

# IMPLEMENTING PARTNER AGREEMENT

between the

**UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION  
(UNIDO)**

and

**[NAME OF IMPLEMENTING PARTNER]**

This Agreement comprises this cover page, a table of contents and [insert] pages of text and [insert] Annexes (Annex A through [insert capital letter]).

**[For UNIDO's internal use only: Please delete this entire paragraph prior to the signature of this Agreement:**

- All sections throughout this Agreement, which are highlighted in blue are optional, i.e. they can be included in the Agreement or be removed from it, depending on the circumstances of each case. If included, please remove the blue color.
- All sections throughout this Agreement highlighted in yellow refer to mandatory information, which must be filled in according to the specifics of each case. Once the information has been inserted in the Agreement, please remove the yellow color.
- In cases where a text highlighted in yellow is immediately followed by a section highlighted in blue, please choose to (a) insert the relevant information in the yellow section and remove the blue text or (b) use the blue text as is and remove the yellow section.]

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# IMPLEMENTING PARTNER AGREEMENT

between the

**UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION**

and

**[NAME OF IMPLEMENTING PARTNER]**

This IMPLEMENTING PARTNER AGREEMENT is entered into between the UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION, a Specialized Agency of the United Nations, having its headquarters located at Wagramer Strasse 5, A-1220 Vienna, Austria (hereinafter referred to as “UNIDO”), and **[NAME OF THE IMPLEMENTING PARTNER]**, having its principal office located at **[address]** (hereinafter referred to as the “Implementing Partner”).

**WHEREAS** “UNIDO” has been designated by **[name of the funding partner]** (hereinafter referred to as the “Funding Partner”) as a **[Implementing Agency]**;

**WHEREAS** the Funding Partner, in response to a request from the Government of **[country]** (hereinafter referred to as the “Government”), has agreed to assist the Government in carrying out the project entitled “**[title of the project]**” (hereinafter referred to as the “Project” or “Action”);

**WHEREAS** **[in accordance with the agreement concluded between UNIDO and [insert ministry] (hereinafter referred to as “[insert]”),]** UNIDO may issue grant(s) to fund the implementation of the Project/Action;

**WHEREAS** the Project/Action has been approved by UNIDO and the Funding Partner, as well as by the Government;

**WHEREAS** the Funding Partner has made available to UNIDO funds for the purpose of implementing the Project/Action;

**WHEREAS** UNIDO wishes to provide resources and support to the Implementing Partner in the context of the implementation of the Project/Action on the terms and conditions hereinafter set forth;

**WHEREAS** the Implementing Partner confirms that it is capable and accepts to carry out its responsibilities in relation to the Project/Action;

**NOW, THEREFORE**, the Implementing Partner and UNIDO (hereinafter each referred to as a “Party” and, collectively, the “Parties”) agree to enter into the following agreement (hereinafter referred to as the “Agreement”):

## ARTICLE 1 AIM OF THE AGREEMENT

1.1 The aim of this Agreement is to set forth the terms and conditions for the provision of the grant support set out herein. The purpose of the grant is to achieve the objectives of the Project/Action implemented in **[insert country]** as described in the conditions for applying and conditions for implementation of the grant,

hereinafter referred to as “Terms of Reference” (Annex (...)) and in [the Grant Proposal and] the Project Document.

1.2 In accordance with the above, UNIDO shall make available to the Implementing Partner a grant up to the maximum amount of [insert currency and value in words and numbers] (hereinafter referred to as the “Grant”) [, calculated as (...) % of the total Project cost [insert currency and value in words and numbers]]. The Grant shall be subject to the availability of funds from the Funding Partner. None of the funds provided pursuant to this Agreement may be used for any purposes other than those expressly set forth in this Agreement. The Grant shall be disbursed in accordance with the schedule of payments set out in this Agreement.

## **ARTICLE 2 AGREEMENT DOCUMENTS**

2.1 The following documents shall be deemed to form an integral part of this Agreement in the following order of precedence:

2.1.1 This Agreement;

2.1.2 Special Conditions for Implementing Partner/Grant Agreements (hereinafter referred to as “SC”) (Annex A, if applicable);

2.1.3 General Conditions for Implementing Partner/Grant Agreements (hereinafter referred to as “GC”) (Annex B/A);

2.1.4 Project Document;

2.1.5 Terms of Reference (Annex C/B);

2.1.6 Operational Guidelines (Annex D/C);

2.1.7 Bank Guarantee (Annex E/D, if applicable);

2.1.8 Grant Proposal (Annex F/E/D, if applicable).

2.2 The Project Document, although not attached hereto, shall constitute an integral part hereof.

2.3 The Agreement and all documents listed under paragraph 2.1 above shall form the entire agreement between the Implementing Partner and UNIDO, superseding all prior representations, agreements, contracts and proposals, whether written or oral, by and between the Parties, pertaining to the subject of this Agreement.

## **ARTICLE 3 ENTRY INTO FORCE AND DURATION**

3.1 The Agreement shall enter into force upon the date of the last signature by the duly authorized representatives of the Parties (hereinafter referred to as the “Effective Date”), and it shall remain in force until [date] [satisfactory fulfilment of all its terms and conditions] unless terminated earlier pursuant to the terms of the Agreement.

3.2 The Implementing Partner shall commence the implementation of the Project/Action no later than [insert] weeks after the Effective Date, and it shall complete such implementation no later than [insert date] (hereinafter referred to as the “Completion Date”).

3.3 Any extension of time over the Completion Date shall be subject to agreement by both Parties.

## ARTICLE 4 TECHNICAL AND FINANCIAL REPORTS

4.1 The Implementing Partner shall prepare:

- 4.1.1 [An inception report in consultation with UNIDO, which shall include:
  - 4.1.1.1 the work plan, [procurement plan] and budget for the project, including if deemed necessary by relevant preliminary assessments, environmental and social risk management/mitigation plans;
  - 4.1.1.2 the monitoring plan specifying reporting milestones, monitoring targets and indicators, institutional roles and responsibilities and coordinating action of project partners, project establishment and start-up activities.]<sup>1</sup>
- 4.1.2 First technical progress report and first interim financial report covering all work carried out in respect of the first reporting period [insert period], which shall be submitted no later than [day, month, year] [(...) days after the end date of the reporting period];
- 4.1.3 Second technical progress report and interim financial report covering all work carried out in respect of the second reporting period [insert period], which shall be submitted no later than [day, month, year] [(...) days after the end date of the reporting period];  
...
- 4.1.4 Final technical and financial reports covering all work performed under the Agreement, which shall be submitted no later than [day, month, year] [(...) days after the end date of the reporting period].

