) Nafasi Art Space, a non-governmental organization duly established in Vice President's Office under registration number 00NGO/00003977 (the Grant Recipient),
- jointly referred to as the Parties.

1. SCOPE AND BACKGROUND

- 1.1 The Grant Recipient has submitted an application to MFA dated 22.05.2017 regarding financial support to its operations (Core Activities), as described in Strategic Plan 2016-2020 dated 19 November 2016 (the Strategy Document). The estimated costs for the implementation of the Core Activities are in the budget included as Annex A.
- 1.2 MFA has decided to award a grant to be used exclusively for the implementation of the Core Activities (the Grant) during the period from April 2017 to March 2018 (the Support Period).
- 1.3 The Parties have agreed to enter into an Agreement, consisting of this part I; Specific Conditions, part II; General Conditions, and part III; Procurement Provisions, all of which form an integral part of this Agreement. In the event of discrepancies between the Specific Conditions and the General Conditions or Procurement Provisions, the Specific Conditions shall prevail.
- 1.4 Any reference to "Project" in the General Conditions shall be understood as a reference to the Core Activities. Any reference to the "Project Document" shall be understood as a reference to the Strategy Document.

2 OBJECTIVES

- 2.1 The planned effect(s) of the Core Activities on society is/are Protection and strengthening of cultural rights in Tanzania (Impact).

The planned effects for the target group of the Core Activities are

1. A more innovative and thriving art sector in Dar es Salaam
2. Increased independent art production and presentation
3. Increased education and exchange between Tanzanian artists and the local, regional and international art world
4. Increased visibility and awareness for contemporary art in Tanzania
5. A sustainable and independent art institution drives innovation and excellence in the Tanzanian art sector (Outcome).

Handwritten signatures:  

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- 2.2 The Strategy Document includes more information on expected results. The full results framework is included as Annex B to this Agreement.

3 IMPLEMENTATION

- 3.1 The Core Activities shall be implemented in accordance with the Agreement, including all annexes, and the Strategy Document, including implementation plan and budget.
- 3.2 During the implementation of the Core Activities, the Grant Recipient shall exercise the necessary diligence, efficiency and transparency in line with sound financial management and best practise principles.
- 3.3 The Grant Recipient shall identify, assess and mitigate any relevant risks associated with the implementation of the Core Activities, including the risk of corruption and other financial irregularities, any potential negative effects on the environment, climate, gender equality or human rights.

4 THE GRANT

- 4.1 The Grant shall amount to NOK 900 000 (Norwegian Kroner Two Nine Hundred Thousand). The Grant is given as a lump sum based on the budget in the Strategy Document.
- 4.2 The Grant, including accrued interest, shall be used exclusively to finance the actual costs of the implementation of the Core Activities during the Support Period.
- 4.3 The Grant Recipient is responsible for obtaining any additional resources that may be required to duly implement the Core Activities.

5 DISBURSEMENT

- 5.1 The Grant shall be disbursed in advance instalments based on the financial need of the Grant Recipient for the upcoming period, which shall not exceed six months. The disbursements shall be made upon MFA's receipt of written disbursement requests from the Grant Recipient.
- 5.2 The disbursement requests shall be signed by the Managing Director and Business/Marketing Manager of the Grant Recipient. The disbursement request shall include a confirmation that the Core Activities are being implemented in accordance with the Agreement and without any major deviations from the Strategy Document. The financial need shall be documented through updated financial statements for the Core Activities, in accordance with article 3 of the General Conditions.
- 5.3 All disbursements are conditional upon the Grant Recipient's continued compliance with the requirements in the Agreement, including the timely fulfilment of reporting obligations. MFA may withhold disbursements in accordance with article 17 of the General Conditions if it finds that the requirements of the Agreement have not been met.
- 5.4 All disbursements will be made to the following bank account:

Name of the account: Nafasi Art Space

[Handwritten signature] RC

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Account no.: 23910000770

IBAN no.: n/a

Name and address of the bank: NMB Plc,
Ohio St. PO BOX 72647, Dar es Salaam,
Tanzania

Swift/BIC code: NMIBTZTZ

Currency of the account: USD

- 5.5 The Grant Recipient shall immediately acknowledge receipt of the funds in writing. The amount received shall be stated, as well as the date of receipt and the exchange rate applied.

6 REPORTING AND OTHER DOCUMENTATION

- 6.1 The following shall be submitted by the Grant Recipient to MFA:

- a) A **report** covering the period from April to March shall be submitted to MFA by 1st August each year. The Grant Recipient's annual report or other general reporting is sufficient given that the content requirements set out below are met.

The report shall include both a narrative part and financial statements covering the Core Activities. The narrative part shall include the content specified in article 2 clause 2 of the General Conditions, whereas the financial statements shall include the content specified in article 3 clause 2 of the General Conditions.

- b) The **audit report** covering the annual financial statements of the Grant Recipient shall be submitted to MFA by 1st August each year. If the auditor submits a management letter, this shall be submitted along with the audit report. The audit report shall comply with the requirements set out in article 7 of the Specific Conditions and article 5 of the General Conditions, except clause 6.

- 6.2 If the Grant Recipient is unable to meet the deadlines set out above, MFA shall be informed immediately.

- 6.3 All implementation plans, budgets and reports shall be approved in writing by MFA unless otherwise agreed by the Parties.

7 AUDIT

- 7.1 The annual financial statements of the Grant Recipient shall be audited in accordance with International Standards of Auditing (ISA).
- 7.2 Additional requirements applicable to the auditor and the audit report are included in article 5 of the General Conditions.
- 7.3 The Grant Recipient is responsible for submitting the audit report to MFA within the deadline indicated in article 6 of the Specific Conditions.

