

**EUROPEAN UNION
DELEGATION AGREEMENT**

2015/371-464
(the "Agreement")

The European Union, represented by the Delegation of the European Union to the Republic of Azerbaijan with its office at Landmark III, 11th floor 90A, Nizami str., AZ 1010 Baku, (the 'Contracting Authority')

of the one part,

and

United Nations Development Programme (UNDP) with its Head office at One United Nations Plaza, New York, NY 10017, USA

Legal status, International Organisation
Legal Entity File (LEF) 6000055554
hereinafter the 'Organisation'

of the other part, (individually a "Party" and collectively the 'Parties') have agreed as follows:

SPECIAL CONDITIONS

Article 1 - Purpose

- 1.1 This Agreement defines the activities entrusted to the Organisation for the implementation of the Action *"Support to the development of Red Bridge Border Crossing Point between Azerbaijan and Georgia"* as described in Annex I (the "Action") consisting in Budget Implementation Tasks and may also include other tasks clearly identified. This Agreement lays down the rules for implementation, for the payment of the EU contribution, and defines the relations between the Organisation and the Contracting Authority.
- 1.2 This Agreement consists of these special conditions (the "Special Conditions") and their annexes.
- 1.3 a) In the performance of the activities, the Organisation applies its own internal control and accounting systems as well as the rules and procedures for an independent external audit which have been positively assessed in the ex-ante pillars assessment. In case the pillar assessment raised some reservations the Organisation shall comply with the ad hoc measures stated in Article 7.¹
- b) The Organisation shall apply its own rules for grant award procedure, as assessed in the ex-ante pillars assessment and its own procurement procedures, as assessed in the ex-ante pillars assessment.
- c) The Organisation shall perform the activities to be implemented under the Agreement in accordance with the principles of Sound Financial Management, transparency and non-discrimination, applying its positively assessed Regulations and Rules.
- d) The Organisation is free to use any Regulations and Rules which have not been subject to the ex-ante pillar assessment to the extent that these Regulations and Rules are not in conflict with the provisions of this Agreement.
- 1.4 The Action is a Multi-Donor Action².
- 1.5 This Agreement is subject to the provisions of Financial and Administrative Framework Agreement (FAFA) with the United Nations, signed on 29 April 2003, further completed and consolidated by its addendum signed on 26 February 2014.
- 1.6 The Action is an EU External Action³.

¹ Conclusions of the pillar assessment should be considered and required measures, if any, should be included in Article 7.

² Multi donor Action is any action where EU funds are pooled with at least one other donor, including those cases where the Organisation and the EU are the only two donors. Parallel co-financing is not considered Multi-donor Action.

- 1.7 Under this Agreement the Organisation may not delegate activities. The General Conditions on Sub-delegation shall not apply.

Article 2 - Entry into Force, Execution Period, Implementation Period and Contracting Deadline

Entry Into Force

- 2.1 The Agreement shall enter into force on the date when the last of the two Parties signs.

Execution Period

- 2.2 The Execution Period of this Agreement shall start at the entry into force of this Agreement as provided for in Article 2.1. The end of the execution period shall be the End Date referred to in Article 13.5 of Annex II.

Implementation Period

- 2.3 The Implementation Period of the Agreement (the "Implementation Period") shall commence on:
- the day after the last Party signs.
- 2.4 The Implementation Period of the Agreement as laid down in Annex I is **24 months**. Upon adequate justification either Party may request the extension of the Implementation Period in accordance with Article 11 of Annex II.

Contracting Deadline

- 2.5 Individual Procurement and Grant contracts implementing this Agreement shall be signed by the Organisation no later than 24 months from the date of entry into force of this Agreement.

Article 3 - Financing the Action

- 3.1 The total cost of the Action⁴ is estimated at **EUR 2,660,000**. The Contracting Authority undertakes to provide EU contribution⁵ up to a maximum of **EUR 2,128,000**⁶. The final amount will be established in accordance with Articles 15 to 18 of Annex II.

3.2 Remuneration

The remuneration of the Organisation (or the Sub-delegatees) by the Contracting Authority for the implementation of the activities entrusted under this Agreement shall be 7 % of the final amount of accepted expenditure of the Action.

- 3.3 Interest generated on pre-financing shall not be due.