4.2 All requests and reports as referred to above shall be submitted to the designated UNIDO representative in [language(s)] in one electronic copy [of editable format].

4.3 Failure to submit the reports specified in this Article without due cause shall constitute a failure to fulfil a substantial obligation of this Agreement.

4.4 The Implementing Partner shall be deemed discharged from its obligation under this Agreement only upon the receipt and acceptance of the reports referred to in this Article and the return of any unspent funds in accordance with this Agreement.

## ARTICLE 5 ROLES AND RESPONSIBILITIES OF THE IMPLEMENTING PARTNER

5.1 The Implementing Partner shall maintain, until the completion of the Project/Action, a Project Management Office responsible for the implementation of all the national-level technical assistance and day-to-day Project coordination and monitoring.

5.2 The Implementing Partner shall:

- 5.2.1 have full responsibility for ensuring that the activities are implemented in accordance with the Agreement;
- 5.2.2 be responsible for providing the necessary accounting documents;
- 5.2.3 be responsible for providing all documents and information to UNIDO which may be required under the relevant payment requests;
- 5.2.4 make the arrangements for providing the financial status documentation and financial guarantee, when requested;
- 5.2.5 ensure professional management of the activities, including performance monitoring and reporting activities.

## ARTICLE 6 SCHEDULE OF PAYMENTS

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<sup>1</sup> Paragraph 4.1 shall be included in the Agreement provided that a grant proposal has not been submitted.

- 6.1 UNIDO shall disburse the Grant in accordance with the following schedule of payments. Each payment (except any advance) shall be subject to submission by the Implementing Partner of appropriate requests for payment as well as technical and financial reports, and UNIDO's review and approval thereof, as follows:
- 6.1.1 [advance payment upon UNIDO's receipt of the countersigned Agreement in the sum of [insert currency and amount];
  - 6.1.2 [advance payment upon UNIDO's receipt and acceptance of the inception report referred to in Article 4 of this Agreement in the sum of [insert currency and amount];
  - 6.1.3 progress payments for the subsequent periods will be determined by UNIDO upon review and approval of the technical and financial reports;
  - 6.1.4 final payment upon review and approval of the final technical and financial reports.
- 6.2 Each payment shall be made by UNIDO against receipt from the Implementing Partner of a written request for payment as well as the invoice(s) for the approved amount.
- 6.3 Progress and final requests for payment shall include the technical and financial reports for the reporting period for which the payment has been requested.
- 6.4 Any income earned on funds transferred by UNIDO to the Implementing Partner shall be returned to UNIDO, unless otherwise stipulated by the Parties in the Terms of Reference, in which case the income earned may be reallocated to the Project/Action pursuant to the terms and conditions set out in the Terms of Reference. The Implementing Partner shall maintain a record of any such income and report it to UNIDO within periodic financial reports.

## ARTICLE 7 DESIGNATED REPRESENTATIVES

- 7.1 The representatives designated by the Parties in the Agreement (hereinafter referred to as "Designated Representatives") may take any action and execute any document required or permitted pursuant to the Agreement on behalf of the Parties.
- 7.2 Official communications in relation to the Agreement shall be in [language(s)]. The Parties hereby assign the following persons as their Designated Representatives:

### UNIDO:

[Mr/ Ms Authorized Official]

[Title]

[Procurement Services Division]

UNIDO

[Wagramer Strasse 5]

A-1220 Vienna

Austria]

Tel.: +43 1 26026 Ext. [extension]

Email: [email]

### IMPLEMENTING PARTNER:

[Mr/ Ms name]

[Title]

[Address]

[Organizational unit]

Tel.: [telephone]

Email: [telephone]

**IN WITNESS WHEREOF**, the undersigned, duly appointed representatives of UNIDO and of the Implementing Partner, have on behalf of UNIDO and the Implementing Partner, respectively, signed the present Agreement on the dates indicated below their respective signatures.

For and on behalf of  
**UNITED NATIONS INDUSTRIAL  
DEVELOPMENT ORGANIZATION**

For and on behalf of  
**[IMPLEMENTING PARTNER]**

By.....

By.....

[name]  
[title]  
[Procurement Services Division]  
[Directorate of Corporate Services and Operations]  
[Wagramer Strasse 5  
A-1220 Vienna  
Austria]

[name]  
[title]  
[address]

Date.....

Date.....

## **ANNEX A – SPECIAL CONDITIONS FOR IMPLEMENTING PARTNER/GRANT AGREEMENTS**

The following Special Conditions for Implementing Partner/Grant Agreements (SC) shall amend, supplement, revoke or replace the relevant provisions of the General Conditions for Implementing Partner/Grant Agreements (GC). In the event of any conflict or inconsistency, the provisions herein shall prevail over those in the GC.

|   | <b>GC</b>     | <b>Modifying/Supplementing Provision</b>  |
|---|---------------|---|
| 1 | Article [...] | Article [...] of GC is amended as follows: [...]  |
| 2 | Article [...] | The following provision supplements Article [...] of GC: [...]                            |
| 3 | Article [...] | Article [...] of GC shall not be applicable to this Implementing Partner/Grant Agreement. |
| 4 | Article [...] | The following provision shall replace Article [...] of GC: [...]                          |

## **GENERAL CONDITIONS IMPLEMENTING PARTNER/GRANT AGREEMENTS**

In these General Conditions for Implementing Partner/Grant Agreements (hereinafter referred to as “GC”), the United Nations Industrial Development Organization (UNIDO) and the Implementing Partner/Grant Beneficiary shall each be referred to as a “Party” and collectively as “Parties”. Words and abbreviations that are not specifically defined or explained, but which have commonly known technical, financial or legal meanings, shall be used herein in accordance with such recognized meanings. References in the GC to the Agreement are to the Agreement concluded between the Parties in respect of which these GC constitute an integral part.