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8 FORMAL MEETINGS

- 8.1 The Parties shall hold formal meetings once per year, tentatively in August in order to discuss i.a. the results achieved during the Support Period. The meetings may be held jointly with other donors. The meetings shall be called and chaired by the Grant Recipient.
- 8.2 Unless otherwise agreed, the Parties shall discuss the latest progress report and financial statement. In the event that such reports have not been received at least 3 weeks before the meeting, the Parties shall agree upon a new date to hold the meeting.
- 8.3 The Grant Recipient shall record main issues discussed, points of view expressed and decisions made, in minutes from the meeting. The Grant Recipient shall submit the minutes to MFA no later than two weeks after the meeting for comments. The agreed minutes shall be signed by all participants to the meeting.
- 8.4 The Parties shall hold formal meetings if/when requested by MFA. Details regarding agenda and procedures will be agreed upon by the Parties.

9 REVIEWS AND OTHER FOLLOW-UP MEASURES

- 9.1 Provided that the Support Period is extended to at least March 2020, an end-term review focusing on results achieved compared with the results framework, as well as an estimation of the project's probable effect on society (impact) to the extent possible, shall be carried out by March 2020. The Grant Recipient shall draft the terms of reference for the review and submit them to the other Party for approval. The costs of the review shall be included in the budget for the relevant year. The review may be carried out jointly with other donors.
- 9.1 The Grant Recipient should:
 - Present a fundraising plan for increasing the organization's financial sustainability before 1st August 2018. The costs (if any) of the process shall be included in the budget presented by the Grant Recipient.
 - Present its updated risk assessment with an action plan for how it is working actively with risk mitigation by December 2017.
 - Present a plan with timelines for follow up on recommendations from KPMG's pre-grant review (dated June 2017) by December 2017.
- 9.2 The Embassy should conduct a field visit each year to the organization and/or one or more of the organization's events.
- 9.3 If the Grant Recipient or another interested party initiates a review or evaluation of activities wholly or partly funded by the Grant, MFA shall be informed. The Grant Recipient shall forward a copy of the report of any such review or evaluation to MFA without undue delay.

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10 PROCUREMENT

- 10.1 All procurement made in connection with the Core Activities shall be completed in accordance with the Procurement Provisions in Part III of this Agreement.
- 10.2 If the total value of a contract exceeds NOK 100 000, the procurement record and the signed contract shall be submitted to MFA for information.
- 10.3 Along with the documentation mentioned above, the Grant Recipient shall confirm in writing that the requirements agreed on in this article 10 have been fulfilled.

11 REPAYMENT OF INTEREST AND UNUSED FUNDS

- 11.1 If the Grant Recipient does not complete the Core Activities as planned, or if the Core Activities are significantly scaled down compared to the initial budget, MFA may claim repayment of all or parts of the Grant.
- 11.2 Repayments shall be made to the following bank account:
- | | |
|-------------------------------|---|
| Name of the account: | Royal Norwegian Embassy |
| Account no.: | 8708020564600 |
| Name and address of the bank: | Standard Chartered Bank Tanzania Ltd, International House branch, Dar es Salaam, Tanzania |
| Swift/BIC code: | SCBLTZTXXX |
| Currency: | USD |
- 11.3 The transaction shall be clearly marked: "Unused funds". The name of the Grant Recipient shall be stated, along with MFA's agreement number and agreement title.

12 NOTICES

- 12.1 All communication to MFA concerning the Agreement shall be directed to the Embassy at the following address/e-mail address: P.O.Box 2646, Dar es Salaam, Tanzania/emb.daressalaam@mfa.no.
- 12.2 All communication to the Grant Recipient concerning the Agreement shall be directed to Nafasi Art Space at the following address/e-mail address: P.O.BOX 31715, Dar es Salaam [/info@nafasiartspace.org](mailto:info@nafasiartspace.org)
- 12.3 MFA's agreement number and agreement title shall be stated in all correspondence regarding this Agreement, including disbursement requests and repayment of unused funds.

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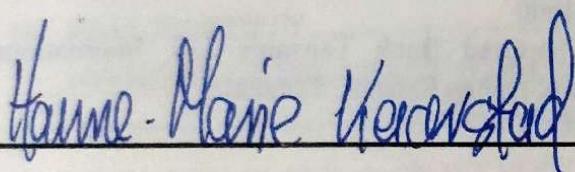
13 SIGNATURES

13.1 By signing part I of the Agreement, the Parties also confirm receipt and approval of part II; General Conditions, and part III; Procurement Provisions, which all form an integral part of the Agreement.

13.2 This Agreement has been signed in two -2- original copies in the English language. In the event of any discrepancies between this English language version and any later translations, the English language version shall prevail.