Article 4 - Narrative and Financial Reporting and Payment Arrangement

- 4.1 Payments shall be made in accordance with Article 19 of Annex II. The following amounts are applicable, all subject to the provisions of Annex II:

First pre-financing instalment.....	EUR 866,313.00
Second pre-financing instalment.....	EUR 1,200,882.00
Forecast balance ⁷	EUR 60,805.00

Article 5 – Communication language and contacts

³EU External Actions are those under EDF, DCI, ENI, IPA II, INSC, IcSP, PI, EIDHR and their predecessors.

⁴ This amount is introduced only for indicative purposes. It is an estimation and its evolution does not condition the EU contribution.

⁵ Where the contribution is financed by the European Development Fund, mentions of EU contribution must be read as referring to European Development Fund financing.

⁶ Acceptable expenditures + remuneration + exceptionally the categories of costs of article 3.4.

⁷ The forecast balance (final payment), if any, is the difference between the total amount of the EU contribution and the sum of the previous instalments.

- 5.1 All communications to the Contracting Authority in connection with the Agreement, including reports referred to in Article 3 of Annex II, shall be in English.
- If requested by the Contracting Authority they shall be accompanied by a translation or a summary in English or French where the language of the Agreement is not English or French.
- 5.2 Any communication relating to the Agreement shall be in writing, shall state the number and/or title of the Action, and shall use the following addresses below.
- 5.3 Any communication relating to the Agreement, including payment requests and attached reports, and requests for changes to bank account arrangements shall be sent to:

For the Contracting Authority

Ms. Anca Griu, Head of Finance and Contracts
Finance Contracts & Audit Section
Delegation of the European Union to Azerbaijan
Address: 11th floor, Landmark III, 90A Nizami str.,
AZ1010, Baku, Azerbaijan Republic
Tel: (+994-12) 497 20 63
Fax: (+994-12) 497 20 69
E-mail: DELEGATION-AZERBAIJAN-FINANCE@eeas.europa.eu

Copies of the documents referred to above, and correspondence of any other nature, shall be sent to:

Mr Jeroen Willems, Head of Cooperation
Delegation of the European Union to Azerbaijan
Address: 11th floor, Landmark III, 90A Nizami str.,
AZ1010, Baku, Azerbaijan Republic
Tel: (+994-12) 497 20 63
Fax: (+994-12) 497 20 69
E-mail: Jeroen.Willems@eeas.europa.eu
Website: <http://eeas.europa.eu/delegations/azerbaijan>

Ms Ulviya Abdullayeva, Programme Manager
Delegation of the European Union to Azerbaijan
Address: 11th floor, Landmark III, 90A Nizami str.,
AZ1010, Baku, Azerbaijan Republic
Tel: (+994-12) 497 20 63 ext.845
Fax: (+994-12) 497 20 69
E-mail: Ulviya.Abdullayeva@eeas.europa.eu
Website: <http://eeas.europa.eu/delegations/azerbaijan>

For the Organisation:

UNDP Azerbaijan 3, UN 50th anniversary str.
Baku, Azerbaijan, AZ 1001

For the attention of Mr. Antonius Broek, Resident Representative, UNDP Azerbaijan

- 5.4 Ordinary mail shall be deemed to have been received on the date on which it is officially registered at the address referred to above.
- 5.5 The contact point within the Organisation which shall have the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate the latter's operational activities shall be:

Office of Audit and Investigations, Head of Investigations Section,

United Nations Development Programme, One United Nations Plaza,
4th floor New York New York,
NY 10017 USA

- 5.6 All communications to the Contracting Authority concerning the Central Exclusion Database shall be submitted by the Organisation to:

Mr Jeroen Willems,
Head of Cooperation
Delegation of the European Union to Azerbaijan
Address: 11th floor, Landmark III, 90A Nizami str.,
AZ1010, Baku, Republic of Azerbaijan
Tel: (+994-12) 497 20 63
Fax: (+994-12) 497 20 69
E-mail: Jeroen.Willems@eeas.europa.eu

- 5.7 A copy of the reports referred to in Article 3 of the General Conditions and the reports, publications, press releases and updates relevant to the Action referred to in Article 8.6 of the General Conditions shall be sent to:

Ms Ulviya Abdullayeva, Programme Manager
Delegation of the European Union to Azerbaijan
Address: 11th floor, Landmark III, 90A Nizami str.,
AZ1010, Baku, Azerbaijan Republic
Tel: (+994-12) 497 20 63 ext.845
Fax: (+994-12) 497 20 69
E-mail: Ulviya.Abdullayeva@eeas.europa.eu
Website: <http://eeas.europa.eu/delegations/azerbaijan>

Article 6 - Annexes

- 6.1 The following documents are annexed to these Special Conditions and form an integral part of the Agreement:

- Annex I: Description of the Action (including the Logical Framework of the Project⁸)
- Annex II: General Conditions applicable to Delegation Agreements or PA Grant Agreements (Part III on PA Grant Agreements does not apply)
- Annex III: Budget for the Action
- Annex IV: Financial Identification Form⁹
- Annex V: Standard Request for Payment
- Annex VI: Communication and Visibility Plan¹⁰
- Annex VII: Management Declaration template

- 6.2. In the event of a conflict between the present Special Conditions and any Annex thereto, the provisions of the Special Conditions shall take precedence. In the event of a conflict between the provisions of

⁸ The Description of the Action describes the budget implementation tasks and other additional tasks.

Indicative results indicators measuring outputs, outcomes and/or impact as determined by the nature of the Action, will be included in Annex I attached to the Agreement. These indicators shall be agreed by the Organisation in consultation with the Contracting Authority and are subject to change by agreement between the parties without the need to amend the respective Agreement.

⁹ Where payment is to be made to a bank account which is already known to the Contracting Authority, the Organisation may provide a copy of the relevant financial identification form: http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

If required, the Organisation shall provide a copy of the Legal Entity File:

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

¹⁰ The Communication and Visibility plan describes the measures to acknowledge that the Action receives EU funding.

Annex II (General Conditions) and those of the other Annexes, the provisions of Annex II shall take precedence.

Article 7 – Additional specific conditions applying to the Action

7.1. The following shall supplement the General Conditions:

7.1.1 VAT/ taxes, duties and charges are not eligible for the following activities as described in Annex I.

Costs of local infrastructure in the partner country (field office)¹¹

7.1. Where the implementation of the Action requires the setting up or the use of local infrastructure in the partner country (field office), the Organisation may declare as acceptable expenditure the capitalised and operating costs of local infrastructure if all the following conditions are fulfilled:

- a) They comply with the acceptability criteria referred to in Article 18.1 of the General Conditions;
- b) They fall within one of the following categories:
 - i) costs of staff, including administrative and support staff, directly assigned to the operations of local infrastructure;
 - ii) travel and subsistence costs for staff and other persons directly assigned to the operations of local infrastructure;
 - iii) depreciation costs, rental costs or lease of equipment and assets composing local infrastructure;
 - iv) costs of maintenance and repair contracts specifically awarded for the operations of local infrastructure;
 - v) costs of consumables and supplies specifically purchased for the operations of local infrastructure;
 - vi) costs of IT and telecommunication services specifically purchased for the operations of local infrastructure;
 - vii) costs of energy and water specifically supplied for the operations of local infrastructure;
 - viii) costs of facility management contracts including security fees and insurance costs specifically awarded for the operations of local infrastructure;
- c) The Organisation declares as acceptable expenditure only the portion of the capitalised and operating costs of local infrastructure which corresponds to the duration of the Action and
 - i) the rate of actual use of local infrastructure for the purposes of the Action; or
 - ii) the rate of use of local infrastructure for the purposes of the Action, determined by the Organisation on the basis of a simplified allocation method, provided that the allocation method is:
 - compliant with the Organisation's usual accounting and management practices and applied in a consistent manner regardless of the source of funding, and
 - based on an objective, fair and reliable allocation key.]

Done in Baku in three originals in the English language, two for the Contracting Authority and one for the Organisation.

For the Organisation

Name *Natalia Akhishvili*
Position *UNDP RR a.i.*
Signature *N. Akhishvili*
Date *21.12.2015*

For the Contracting Authority

Name *[Signature]*
Position *Apb.*
Signature *[Signature]*
Date *17/12/15*

¹¹ To be inserted where the specific action requires it. Depending on the usual costing practices of the Organisation, only part of the list of cost categories may be included.

[Handwritten initials]