### **1. LEGAL STATUS OF THE PARTIES**

- 1.1 Pursuant, *inter alia*, to the Constitution of UNIDO and the Conventions on the Privileges and Immunities of the United Nations and the Specialized Agencies, UNIDO has full juridical personality and enjoys such privileges and immunities as are necessary for the independent fulfillment of its mandate.
- 1.2 For the purposes of the Agreement, the Implementing Partner/Grant Beneficiary shall have the legal status of an independent contractor, and nothing contained in or relating to the Agreement shall be construed as establishing or creating between the Parties the relationship of employer and employee or of principal and agent. Neither the Implementing Partner/Grant Beneficiary, nor any of its parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), personnel, contractors or sub-contractors shall be considered in any respect to be an official, staff member, employee or agent of UNIDO, nor shall they be entitled to any compensation or reimbursements from UNIDO, nor be authorized to commit UNIDO to any expenditure or other obligation not explicitly provided for herein.
- 1.3 The Implementing Partner/Grant Beneficiary shall immediately report any change in its legal status to UNIDO.

### **2. LIABILITY AND GENERAL OBLIGATIONS OF IMPLEMENTING PARTNERS/GRANT BENEFICIARIES**

- 2.1 The Implementing Partner/Grant Beneficiary shall:
  - 2.1.1 be responsible for complying with any legal obligations incumbent on it;
  - 2.1.2 carry out all activities for which it is responsible under the Agreement with due diligence and efficiency;
  - 2.1.3 make good any damage sustained by UNIDO as a result of the Implementing Partner/Grant Beneficiary’s faulty implementation of the Project/Action.
- 2.2 UNIDO shall not, under any circumstances or any grounds, be held liable in the event of a claim under the Agreement relating to any damage caused during the Project/Action implementation.
- 2.3 Subject to the express terms of the Agreement, it is understood that the Implementing Partner/Grant Beneficiary shall have control over the administration of funds received from UNIDO and of the implementation of the Project/Action pursuant to the Agreement and that UNIDO shall not interfere in the exercise of such control. Unless the Parties agree otherwise, the Implementing Partner/Grant Beneficiary shall not assign its roles and responsibilities under the Agreement to any third party. In any case, both the quality of the Implementing Partner/Grant Beneficiary’s work and the progress being made toward successfully achieving the goals of such activities shall be subject to review by UNIDO. If at any time UNIDO is not satisfied with the quality of work or the progress being made toward achieving such goals, UNIDO may in its discretion (i) withhold payment of funds until in its opinion the situation has been corrected; or (ii) declare the Agreement terminated by written notice to the Implementing Partner/Grant Beneficiary; and/or (iii) seek any other remedy as may be necessary. UNIDO’s determination as to the quality of work being performed and the progress being made toward such goals shall be final and shall be binding and conclusive upon the Implementing Partner/Grant Beneficiary insofar as further payments by UNIDO are concerned.
- 2.4 UNIDO undertakes no responsibilities in respect of any claim for death, bodily injury, disability, damaged property or other hazards that may be suffered by the Implementing Partner/Grant Beneficiary, its parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), personnel, contractors or sub-contractors, as a result of their work pertaining to the Project/Action. Such responsibilities shall be borne by the Implementing Partner/Grant Beneficiary.

- 2.5 The rights and obligations of the Implementing Partner/Grant Beneficiary are limited to the terms and conditions of the Agreement. Accordingly, the Implementing Partner/Grant Beneficiary and personnel performing services on its behalf shall not be entitled to any benefit, payment, compensation or entitlement except as expressly provided in the Agreement.

### **3. INDEMNITY AND INSURANCE**

- 3.1 The Implementing Partner/Grant Beneficiary shall indemnify, hold and save harmless and defend, at its own expense, UNIDO, its officials, agents and employees, from and against all suits, claims, demands and liability of any nature or kind, including their costs and expenses, arising out of or relating to the acts or omissions of the Implementing Partner/Grant Beneficiary, its parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), personnel, contractors or sub-contractors in the performance of their duties under the Agreement.
- 3.2 This provision shall extend to claims and liability in the nature of workmen's compensation and product liability.
- 3.3 The Implementing Partner/Grant Beneficiary shall also hold harmless and fully indemnify UNIDO from and against all claims and proceedings for infringement of a third party's intellectual property rights, including, without limitation, copyright, trademark, and patent rights, resulting from the Implementing Partner/Grant Beneficiary's performance.
- 3.4 The Implementing Partner/Grant Beneficiary shall ensure that appropriate types of insurance (including, without limitation, medical and life insurance, and workers' compensation for service-incurred illness, injury, disability or death), at adequate levels, coverage, and scope as customary in the beneficiary country/ies (or, with respect to expatriate nationals, customary in the home country of such nationals), are maintained continuously throughout the duration of the Agreement.
- 3.5 The Implementing Partner/Grant Beneficiary shall ensure that adequate provision is made for the insurance of any goods, machinery or equipment required for the Project/Action financed from the Grant. The insurance shall cover, at a minimum, against hazards incident to acquisition, transport and delivery to the place of use or installation. Any indemnity for such insurance shall be payable in a freely convertible currency to replace or repair such goods, machinery or equipment.

### **4. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS**

- 4.1 Unless otherwise specified in the Agreement, assets and property procured with funds paid by UNIDO pursuant to the Agreement shall be the property of the Implementing Partner/Grant Beneficiary. The Implementing Partner/Grant Beneficiary shall have title in said property or asset and make use of it for purposes of implementing the Project/Action in accordance with the terms of the Agreement. Title to such property may be transferred to the Project/Action beneficiary pursuant to the terms of the Agreement during the implementation of the Project/Action, or once the Project/Action has been completed or the Agreement has been terminated or expired. Until the transfer of the title, such property shall not be pledged or otherwise subject to lien or claim by or for the benefit of a third party.
- 4.2 Each Party shall retain full and sole ownership of its preexisting copyright, trademark, patent and other intellectual proprietary rights. Unless otherwise stipulated in the Agreement, rights to intellectual property, including but not limited to maps, drawings, photographs, mosaics, plans, manuscripts, records, reports, recommendations, estimates, documents, images, sounds, software and other materials, except pre-existing materials, publicly or privately owned, collected, created, developed or prepared by the Implementing Partner/Grant Beneficiary as a consequence of or in the course of the performance of this Project/Action (such intellectual property being "Implementing Partner/Grant Beneficiary Project/Action-developed IPR"), shall become the property of the Implementing Partner/Grant Beneficiary. The Implementing Partner/Grant Beneficiary herewith grants UNIDO a perpetual, non-revocable, paid-up, royalty-free, non-exclusive and transferable license to copy, distribute and use any such Implementing Partner/Grant Beneficiary Project/Action-developed IPR and undertakes to take appropriate steps as may be required to allow UNIDO to obtain and secure such license.