Place: Dar Es Salaam

Date: 11 Oct 2017

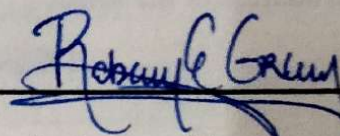


For the Norwegian Ministry of Foreign Affairs,

Hanne-Marie Kaarstad

Ambassador

Royal Norwegian Embassy in Dar es Salaam,
Tanzania



for [name of the Grant Recipient],

Rebecca Corey

Managing Director

Nafasi Art Space

Attachments:

Annex A: Tentative budget for implementation of the core activities 2017-2020

Annex B: Results framework

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PART II: GENERAL CONDITIONS APPLICABLE TO GRANTS FROM THE NORWEGIAN MINISTRY OF FOREIGN AFFAIRS

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1 IMPLEMENTATION PLAN AND BUDGET

- 1.1 Any updated implementation plan to be submitted in accordance with the Specific Conditions shall be directly related to the results framework and shall specify planned activities and outputs and time schedules for the upcoming reporting period.
- 1.2 Any updated budget to be submitted in accordance with the Specific Conditions shall be based on the approved budget in Annex A and include estimated income to the Project from all sources as well as planned expenditures for the upcoming reporting period. The estimated financial need of the Project in the upcoming reporting period shall be clearly stated.
- 1.3 Significant deviations from or changes to the implementation plan and budget is subject to MFA's prior, written approval as outlined in article 12 of the General Conditions.

2 PROGRESS REPORT

- 2.1 Any progress reports to be submitted in accordance with the Specific Conditions shall describe the results achieved by the Project during the reporting period. The report shall be set up in a way that allows direct comparison with the latest approved Application, implementation plan and budget, and shall be signed by an authorised representative of the Grant Recipient.
- 2.2 The progress reports shall, as a minimum, include:
 - a) an account of the results achieved so far by the Project, using the format, indicators and targets of the approved results framework. The overview must:
 - show delivered outputs compared to planned outputs;
 - show the Project's progress towards achieving the Outcome;
 - if possible, describe the likelihood of the Impact being achieved.
 - b) an account and assessment of deviations from the latest approved implementation plan and Application;
 - c) an assessment of how efficiently Project resources have been turned into Outputs;
 - d) a brief account of materialised risk factors to the Project, including how these have been handled in the reporting period and/or will be handled in the future. Identified risks related to the climate and environment, gender equality, corruption and other financial mismanagement and human rights shall always be accounted for.

3 FINANCIAL REPORT

- 3.1 Any financial report to be submitted in accordance with the Specific Conditions shall comprise financial statements with a comparison to the latest approved budget for the reporting period, as well as an identification of any deviations from the budget as per clause 3.3 below. The financial report shall be certified by the financial controller (or equivalent) as well as an authorised representative of the Grant Recipient.
- 3.2 The financial statements shall be set up in a way that allows for direct comparison with the latest approved budget, using the same currency and budget line items. They shall, as a minimum, include:
 - a) the accounting principles applied;
 - b) income from all sources, including bank interest. MFA's contribution shall be specified;
 - c) expenses charged/capitalised in the relevant reporting period;
 - d) expenses charged/capitalised from start-up of the Project to the end of the reporting period;
 - e) unused funds as per the reporting date;

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- f) overhead/indirect costs to be covered by the Grant in accordance with article 4 of the Specific Conditions;
- g) balance sheet, when required in accordance with the accounting principles applied;
- h) explanatory notes including a description of the accounting policies used and any other explanatory material necessary for transparent financial reporting of the Project.

3.3 Deviations between the approved budget and the expenses charged/capitalised shall be highlighted with information on both nominal amounts and percentage of each deviation. The Grant Recipient shall include a written explanation of any deviations amounting to more than 10% from a budget line.

4 FINAL REPORT

4.1 The final report to be submitted in accordance with the Specific Conditions shall describe the results achieved by the Project during the Support Period. The report shall be set up in a way that allows for a direct comparison with the Application, and shall be signed by an authorised representative of the Grant Recipient.

4.2 The final report shall, as a minimum, include:

- a) the items listed for the progress reports described in article 2 of the General Conditions, covering the entire Support Period;
- b) an assessment of the Project's effect on society (Impact);
- c) a description of the main lessons learned from the Project;
- d) an assessment of the sustainability of the achieved results by the Project.

5 AUDIT

5.1 If an audit of the Project's financial statements is required pursuant to the Specific Conditions, the audit shall be carried out by an independent chartered/certified or state-authorised public accountant (auditor).

5.2 MFA reserves the right to approve the auditor, and may require that the auditor shall be replaced if MFA finds that the auditor has not performed satisfactorily or if there is any doubt as to the auditor's independence or professional standards.

5.3 The auditor shall form an opinion on whether the Project's financial statements fairly reflect the financial position of the Project and whether they are prepared, in all material respects, in accordance with the applicable financial reporting framework, namely:

- a) the accounting principles followed by the Grant Recipient and;
- b) the requirements of article 3 clause 2 of the General Conditions.

5.4 The auditor shall report in accordance with the applicable audit standard, as agreed in the Specific Conditions.

5.5 The audit report shall include:

- a) the Project name and agreement number;
- b) identification of the Project's total expenses and total income;
- c) the subject of the audit;
- d) the financial reporting framework applied;
- e) the auditing standards applied;

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- f) a statement that the auditor has obtained reasonable assurance about whether the financial statements as a whole are free from material misstatement;
- g) the auditor's opinion.

- 5.6 In addition to the Project's audit report, the auditor shall submit a management letter (matters for governance attention), which shall contain any findings made during the audit of the Project. It shall also list any measures that have been taken as a result of previous audits and whether such measures have been adequate to deal with reported shortcomings.
- 5.7 If any findings have been reported in the Project's management letter, the Grant Recipient shall prepare a response including an action plan to be submitted to MFA together with the management letter.
- 5.8 The costs of the audit of the Project's financial statements shall be included in the Project's budget.
- 5.9 The audit requirements stated in this Agreement are applicable for the total Grant, including any part of the Grant that has been transferred to a cooperating partner.
- 5.10 The auditor of the Project's consolidated financial statement is responsible for the direction, supervision and performance of the audit of any part of the Grant that has been transferred to a cooperating partner. The auditor shall assure itself that those performing the audit for cooperating partners have the appropriate qualifications, that the audit is in compliance with professional standards, and that the audit report is appropriate under the circumstances.
- 5.11 The auditor of the Project's consolidated financial statement shall express an opinion on whether the statement is prepared, in all material respects, in accordance with the requirements of this Agreement. To this end, the auditor shall obtain sufficient appropriate audit evidence regarding the financial statements of the cooperating partner and the consolidation process.