### **5. USE OF NAME, LOGO, EMBLEM OR OFFICIAL SEAL OF THE UNITED NATIONS OR UNIDO**

- 5.1 Unless otherwise agreed between the Parties, the Implementing Partner/Grant Beneficiary shall not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a

contractual relationship with UNIDO, nor shall the Implementing Partner/Grant Beneficiary in any manner whatsoever use the name, emblem or official seal of the United Nations or UNIDO, or any abbreviation of the name of the United Nations or UNIDO, in connection with its business or otherwise without the prior written permission of UNIDO.

## **6. CONFIDENTIALITY**

- 6.1 The Parties undertake to preserve the confidentiality of any document, information or other material directly related to the Project/Action that is deemed or classified as confidential, where disclosure could cause prejudice to the other Party.
- 6.2 Unless otherwise authorized in writing by UNIDO, the Implementing Partner/Grant Beneficiary shall use confidential information only in the performance of the Agreement.
- 6.3 No Party may disclose confidential information to a third party without the prior written consent of the other Party.

## **7. PROTECTION OF PERSONAL DATA**

- 7.1 The Implementing Partner/Grant Beneficiary shall ensure an appropriate protection of personal data in accordance with its applicable rules and procedures.
- 7.2 For the purpose of the Agreement, personal data means any information, which relates to a living individual who can be identified or is identifiable, directly or indirectly. It includes information such as identification numbers, location data and online identifiers as well as reversibly anonymized (pseudonymized) data.
- 7.3 Personal data collected, processed and used for the purposes of the Agreement shall be: processed lawfully, fairly and in a transparent manner in relation to the data subject; collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed; accurate and, where necessary, kept up to date; kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; and processed in a manner that ensures appropriate security of the personal data.
- 7.4 The Implementing Partner/Grant Beneficiary undertakes to cooperate with UNIDO for the purposes of implementation of UNIDO's policy on protection of personal data, in particular to satisfy the rights of data subjects and the management of personal data breaches.

## **8. GRANT**

- 8.1 The Grant shall, at all times, be subject to the terms of the Agreement, and it shall be used exclusively for the implementation of the activities under the Project/Action in accordance with the Agreement. The Implementing Partner/Grant Beneficiary shall exercise the same degree of care and diligence in the administration and use of resources from the Grant as it exercises in respect of its own resources.
- 8.2 UNIDO's financial obligations in connection with the Agreement shall be limited to the amount of the Grant. No further payment shall be made if the aggregate amount requested for payment under the Agreement exceeds the Grant. The Implementing Partner/Grant Beneficiary shall bear the risk of any funding shortfall, and UNIDO shall not have any liability whatsoever to the Implementing Partner/Grant Beneficiary or any third party in respect of expenditures or liabilities that exceed the Grant.
- 8.3 The Grant shall be paid in accordance with the provisions of the Agreement.

## **9. ELIGIBILITY OF COSTS**

- 9.1 The Implementing Partner/Grant Beneficiary shall be reimbursed for costs incurred in carrying out the purposes of the Agreement, which are determined by UNIDO to be eligible in accordance with the terms of the Agreement.
- 9.2 Costs shall be considered eligible if they meet the following criteria:
  - 9.2.1 they are directly attributable to the activities under the Project/Action, arise as a direct consequence of their implementation and are charged in proportion to their actual use;
  - 9.2.2 they are not prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations;

- 9.2.3 they are necessary for carrying out the activities under the Project/Action, and comply with the principles of sound financial management, in particular economy, efficiency and effectiveness;
  - 9.2.4 they have been incurred during the implementation period of the Project/Action and in accordance with the Agreement, with the exception of agreed-upon costs related to the final report and the final audit, as well as other costs related to the closure of the Project/Action which may be incurred after the Completion Date;
  - 9.2.5 they are recorded in the Implementing Partner/Grant Beneficiary's accounts, and are identifiable, as well as supported by original documentary evidence, and verifiable;
  - 9.2.6 they comply with the applicable tax and social security legislation, if any, as applicable to the Implementing Partner/Grant Beneficiary.
- 9.3 Eligible costs may also be declared by using any or a combination of unit costs and lump sums.

## **10. TAX EXEMPTION**

- 10.1 In accordance with Section 7 of the Convention on the Privileges and Immunities of the United Nations and Section 9 of the Convention on the Privileges and Immunities of Specialized Agencies, which are applicable to UNIDO by virtue of Article 21 of its Constitution, UNIDO is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. The Implementing Partner/Grant Beneficiary shall collaborate with UNIDO on a best effort basis in order to achieve tax exemption in the relevant country. In the event any governmental authority refuses to recognize the exemption of UNIDO from such taxes, restrictions, duties or charges, the Implementing Partner/Grant Beneficiary shall immediately consult with UNIDO to determine a mutually acceptable procedure.
- 10.2 Accordingly, the Implementing Partner/Grant Beneficiary authorizes UNIDO to deduct from the Implementing Partner/Grant Beneficiary's invoice any amount representing such taxes, duties or charges, unless the Implementing Partner/Grant Beneficiary has consulted with UNIDO before the payment thereof and UNIDO has, in each instance, specifically authorized the Implementing Partner/Grant Beneficiary to pay such taxes, duties or charges under written protest. In that event, the Implementing Partner/Grant Beneficiary shall provide UNIDO with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.
- 10.3 UNIDO is exempted from Value Added Tax (VAT) in the territory of the European Union (EU) in accordance with EU Directive 2006/112/EC, Article 151 (1) (b), as amended by EU Council Directive 2009/162/EU. Implementing Partners/Grant Beneficiaries located in EU countries shall not include VAT in the invoices to UNIDO. VAT shall not be paid by UNIDO to EU Implementing Partners//Grant Beneficiaries. Only Implementing Partners/Grant Beneficiaries located in Austria shall be paid the net amount plus VAT. Implementing Partners/Grant Beneficiaries should refer on the invoice to the above EU Directive or to the relevant VAT law applicable in the Implementing Partner/Grant Beneficiary's country.
- 10.4 UNIDO shall provide a letter of exemption only upon request.

## **11. AUDITS AND INVESTIGATIONS**

- 11.1 The Implementing Partner/Grant Beneficiary undertakes to provide any detailed information requested by UNIDO to verify that the activities under, and the provisions of, the Agreement are being properly implemented.
- 11.2 The Implementing Partner/Grant Beneficiary shall maintain all financial records, supporting documents, statistical records and all other records pertinent to the Agreement in accordance with generally accepted and internationally recognized accounting principles, and acceptable to UNIDO and UNIDO's Funding Partner(s), to ensure that the accounts give a true and fair view, the control systems in place function properly, and the operations, resources and expenditures related to the Project/Action are in accordance with the Agreement.
- 11.3 The Implementing Partner/Grant Beneficiary shall furnish, compile and make available at all times to UNIDO any records or information, oral or written, which UNIDO may reasonably request in respect of the funds received by the Implementing Partner/Grant Beneficiary.
- 11.4 Unless otherwise notified, the Implementing Partner/Grant Beneficiary shall keep and maintain accurate and systematic accounts and records related to the Agreement for a period of seven (7) years following the expiration or prior termination of the Agreement.
- 11.5 UNIDO shall have the right to conduct reviews and checks of the Project/Action, or otherwise ensure adequate accountability of organizations expending UNIDO funds. To this end, the Implementing

Partner/Grant Beneficiary shall enable representatives of, or officials authorized by, UNIDO or the Funding Partner to review procurement and project progress monitoring procedures, and the accounting and internal control systems and procedures, as well as to visit the project site(s), to inspect property and to review financial and other records related to the Project/Action.

## 12. REFUNDS

- 12.1 Until expiration of the period set out in paragraph 11.4, UNIDO reserves the right to require a refund by the Implementing Partner/Grant Beneficiary of any amount which the Implementing Partner/Grant Beneficiary did not spend in accordance with the terms and conditions of the Agreement, which shall include without limitation: (i) payment for an expenditure that is not an eligible expenditure; or (ii) engaging in practices that amount to fraud and corruption, mis-procurement, or involve making a material misrepresentation in connection with the use of such amount.
- 12.2 In the event that a final audit has not been performed prior to the expiration or termination of the Agreement, UNIDO retains the right to a refund until all claims which may result from the final audit have been resolved between the Parties.
- 12.3 The Implementing Partner/Grant Beneficiary acknowledges that UNIDO and its representatives have made no actual or implied promise of funding except for the amounts specified in the Agreement. If any of the funds are returned to UNIDO or if the Agreement is rescinded, the Implementing Partner/Grant Beneficiary acknowledges that UNIDO will have no further obligation to the Implementing Partner/Grant Beneficiary as a result of such return or rescission.

## 13. PROCUREMENT

- 13.1 Where implementation of the Project/Action requires the award of procurement contracts, the Implementing Partner/Grant Beneficiary shall maintain a written code or standards of conduct that shall govern the performance of its employees engaged in the awarding and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by UNIDO's funds if a real or apparent conflict of interest would be involved. Such conflict would arise when the employee, officer or agent, or any member of the employee's immediate family, the employee's partner, or an organization which employs or is about to employ any of the persons indicated herein, has a financial or other interest in the entity selected for an award. The officers, employees, and agents of the Implementing Partner/Grant Beneficiary shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to sub-agreements. However, the Implementing Partner/Grant Beneficiary may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Implementing Partner/Grant Beneficiary.
- 13.2 The Implementing Partner/Grant Beneficiary shall establish written procurement procedures (hereinafter referred to as "Procurement Plan") for procurement of goods, works and services for the Project/Action in accordance with templates provided by UNIDO.
- 13.3 The Procurement Plan shall specify the circumstances under which various types of competition and procurement methods may be used.
- 13.4 Procurement actions by the Implementing Partner/Grant Beneficiary shall be guided by the following principles:
  - 13.4.1 Best value for money in selecting bids, which present the optimum combination of factors such as appropriate quality, life-cycle costs and other parameters, that can include social, environmental or other strategic objectives which meet the end-user needs;
  - 13.4.2 Economy and effectiveness in providing an appropriate procurement solution to the Project/Action needs with regard to quantity, quality and timeliness at the right price;
  - 13.4.3 Conducting procurement in a fair and transparent manner, protecting the integrity of the procurement process, on the basis of clear and appropriate regulations, rules and procedures that are applied consistently to all potential bidders;
  - 13.4.4 Promoting effective competition by giving all eligible bidders the same information and equal opportunity to compete in providing goods, works, and services. The Implementing Partner/Grant Beneficiary shall ensure that relevant information is provided to all bidders on a timely and equal basis;

13.4.5 Contracts for the procurement of goods, works and services for the Project/Action financed from the Grant may be subject to UNIDO's review prior to their conclusion, if so specified in the Procurement Plan.

## **14. ESSENTIAL TERMS**

14.1 The Implementing Partner/Grant Beneficiary acknowledges and agrees that each of the provisions in Articles 15 "Conflict of Interest/Officials not to Benefit", 16 "Fraud and Corruption", 17 "Observance of the Law", 18 "Standards of Labor, Forced Labor and Human Trafficking", 19 "Child Labor", 20 "Mines, Bombs and other Weapons", 21 "Prevention of Harassment, Sexual Harassment, Sexual Exploitation and Sexual Abuse", 22 "Terrorism" and 23 "Money Laundering" constitutes an essential term of the Agreement and that any breach of any of these provisions shall entitle UNIDO, at its discretion, to withhold further payment and/or to terminate the Agreement immediately upon notice to the Implementing Partner/Grant Beneficiary, without any liability for termination charges or any other liability of any kind.

## **15. CONFLICT OF INTEREST/OFFICIALS NOT TO BENEFIT**

15.1 The Implementing Partner/Grant Beneficiary shall disclose to UNIDO any situation that may appear as a conflict of interest, and it shall disclose to UNIDO if any UNIDO official or professional under contract with UNIDO may have an interest of any kind in the Implementing Partner/Grant Beneficiary's business or any kind of economic ties with the Implementing Partner/Grant Beneficiary. A conflict of interest is a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations, and that such conflict of interest may contribute to or constitute a fraud and corruption under these GC.