6 CONTROL MEASURES

- 6.1 Representatives of MFA and the Norwegian Auditor General may at all times carry out independent reviews, audits, field visits or evaluations or other control measures related to the Project. The objective of such control measures may be i.a to verify that the Grant has been used in accordance with the Agreement or to evaluate the achievement of results.
- 6.2 The Grant Recipient shall facilitate such control measures by providing all information and documentation necessary to carry out the relevant initiative, as well as ensuring unrestricted access to any premises, records, goods and documents requested.
- 6.3 The representatives of MFA and the Norwegian Auditor General shall also have access to the Grant Recipient's auditor and the auditor's assessments of all information pertaining to the Grant Recipient and the Project. The Grant Recipient shall release the auditor from any confidentiality obligations in order to facilitate such access.
- 6.4 The rights and obligations of this article 6 shall remain in force for 5 years following expiry or termination of the Agreement.

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7 FINANCIAL MANAGEMENT

- 7.1 The Grant Recipient shall keep accurate accounts of the Project's income and expenditure using an appropriate accounting- and double-entry book-keeping system¹ in accordance with the applicable accounting- and bookkeeping policies in the jurisdiction of the Grant Recipient.
- 7.2 The accounts shall be kept up to date at least on a monthly basis. Bank reconciliations² and cash reconciliations³ shall be completed at least every month, and shall be documented by the Grant Recipient.
- 7.3 Accounts and expenditures relating to the Project must be easily identifiable and verifiable, either by using separate accounts for the Project or by ensuring that Project expenditure can be easily identified and traced within the general accounting- and bookkeeping systems. The accounts must provide details of bank interest accrued on the Grant.
- 7.4 The Grant Recipient shall keep the Project's accounting records for at least 5 years from the time of MFA's approval of the final report for the Project. This shall include i.a. vouchers, receipts, contracts and bank statements.

8 EXCHANGE RATE FLUCTUATIONS

- 8.1 If the Grant is converted into another currency, the exchange shall be made through a national or commercial bank unless otherwise approved by MFA.
- 8.2 If exchange rate fluctuations decrease the value of the Grant to such an extent that this will have consequences for the implementation of the Project, the Grant Recipient shall inform MFA as soon as possible.
- 8.3 If exchange rate fluctuations increase the value of the Grant, the gain shall be treated as disbursed Grant funds and used for Project purposes. Net surplus from conversion into foreign currency shall be subtracted from future disbursements or repaid as unused funds at the end of the Support Period, unless otherwise agreed between the Parties.

9 EQUIPMENT, CONSUMABLES AND INTELLECTUAL PROPERTY RIGHTS

- 9.1 The right of ownership to equipment, consumables and intellectual property rights procured or developed by use of the Grant shall vest in the Grant Recipient or its cooperating partner, unless otherwise stated in the Application. All matters associated with such equipment, consumables and intellectual property rights are the exclusive responsibility of the Grant Recipient. However, significant use of such equipment, consumables and intellectual property rights for purposes outside the Project shall be subject to the MFA's prior approval, as outlined in Article 12 of the General Conditions.

¹ A double-entry bookkeeping a system is system of bookkeeping where every entry to an account requires a corresponding and opposite entry to a different account.

² Bank reconciliation is a process of verifying whether the sum found in the bank statements at the end of the period correspond with transactions recorded in the accounting system. This is usually done in conjunction with closure of the accounting records.

³ Cash reconciliation is a process of verifying whether the cash at hand at the end of the period corresponds with the amount of cash in the beginning of the period and the registrations of withdrawals and deposits in the period. This is usually done in conjunction with closure of the accounting records.

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- 9.2 MFA shall have a non-exclusive and royalty-free license to use all intellectual property rights procured or developed by the use of the Grant. MFA may assign this right to any individual or organisation at its own discretion.
- 9.3 Transfer of ownership of such equipment, consumables or intellectual property rights during the Support Period shall be made at market terms. Ownership may not be transferred to an employee of the Grant Recipient or its cooperating partner, or to anyone related or connected to an employee, if such relation could lead to a conflict of interest as described in article 16 of the General Conditions.
- 9.4 Before a transfer is decided, the Grant Recipient shall assess whether it may have an impact on the Project and, where appropriate, consult with MFA. Any income from a transfer shall accrue to the Project, and shall be reported in the financial statement of the Project.
- 9.5 The Grant Recipient shall prepare a record of transfer of ownership for any equipment, consumables and intellectual property rights. The record shall comprise information about the object of transfer, the original purchase price paid by the Grant Recipient, price offers received, the final sales price and the name of the purchaser. The record shall be submitted to MFA along with the first progress report due after the sale.
- 9.6 If the activities of the Project do not continue after the end of the Support Period or after termination of the Agreement, the Grant Recipient shall inform MFA about the remaining equipment and goods that have been purchased by use of the Grant. The MFA may require that such assets be sold. Such sale shall be completed in accordance with the procedures described above. Income from the sale shall be repaid to MFA unless otherwise agreed by the Parties.

10 REAL PROPERTY

- 10.1 The Grant may not be used to purchase or construct real property (land or buildings) unless explicitly approved by MFA.
- 10.2 If MFA has approved a purchase or construction of real property, the Grant Recipient and MFA shall agree on the details concerning the ownership and the status of the real property after the end of the Support Period and/or the end of the Project. The agreement may be formalised in the Specific Conditions or in a separate agreement document.
- 10.3 MFA may in such an agreement require i.a. that the real property shall be sold after the end of the Support Period and that the proceeds from the sale shall be repaid to MFA. MFA may also reserve the right to establish security interests in any real property purchased by use of the Grant.

11 TRANSFER OF THE GRANT TO A COOPERATING PARTNER

- 11.1 Transfer of all or part of the Grant including assets to a cooperating partner shall be documented through a written agreement. The agreement shall specify that the cooperating partner is required to comply with the provisions of this Agreement and to cooperate with the Grant Recipient to ensure that the Grant Recipient is able to fulfil its obligations hereunder.
- 11.2 The agreement between the Grant Recipient and the cooperating partner shall have provisions related to i.a. reporting, audit, procurement and measures to prevent financial irregularities. Furthermore, the agreement shall explicitly state that:

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- a) both the Grant Recipient, MFA and the Norwegian Auditor General shall have the same access to undertake the control measures related to the cooperating partner's use of the Grant as described in article 6 of the General Conditions,
- b) the Grant Recipient shall be entitled to claim repayment of the Grant from the cooperating partner in the same instances and to the same extent that MFA is entitled to claim repayment from the Grant Recipient, and the cooperating partner shall accept that MFA has the right to claim repayment directly from the cooperating partner to the same extent as the Grant Recipient,
- c) the cooperating partner shall accept the choice of law and settlement of disputes provisions in article 24 of the General Conditions in relation to any disputes arising between the cooperating partner and MFA.

11.3 The Grant Recipient shall assure itself that the cooperating partner has the necessary competence and internal procedures to meet the requirements of the Agreement and shall follow-up the cooperating partner's compliance with the Agreement throughout the Support Period.

11.4 The Grant may not be transferred to a cooperating partner who has previously been charged or sentenced for any criminal activity unless explicitly approved by MFA.

11.5 The Grant Recipient shall remain fully responsible towards MFA for any part of the Grant including assets that has been transferred to a cooperating partner.

12 CHANGES TO THE PROJECT OR THE GRANT RECIPIENT

12.1 Any significant deviations from or changes to the Application or approved implementation plans or budgets are subject to MFA's prior, written approval. The same applies to significant changes to, or circumstances materially affecting, the Grant Recipient's organisation.

12.2 The following deviations/changes shall always be subject to MFA's prior written approval:

- a) any changes to the Project's sources of income,
- b) any changes to the results framework or scope of the Project,
- c) changes to the implementation plan which implies a delay of more than three months of any activity,
- d) changes to the Project's budget that imply reallocation of more than 10% of a budget line.

12.3 MFA may suspend disbursements of the Grant until such changes have been approved.

13 EXTENSION OF THE SUPPORT PERIOD

13.1 The Support Period of the Project is set out in the Specific Conditions. The Grant Recipient must, without delay, inform MFA of any circumstances likely to hamper or delay the implementation of the Project.

13.2 The Grant Recipient may request an extension of the Support Period if this is necessary to complete all planned activities. The request must state the reasons for the delay and supporting documentation must be enclosed. MFA shall approve or decline the request in writing.

14 TRANSPARENCY

14.1 The Grant Recipient shall publish the following in a dedicated and easily accessible place of its internet site:

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- a) a copy of this Agreement;
- b) the title and value of any contracts, cooperation agreements and/or other sub-agreements of more than NOK 500 000 (or the equivalent in local currency) which are to be financed by the Grant;
- c) the names and nationalities of the respective agreement parties and, if relevant, any further sub-grantees or contractors in receipt of Project funds;

Any deviations from article 14 shall be agreed by the Parties in writing, i.a. in the Specific Conditions.

14.2 Publication shall take place as soon as possible, and at the latest within six months after the contracts, cooperation agreements and/or other sub-agreements were entered into

14.3 The Grant Recipient shall make other project documentation, including the Application and all agreed reports, available to anyone upon request. Requests for disclosure may be denied if such disclosure is prohibited by confidentiality obligations and/or if it may be detrimental to the Grant Recipient's legitimate interests.

15 FINANCIAL IRREGULARITIES

15.1 The Grant Recipient is required to practise zero tolerance against corruption and other financial irregularities within and related to the Project. The zero tolerance policy applies to all staff members, consultants and other non-staff personnel and to cooperating partners and beneficiaries of the Grant.

15.2 Financial irregularities refers to all kinds of:

- a) corruption, including bribery, nepotism and illegal gratuities;
- b) misappropriation of cash, inventory and all other kinds of assets;
- c) financial and non-financial fraudulent statements;
- d) all other use of Project funds which is not in accordance with the implementation plan and budget.

15.3 In order to fulfil the zero tolerance requirement, the Grant Recipient shall:

- a) organise its operations and internal control systems in a way that financial irregularities are prevented and detected;
- b) do its utmost to prevent and stop financial irregularities within and related to the Project;
- c) require that all staff involved in, and any consultants, suppliers and contractors financed under the Project refrain from financial irregularities.