15.2 The Implementing Partner/Grant Beneficiary warrants that it has not and shall not offer to any representative, official, employee, or other agent of UNIDO any direct or indirect benefit arising from or related to the award or performance of the Agreement or of any other contract/agreement with UNIDO, or for any other purpose intended to gain an advantage for the Implementing Partner/Grant Beneficiary. The Implementing Partner/Grant Beneficiary agrees that breach of this provision may lead, at UNIDO's sole discretion, to the annulment of the Agreement irrespective of any work performed. The annulment shall exclude any right of the Implementing Partner/Grant Beneficiary to claim any payment, even for work already performed. All delivered goods, whether used or not, will be returned at the Implementing Partner/Grant Beneficiary's expense. The annulment will be without prejudice to any further remedies that UNIDO may be entitled to under the Agreement or at law, with particular reference to refund of payments already made, claims for damages and losses occurred, and fraud and corruption. The Implementing Partner/Grant Beneficiary shall take all reasonable measures to ensure that the provisions under this Article shall also apply with respect to the Implementing Partner/Grant Beneficiary's parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), its personnel, contractors or sub-contractors.

## **16. FRAUD AND CORRUPTION**

16.1 Fraud and corruption are strictly prohibited. For the purpose of the Agreement, "fraud and corruption" encompasses corrupt, fraudulent, collusive, coercive, or obstructive practices, which are defined as follows:

16.1.1 "Corrupt practice" means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value, whether tangible or intangible, to improperly influence the actions of another party, including but not limited to extortion, fraud, and bribery;

16.1.2 "Fraudulent practice" means any act or omission, including misrepresentation, which knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial and/or other benefit and/or to avoid an obligation;

16.1.3 "Collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

16.1.4 "Coercive practice" means any act impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of the party;

16.1.5 “Obstructive practice” means acts or omissions intended to materially impede the exercise of contractual rights of audit, investigation and access to information, including destruction, falsification, alteration or concealment of evidence material to an investigation into allegations of fraud and corruption.

16.2 The Implementing Partner/Grant Beneficiary, its parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), its personnel, contractors or sub-contractors, shall observe the highest standard of moral and ethical conduct and shall respect the local laws. The Implementing Partner/Grant Beneficiary shall report to UNIDO any credible acts of fraud and corruption arising from or relating to the Agreement without delay.

16.3 UNIDO, without prejudice to any other rights or remedies it may possess, may terminate the Agreement forthwith if the Implementing Partner/Grant Beneficiary, in the judgment of UNIDO, has engaged in fraud and corruption during the selection process or in negotiating or executing the Agreement.

## **17. OBSERVANCE OF THE LAW**

17.1 The Implementing Partner/Grant Beneficiary shall comply with all relevant and applicable laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the Agreement, including, but not limited to, laws, ordinances, rules, and regulations relating to health, the environment, human rights and labor, and it shall take all reasonable measures to ensure the same from its parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), its personnel, contractors or sub-contractors.

## **18. STANDARDS OF LABOR, FORCED LABOR AND HUMAN TRAFFICKING**

18.1 The Implementing Partner/Grant Beneficiary shall comply with all applicable laws concerning terms of employment and conditions of work, and any collective agreements to which it is party.

18.2 The Implementing Partner/Grant Beneficiary shall not restrict its personnel from freely organizing or associating, and shall provide for equal opportunity and treatment in respect of employment without discrimination on grounds of race, color, gender or gender identity, sexual orientation, religion, political opinion, national origin, legal status, economic status, social origin or disability status. The Implementing Partner/Grant Beneficiary shall take all appropriate measures to ensure that workplaces are safe and without risk to health, including with respect to chemical, physical and biological substances and agents under the Implementing Partner/Grant Beneficiary’s control. The Implementing Partner/Grant Beneficiary shall promote “fair labor recruitment” in its supply chain, as defined in the ILO General Principles and Operational Guidance for Fair Labor Recruitment.

18.3 The Implementing Partner/Grant Beneficiary shall not engage, directly or indirectly, including in its supply chain and operations, in “Forced Labor,” i.e., by exacting work or service from any person under the threat of a penalty, indebtedness, or for which the person has not otherwise offered personal services voluntarily.

18.4 The Implementing Partner/Grant Beneficiary shall not engage, directly or indirectly, including in its supply chain and operations, in “Trafficking in Persons,” i.e., by recruiting, transporting, transferring, harboring or receiving persons by threat or use of force or other forms of coercion, abduction, fraud, deception, or abuse of power.

18.5 Whenever the Implementing Partner/Grant Beneficiary becomes aware that Forced Labor or Trafficking in Persons is or is likely occurring in the Implementing Partner/Grant Beneficiary’s operations, including in its supply chain, the Implementing Partner/Grant Beneficiary shall, as soon as reasonably practicable, notify UNIDO and take all reasonable action to address or remove these occurrences, including where relevant, by addressing any practices of other entities in its supply chain.

18.6 If the Implementing Partner/Grant Beneficiary’s actions are materially inconsistent with the requirements of this Article 18, UNIDO shall, unless in the reasonable opinion of UNIDO, the inconsistency is incapable of being remedied, notify the Implementing Partner/Grant Beneficiary of such inconsistency, and the Implementing Partner/Grant Beneficiary shall have 30 (thirty) calendar days to provide evidence that it has taken effective steps to remedy such inconsistency. In cases in which UNIDO has determined that the inconsistency cannot be remedied, or in cases in which the Implementing Partner/Grant Beneficiary fails to so respond, UNIDO shall have the right to terminate the Agreement or any other contract/agreement with UNIDO immediately upon notice to the

Implementing Partner/Grant Beneficiary, without any liability for termination charges or any other liability of any kind.

## **19. CHILD LABOR**

19.1 The Implementing Partner/Grant Beneficiary represents and warrants that neither it, its parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), its personnel, contractors or sub-contractors, is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be exploitative, hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. Children under the age of eighteen (18) shall not be employed in hazardous work.

## **20. MINES, BOMBS AND OTHER WEAPONS**

20.1 The Implementing Partner/Grant Beneficiary represents and warrants that neither it, its parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), its personnel, contractors or sub-contractors, is engaged in the sale or manufacture of anti-personnel mines or components utilized in the manufacture of anti-personnel mines, cluster bombs, and other weapons and ammunitions.