15.4 The Grant Recipient shall inform MFA immediately of any indication of financial irregularities in or related to the Project. The Grant Recipient shall provide MFA with an account of all the known facts and an assessment of how the matter should be followed up, including whether criminal prosecution or other sanctions are considered appropriate.

15.5 The matter will be handled by MFA in accordance with MFA's guidelines for handling suspicion of financial irregularities. The Grant Recipient shall cooperate fully with MFA's investigation and follow-up. If requested by MFA, the Grant Recipient shall initiate prosecution and/or apply other sanctions against persons or entities suspected of financial irregularities.

15.6 MFA may claim repayment of all or parts of the Grant in accordance with article 17 of the General Conditions if it finds that any financial irregularities have taken place in or related to the Project.

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The repayment claim may also include any interest, investment income or any other financial gain obtained as a result of the financial irregularity.

16 CONFLICT OF INTEREST

- 16.1 The Grant Recipient shall take all necessary precautions to avoid any conflicts of interest in all matters related to the Project.
- 16.2 Conflict of interest refers to any situation where the impartial and objective exercise of the functions of anyone acting on behalf of the Grant Recipient is, or may be, compromised for reasons involving family, personal life, political or national affinity, economic interest or any other connection or shared interest with another person.
- 16.3 If a conflict of interest occur, the Grant Recipient shall, without delay, take all necessary measures to resolve the conflict, e.g. by replacing the person in question or by obtaining independent verification of the terms of the proposed decision or transaction.
- 16.4 If the conflict of interest cannot be resolved and/or if it relates to a decision or transaction of special significance to the Project, the decision or transaction may not be concluded without the prior, written approval of MFA.

17 BREACH OF THE AGREEMENT

- 17.1 If the Grant Recipient fails to fulfil its obligations under this Agreement and/or if there is suspicion of financial irregularities, MFA may suspend disbursement of all or part of the Grant.
- 17.2 In the event of material breach of the Agreement, MFA may terminate the Agreement with immediate effect, and/or claim repayment of all or parts of the Grant.
- 17.3 Material breach of the Agreement shall include, without limitation, the following situations:
 - a) all or part of the Grant has not been used in accordance with the Agreement and/or approved implementation plans and budget,
 - b) the Grant Recipient has made false or incomplete statements to obtain the Grant,
 - c) the use of the Grant has not been satisfactorily accounted for,
 - d) the Grant Recipient has, after having been granted an extended deadline, failed to provide the agreed reports, or has knowingly provided reports that do not reflect reality,
 - e) financial irregularities, grave professional misconduct or illegal activity of any form have taken place within the Grant Recipient or its cooperating partners,
 - f) the Grant Recipient has failed to inform MFA of indication of financial irregularities within the Project in accordance with article 15 of the General Conditions,
 - g) the Grant Recipient has changed legal personality without prior notification to MFA,
 - h) the Grant Recipient is bankrupt, being wound up or is having its affairs administered by the courts, or is subject to any analogous or corresponding procedure provided for under national legislation.
- 17.4 The Grant Recipient shall inform MFA immediately of any circumstances that may indicate or lead to a breach of Agreement, and shall provide MFA with any information or documentation it may reasonably require in order to determine if a breach of the Agreement has occurred.
- 17.5 MFA may also suspend disbursements or terminate the Agreement with immediate effect if a material breach of another agreement between MFA and the Grant Recipient has been established.

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18 TERMINATION OF THE AGREEMENT

- 18.1 Each of the Parties may terminate the Agreement upon a written notice.
- 18.2 The Support Period shall end three months after the date of the notice of termination. During these three months, the Grant Recipient may only use the Grant to cover commitments that have been established before the date of the notice of termination.
- 18.3 If the Project cannot continue without the Grant, the Grant Recipient shall use these three months to discontinue or scale down the Project promptly and in an orderly and financially sound manner. Any funds that remain unused at the end of the Support Period shall be repaid to MFA.
- 18.4 The Grant Recipient shall submit a final report to MFA within three months of the end of the Support Period. The final report shall meet the requirements set out in article 4 of the General Conditions and shall also include a financial report and audit report covering the period from the previous financial report until the end of the Support Period.
- 18.5 The Agreement will be considered terminated when the final report has been approved by MFA and any remaining funds have been repaid.

19 WAIVER AND IMMUNITIES

- 19.1 Nothing in the Agreement or any document related to the Agreement shall imply a waiver, express or implied, by MFA, the Government of Norway or any of its officials of any privileges or immunity enjoyed by them or their acceptance of the jurisdiction of the courts of any country over disputes arising thereof. This article 19 will not prevent arbitration or court proceedings in the legal venue of the Grant Recipient pursuant to article 24 of the General Conditions.

20 LIABILITY

- 20.1 MFA shall not under any circumstances or for any reason be held liable for damage, injury or loss of income sustained by the Grant Recipient or its staff or property as a direct or indirect consequence of the Project. MFA will not accept any claim for compensation or increases in payment in connection with such damage, injury or loss of income.
- 20.2 The Grant Recipient shall assume sole liability towards third parties, including liability for damage, injury or loss of income of any kind sustained by them as a direct or indirect consequence of the Project. The Grant Recipient shall indemnify MFA against any claim or action from the Grant Recipient's employees or third parties in relation to the Project.

21 ASSIGNMENT

- 21.1 The Agreement and/or the Grant may not be assigned to a third party without the prior written consent of MFA. This shall not, however, prevent transfer of parts of the Grant to a cooperating partner in accordance with article 11 of the General Conditions.

22 RECOGNITION AND PUBLICATION

- 22.1 The Grant Recipient shall acknowledge MFA's support to the Project in all publications and other materials issued in relation to the Project. MFA's logotype will be provided by MFA upon request. All use of MFA's logotype must be approved by MFA.

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23 ENTRY INTO FORCE, DURATION AND AMENDMENT

- 23.1 The Agreement shall enter into force at the date of the last signature and shall remain in force until all obligations arising from it have been fulfilled, or until it is terminated in accordance with the provisions of the General Conditions. Whether the obligations of the Agreement shall be considered fulfilled, will be determined through consultations between the Parties and confirmed by MFA in a completion letter.
- 23.2 The Agreement may be amended. Any such amendment must be agreed upon in writing between the Parties and shall become an integral part of the Agreement.
- 23.3 Termination or expiry of the Agreement shall not release the Parties from any liability arising from any act or omission that has taken place prior to such termination or expiry.

24 CHOICE OF LAW AND SETTLEMENT OF DISPUTES

- 24.1 The Agreement shall be governed and construed in accordance with Norwegian law.
- 24.2 If any dispute arises relating to the implementation or interpretation of the Agreement, the Parties shall seek to reach an amicable solution.
- 24.3 Any dispute arising out of or in connection with the Agreement that cannot be solved amicably, shall exclusively be settled before the Norwegian courts of law with Oslo District Court as legal venue.
- 24.4 The Grant Recipient accepts that MFA can, at its own sole discretion and as an alternative to the legal venue mentioned above, choose to settle the dispute by
- a) the courts in the legal venue of the Grant Recipient, or
 - b) arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The arbitral tribunal shall be composed of three arbitrators. If the disputed amount is below an amount corresponding to NOK 10 000 000 the arbitral tribunal shall, however, be composed of a sole arbitrator. The seat of arbitration shall be Stockholm, Sweden, and the language to be used in the arbitral proceedings shall be English. The Parties agree that neither the arbitral proceedings nor the award shall be subject to any confidentiality.
- 24.5 The Parties agree that no other courts of law, than as set out in this article 24, shall have jurisdiction over disputes arising out of or in connection with this Agreement.

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PART III: PROCUREMENT IN THE CONTEXT OF PROJECTS FINANCED BY THE NORWEGIAN MINISTRY OF FOREIGN AFFAIRS

1 INTRODUCTION

- 1.1 This Part III sets out procurement rules and principles which shall be applied by the Grant Recipient when procuring goods, services or works to Projects financed by the Ministry of Foreign Affairs (MFA). Stricter rules may supplement the compulsory minimum rules set forth in this Part III.
- 1.2 The MFA may carry out ex post checks on the Grant Recipient's compliance with the rules set forth in this Part III.
- 1.3 Failure to comply with the rules set forth in this Part III shall render the Project expenditure ineligible for MFA funding and may lead to withholding funds or claim for repayment in accordance with article 17 of the General Conditions (Part II) of this Agreement.
- 1.4 Contracts shall not be split artificially to circumvent the procurement thresholds. All monetary amounts referred to in this Part III are amounts excluding value-added tax (VAT).
- 1.5 The procurement provisions shall also apply to any procurements to be carried out by the Grant Recipient's cooperation partners or others. The Grant Recipient shall be responsible for compliance as per article 11 of the General Conditions (Part II) of this Agreement regardless of whether the procurement is carried out by the Grant Recipient itself or its cooperation partners or others.
- 1.6 Sections 1 to 4 set out rules, which shall apply to all contracts. Sections 5 to 6 contain specific rules for service, supply and works contracts. Section 7 lists the situations where a negotiated procedure without prior publication is permitted.

2 BASIC PRINCIPLES

- 2.1 If a Project requires procurement by the Grant Recipient, the contract must be awarded following a tender procedure to the most economically advantageous tender (i.e. to the tenderer obtaining the best score based on price and quality), or, as appropriate, to the tenderer offering the lowest price. In doing so, the Grant Recipient shall avoid any conflict of interests and respect the following basic principles:
 - a) **Competition:** The procedures applied and the award of contracts shall be based on fair competition.

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- b) **Equal treatment and non-discrimination:** Participation in tender procedures shall be open on equal terms to all natural and legal persons. During the entire procurement and the award of contracts, the Grant Recipient shall not discriminate against candidates/tenderers or groups of candidates/tenderers.
- c) **Transparency and ex-ante publicity:** As a general rule, tender procedures shall be based on prior publication. Where the Grant Recipient does not launch an open tender procedure, it shall justify the choice of tenderers that are invited to submit an offer.
- d) **Objective criteria:** The Grant Recipient shall evaluate the offers received against objective criteria, which enable the Grant Recipient to measure the quality of the offers and shall take into account the price (the offer with the lowest price shall be awarded the highest score for the price criterion). The criteria shall be set out beforehand and shall be relevant to the contract in question.
- e) **Notoriety:** The Grant Recipient shall keep sufficient and appropriate records and documentation with regard to the procedure, its evaluation and award.