## **21. PREVENTION OF HARASSMENT, SEXUAL HARASSMENT, SEXUAL EXPLOITATION AND SEXUAL ABUSE**

21.1 The Implementing Partner/Grant Beneficiary, its parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), its personnel, contractors or sub-contractors, shall take all appropriate measures to prevent sexual exploitation or abuse and all forms of harassment, including sexual harassment, of anyone by its employees or any other persons engaged and controlled by the Implementing Partner/Grant Beneficiary under the Agreement. UNIDO expects the Implementing Partner/Grant Beneficiary to have zero tolerance for any action which constitutes harassment, sexual harassment, sexual exploitation or sexual abuse.

21.1.1 "Harassment" means any form of treatment or behavior by an individual or group of individuals in the workplace or in connection with work, which can reasonably be seen as creating a demeaning, intimidating, hostile or abusive working environment.

21.1.2 "Sexual harassment" means any conduct or behavior of a sexual nature in the workplace or in connection with work, which is unwelcome and offensive and which can reasonably be seen as creating an offensive, intimidating, hostile or humiliating working environment. Sexual harassment may occur between persons of the opposite sex or the same sex. It may be a single incident or a series of events.

21.1.3 "Sexual exploitation" means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

21.1.4 "Sexual abuse" means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

21.2 Sexual activity with children (persons under the age of eighteen), regardless of the age of majority or age of consent locally, and irrespective of a mistaken belief regarding the age of a child, will constitute sexual exploitation and/or abuse of such person. UNIDO shall not apply the foregoing standard relating to age in any case in which the Implementing Partner/Grant Beneficiary's personnel or any other person who may be engaged by the Implementing Partner/Grant Beneficiary to implement the Project/Action under the Agreement is married to the person less than the age of eighteen years with whom sexual activity has occurred and in which such marriage is recognized as valid under the laws of the country of citizenship of such Implementing Partner/Grant Beneficiary's personnel or such other person who may be engaged by the Implementing Partner/Grant Beneficiary to implement the Project/Action under the Agreement.

21.3 The Implementing Partner/Grant Beneficiary shall inform UNIDO as soon as it becomes aware of any credible incident or report alleging harassment, sexual harassment, sexual exploitation or sexual abuse by any person engaged in the context of the activities under the Agreement including parent

entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), personnel, contractors or sub-contractors.

## **22. TERRORISM**

- 22.1 The financing of terrorism is strictly prohibited. The Implementing Partner/Grant Beneficiary agrees to undertake all reasonable efforts to ensure that none of the funds received from UNIDO under the Agreement are used, directly or indirectly, to finance or provide support or assistance to individuals or entities that are (i) associated with terrorism, as included in the list maintained by the United Nations Security Council Committee established pursuant to Resolutions 1267 (1999), 1989 (2011) and 2253 (2015); or (ii) the subject of sanctions or other enforcement measures pursuant to sanctions regimes established by the United Nations Security Council. Information concerning Security Council sanctions can be accessed via <https://www.un.org/securitycouncil/>.
- 22.2 The Implementing Partner/Grant Beneficiary shall inform UNIDO without delay of any credible allegations that funds received from UNIDO under the Agreement have been used in contravention of this Article. The terms of this Article must be included in all contracts and agreements entered into with parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), personnel, contractors or sub-contractors for the implementation of the activities under the Agreement.

## **23. MONEY LAUNDERING**

- 23.1 Money laundering in all its forms is strictly prohibited. The Implementing Partner/Grant Beneficiary agrees to undertake all reasonable efforts to ensure that none of the funds received from UNIDO under the Agreement are used, directly or indirectly, to finance or provide support or assistance to individuals or entities associated with money laundering. The Implementing Partner/Grant Beneficiary shall inform UNIDO without delay of any credible allegations that funds received from UNIDO under the Agreement have been used in contravention of this Article. The terms of this Article must be included in all contracts and agreements entered into with parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), personnel, contractors or sub-contractors for the implementation of the activities under the Agreement.
- 23.2 For the purpose of the Agreement, “money laundering” refers to the following criminal offences when committed intentionally, as set forth in article 6 of the United Nations Convention against Transnational Organized Crime:
- 23.2.1 the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her actions;
- 23.2.2 the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing such property is the proceeds of crime;
- 23.2.3 the acquisition, possession or use of property, knowing at the time of receipt that such property is the proceeds of crime; or
- 23.2.4 the participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this Article.

## **24. ENVIRONMENTAL AND SOCIAL SAFEGUARDS**

- 24.1 The Implementing Partner/Grant Beneficiary, its parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), personnel, contractors or sub-contractors, shall place priority on environmental and social sustainability. In doing so and if specified in the Terms of Reference, the Implementing Partner/Grant Beneficiary shall implement the Agreement in line with the applicable UNIDO environmental and social safeguards policies and procedures and in compliance with relevant international and national legislation. A precautionary approach shall be applied, and potential adverse impacts and risks need to be avoided or minimized if possible, mitigated if not, and offset, as appropriate.

## **25. NON-DISCRIMINATION**

25.1 The Implementing Partner/Grant Beneficiary shall take all appropriate measures to ensure that neither it, its parent entities (if any), subsidiary or affiliated entities (if any), co-implementing entities (if any), personnel, contractors or sub-contractors, is engaged in any employment practices, including those relating to recruitment, promotion, training, remuneration and benefits, which discriminate on the basis of gender, religion, disability, ethnicity or national origin.

## 26. SUSPENSION

- 26.1 If UNIDO considers that the Implementing Partner/Grant Beneficiary is not performing its responsibilities under the Agreement, UNIDO may suspend, in whole or in part, the activities under the Agreement in order to renegotiate and/or propose necessary amendments to the Agreement or corrective actions to redress such failure. When UNIDO suspends, in whole or in part, the activities under the Agreement, it must give written notice to the Implementing Partner/Grant Beneficiary, detailing the reasons for the suspension and the conditions required to reinstate those activities.
- 26.2 The suspension shall become effective on the date the Implementing Partner/Grant Beneficiary receives the notification. Upon receipt of the suspension notice, the Implementing Partner/Grant Beneficiary shall not incur any costs relating to the activities under the Agreement that have been suspended.
- 26.3 The suspended activities under the Agreement can be resumed once UNIDO and the Implementing Partner/Grant Beneficiary have agreed on the terms of the continuation (including any extension of duration of the activities under the Agreement). Any such agreement shall be in the form of a written amendment to the Agreement, pursuant to Article 29 of these GC.
- 26.4 UNIDO may also suspend the Agreement, or portion thereof, with immediate effect upon receipt of UNIDO's written notice, where the Implementing Partner/Grant Beneficiary or its affiliate may be found to be the subject of an exclusion determination pursuant to the UNIDO policy on exclusion from funding.
- 26.5 Any portion of the Agreement not suspended shall remain in full effect.
- 26.6 UNIDO shall not be responsible for any loss of whatever nature caused by or resulting from a suspension under the Agreement.

## 27. FORCE MAJEURE

- 27.1 *Force majeure* as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, or any other acts of a similar nature or force, provided that such acts arise from causes beyond the control and without the fault or negligence of either Party and which neither Party is able to overcome.
- 27.2 In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the affected Party shall give notice and full particulars in writing to the other Party of such occurrence or cause if the affected Party is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Agreement.
- 27.3 The Parties shall consult on the appropriate action to be taken, which may include suspension of the Agreement by UNIDO or termination of the Agreement, with either Party giving to the other at least one (1) month's written notice of such termination. Any additional costs incurred by the Implementing Partner/Grant Beneficiary in relation to *force majeure* events shall be limited to the Grant specified in the Agreement.

## 28. TERMINATION

- 28.1 UNIDO may terminate the Agreement at any time, in whole or in part, upon fourteen (14) calendar days' written notice to the Implementing Partner/Grant Beneficiary, whenever UNIDO has determined that the Implementing Partner/Grant Beneficiary has failed to fulfil a substantial obligation incumbent on it under the terms and conditions of the Agreement, or where sufficient funds have not been made available to UNIDO by its Funding Partner(s).
- 28.2 The Agreement may be terminated at any time, in whole or in part, by UNIDO with the consent of the Implementing Partner/Grant Beneficiary. Both Parties shall agree upon termination conditions, including the effective date and, in the case of partial terminations, the portion of the Agreement to be terminated. The agreement to terminate shall be set forth in a letter from UNIDO to the Implementing Partner/Grant Beneficiary.

- 28.3 UNIDO may terminate the Agreement or portion thereof with immediate effect upon written notice to the Implementing Partner/Grant Beneficiary if UNIDO determines there has been a breach of any of the provisions defined as “Essential Terms” under these GC, or if the Implementing Partner/Grant Beneficiary or its affiliate has been the subject of an exclusion determination pursuant to the UNIDO policy on exclusion from funding.
- 28.4 Upon receipt of and in accordance with a termination notice as specified above, the Implementing Partner/Grant Beneficiary shall take immediate action to minimize all expenditures and obligations financed by the Agreement and shall cancel any unliquidated obligations whenever possible. Except as provided below, the Implementing Partner/Grant Beneficiary shall not incur expenditures after the effective date of termination.
- 28.5 The Implementing Partner/Grant Beneficiary shall within thirty (30) calendar days after the effective date of such termination repay to UNIDO any unspent balance of the Grant paid by UNIDO prior to the effective date of termination, which is not otherwise obligated by a legally binding transaction applicable to the Agreement. Should the funds paid by UNIDO to the Implementing Partner/Grant Beneficiary prior to the effective date of the termination of the Agreement be insufficient to cover the Implementing Partner/Grant Beneficiary's obligations in the legally binding transaction, the Implementing Partner/Grant Beneficiary may submit to UNIDO within ninety (90) calendar days after the effective date of termination a written request for payment covering such obligations. UNIDO shall determine the amount(s) to be paid by UNIDO to the Implementing Partner/Grant Beneficiary under such claim in accordance with the Agreement. This provision must be included in all sub-agreements.
- 28.6 In the event of a transfer of the responsibilities of the Implementing Partner/Grant Beneficiary for the implementation of the Project/Action to another entity, the Implementing Partner/Grant Beneficiary shall cooperate with UNIDO and the other entity in the orderly transfer of such responsibilities.
- 28.7 The provisions set out in sub-paragraphs 28.4, 28.5 and 28.6 shall also apply in case of termination under *force majeure*.
- 28.8 Any portion of the Agreement not terminated shall remain in full effect.

## 29. AMENDMENT

- 29.1 No modification of or change in the Agreement, waiver of any of its provisions or additional contractual provisions shall be valid unless approved in the form of a written amendment to the Agreement duly signed by the authorized representatives of the Parties.

## 30. SETTLEMENT OF DISPUTES

- 30.1 **AMICABLE SETTLEMENT:** The Parties shall use their best efforts to amicably settle any dispute, controversy, or claim arising out of the Agreement or the breach, termination, or invalidity thereof. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the United Nations Commission on International Trade Law (“UNCITRAL”) Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the Parties in writing.
- 30.2 **ARBITRATION:** Any dispute, controversy, or claim between the Parties arising out of the Agreement or the breach, termination, or invalidity thereof, unless settled amicably under Article 30.1, above, within sixty (60) calendar days after receipt by one Party of the other Party’s written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The place of the arbitration shall be Vienna, Austria. In light of the privileges and immunities of UNIDO, the place of arbitration shall connote only the actual location for the arbitral proceedings but shall not mean the “seat” or “juridical seat” or “juridical place” for such proceedings. The language of the arbitration shall be English. The decisions of the arbitral tribunal shall be based on general principles of international commercial law to the exclusion of any single national system of law. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under the Agreement, order the termination of the Agreement, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Agreement, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to article 26 (“Interim measures”) and article 34 (“Form and effect of the award”) of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless

otherwise expressly provided in the Agreement, the arbitral tribunal shall have no authority to award interest in excess of the Secured Overnight Financing Rate (SOFR) of the United States Federal Reserve Bank of New York then prevailing, and any such interest shall be simple interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

### **31. PRIVILEGES AND IMMUNITIES**

31.1 Nothing in or relating to the Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of UNIDO.

### **32. SURVIVAL**

32.1 The obligations set forth in Articles 3 “Indemnity and Insurance”, 5 “Use of Name, Logo, Emblem or Official Seal of the United Nations or UNIDO”, 6 “Confidentiality”, 11 “Audits and Investigations”, 15 “Conflict of Interest/Officials not to Benefit”, 16 “Fraud and Corruption”, 30 “Settlement of Disputes”, 31 “Privileges and Immunities” shall survive the completion, expiration or termination of the Agreement.