3 ELIGIBLE TENDERERS

- 3.1 Tenderers must provide information on their legal form and ownership structure.
- 3.2 Tenderers shall be excluded from participation in a procurement procedure if:
 - a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations. However, tenderers in this situation may be eligible to participate insofar as the Grant Recipient is able to purchase supplies on particularly advantageous terms from either a supplier which is definitively winding up its business activities, or the receivers or liquidators of a bankruptcy, through an arrangement with creditors, or through a similar procedure under national law;
 - b) they or persons having powers of representation, decision-making or control over them have been convicted of an offence concerning their professional conduct by a final judgment;
 - c) they have been guilty of grave professional misconduct; proven by any means which the Grant Recipient can justify;
 - d) they have not fulfilled obligations relating to the payment of social security contributions or taxes in accordance with the legal provisions of the country in which they are established, or with those of the country of the Grant Recipient or those of the country where the contract is to be performed;

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- e) they or persons having powers of representation, decision-making or control over them have been convicted for fraud, corruption, involvement in a criminal organisation or money laundering by a final judgment;
- f) they make use of child labour or forced labour and/or practise discrimination, and/or do not respect the right to freedom of association and the right to organise and engage in collective bargaining pursuant to the core conventions of the International Labour Organization (ILO).

3.3 Tenderers shall confirm in writing that they are not in any of the situations listed above. Even if such confirmation is given by a tenderer, the Grant Recipient shall investigate any of the situations listed above if it has reasonable grounds to doubt the contents of such confirmation.

3.4 Contracts shall not be awarded to tenderers which, during the procurement procedure:

- a) are subject to a conflict of interests;
- b) are guilty of misrepresentation in supplying the information required by the Grant Recipient as a condition of participation in the tender procedure, or fail to supply this information.

4 GENERAL PROCUREMENT RULES

4.1 The tender documents shall be drafted in accordance with best international practice. The Grant Recipient may voluntarily use the models published in the Practical Guide on the EuropeAid (EU) website.

4.2 The Grant Recipient shall take into account universal design and the potential environmental impact of any planned procurements.

4.3 All invitations to submit tenders shall state that offers will be rejected if any illegal or corrupt practises have taken place in connection with the award. All contracts concluded under the Project shall state that the Grant Recipient may terminate the contract if it finds that illegal or corrupt practises have taken place in connection with the contract award or execution.

4.4 The time-limits for receipt of tenders and requests to participate must be sufficient to allow interested parties a reasonable and appropriate period to prepare and submit their tenders.

4.5 An evaluation committee must be set up to evaluate applications and/or tenders of a value of NOK 500 000 or more on the basis of the exclusion, selection and award criteria. This committee must have an odd number of members, at least three, with all the technical and administrative capacities necessary to give an informed opinion on the tenders.

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- 4.6 For contracts with a value exceeding NOK 100 000, the Grant Recipient shall compile a written record with documentation of all assessments and decisions during all steps of the procurement process from the planning stage until the signing of the contract. Upon request by the MFA, the Grant Recipient shall deliver its written record to the MFA and grant the MFA access to all relevant information and documentation related to the procurement procedure and practices applied.

5 AWARD OF CONTRACTS

- 5.1 Contracts with a value of less than NOK 500 000 may be awarded by using any procurement procedure established by the Grant Recipient, while respecting the rules and principles laid down in Sections 1 to 4 of this Part III.
- 5.2 Contracts with a value exceeding NOK 500 000 shall be awarded by means of one of the following procurement procedures:
- a) **Open tender procedure:** In open procedures, any interested tenderer may submit a tender in response to a call for competition. The tender shall be accompanied by the information for qualitative selection as requested by the Grant Recipient.
 - b) **Restricted procedure:** In restricted procedures, any tenderer may submit a request to participate in response to a call for competition by providing the information for qualitative selection as requested by the Grant Recipient. Only those tenderers invited to do so by the Grant Recipient following its assessment of the information provided may submit a tender. The Grant Recipient may limit the number of suitable candidates to be invited to participate in the procedure.
 - c) **Competitive procedure with negotiation:** In competitive procedures with negotiation, any tenderer may submit a request to participate or a tender in response to a call for competition by providing the information for qualitative selection as requested by the Grant Recipient. Tenderers may submit an initial tender, which shall be the basis for subsequent negotiations. The minimum requirements and the award criteria shall not be subject to negotiations.
- 5.3 Where the Grant Recipient does not launch an open tender procedure, it shall justify and document in writing the choice of tenderers that are invited to submit an offer.
- 5.4 Deviations from the procedures listed in Section 5.2 are limited to the situations listed in Section 7 of this Part III.

6 PUBLICATION OF PROCUREMENT NOTICE

- 6.1 The following shall apply with respect to publication of the procurement notice:¹

¹ Definitions of different types of contracts and procedures can be found in Directive 2014/24/EU.

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- a) **Service and supply contracts from NOK 500 000 to less than NOK 2 500 000 and works contracts from NOK 500 000 to less than NOK 40 000 000**

The prior procurement notice shall be published in all appropriate media, at least in the country in which the Project will be carried out as well as on the Grant Recipient's website.

- b) **Service and supply contracts with a value of NOK 2 500 000 and above and works contracts with a value of NOK 40 000 000 and above**

The prior procurement notice shall be published in all appropriate media, in particular on the Grant Recipient's website, in the international press and the national press of the country in which the Project will be carried out, and in any other relevant specialist periodicals.

7 USE OF NEGOTIATED PROCEDURE WITHOUT PRIOR PUBLICATION

7.1 The Grant Recipient may use a negotiated procedure without prior publication in the following cases:

- a) if any of the circumstances set out in Article 32 of Directive 2014/24/EU are present;
- b) for purposes of humanitarian aid and civil protection operations or for crisis management aid in a crisis that has been formally recognised by and for the time period declared by the MFA;
- c) where the services are entrusted to public-sector or non-profit bodies and relate to activities of an institutional nature or are designed to provide assistance to people in the social field;
- d) for contracts declared to be secret, or whose performance must be accompanied by special security measures, or when the protection of the essential interests of the MFA so requires.