



GRANT AGREEMENT XX_XX_XXX-XX_XXXXXXX

This Grant Agreement ("Agreement", which term shall include all annexes and attachments hereto or other documents incorporated by reference herein) is made between

Blue Action Fund, a foundation established and existing under the laws of Germany, with its registered office at Friedrich-Ebert-Anlage 36, 60325 Frankfurt am Main, Germany ("Blue Action"),

and

NAME OF GRANTEE, a charitable organization established under the laws of **COUNTRY/STATE** and established at **ADDRESS** ("Grantee"),

with Blue Action and Grantee referred to individually and jointly as "Party" and "Parties".

Preamble

Whereas Blue Action supports national and international non-governmental organizations in their efforts to conserve the oceans and coastlines in the developing world.

Whereas Blue Action grants are awarded pursuant to calls for proposals and the grant contemplated by this Agreement is made under the call entitled ["name of call"] announced in [month and year].

Whereas, in response to the above-mentioned call for proposals the Grantee submitted a concept note and a full project proposal.

Whereas Blue Action has officially selected Grantee's full project proposal for funding, and the project proposal in the form selected is attached to this Agreement as **Schedule A** (the "Project Proposal").

[include if applicable] Whereas, the Project Proposal contemplates the intervention of additional pre-approved participants in the Project (Sub-Grantees or Approved Subcontractors or both, as defined in **Section 3.1**) and the identities of such additional participants are set forth in **Annex 1**.

Now therefore, the Parties hereby agree as follows:

1. THE GRANT

On the terms and conditions and for the purposes set forth in this Agreement, Blue Action will provide Grantee with a grant in the maximum amount of Euro X,XXX,XXX (the "Grant"). Funds provided under the Grant are sometimes referred to herein as the "Blue Action Contribution".

2. PROJECT

2.1 The Grant is provided to support "XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX" (the "Project"), the purpose of which is described in the Project Proposal.

2.2 Grantee shall implement the Project to a professional standard in line with best international

practices and in accordance with all the terms set forth in, and the use of the Grant shall conform to the restrictions and limitations contained in, this Agreement.

2.3 The Project Proposal includes a budget for implementing the Project (the “Budget”). Grantee shall make a financial and/or in-kind contribution (“Match Funding”) towards implementing the Project in the minimum amount of [25% or 10%] of the Budget. Match Funding may include third-party donor funding received by Grantee in line with the Grant Procedures Manual.

2.4 Grantee must receive written approval from Blue Action prior to making any changes to the Project as described in the Project Proposal, except that: (i) changes to the Budget may be made in accordance with **Section 8.7**; and (ii) changes that are insignificant in the overall context of the Project and do not change the Budget may be notified to Blue Action as part of the semi-annual reporting described herein (**Section 6.2**).

3. SUB-GRANTEES AND SUBCONTRACTORS

3.1 For purposes of this Agreement:

“Sub-Grantee” shall mean either:

- A third party identified by Grantee in the Project Proposal and listed in **Annex 1a** (i) who has agreed with Grantee to participate in the Project (ii) whose role and responsibilities are clearly defined in the Project Proposal, and (iii) whose respective expenditures are outlined in detail in the Project Proposal including the budget and assessed as economically viable in the course of the proposal selection process; or
- A third party who, after signature of the Grant Agreement and with the prior written approval of Blue Action, agrees with the Grantee to participate in the Project and whose role and responsibilities are clearly defined in and expenditures outlined in detail and assessed as economically viable as part of an amendment to the Project Proposal and Grant Agreement.

Sub-Grantees must comply with all terms of this Agreement and will also be subject to reviews and monitoring by Blue Action or its representatives.

“Approved Subcontractor” shall mean a third party listed in **Annex 1a** (i) whose tasks within the Project (usually the provision of a service or product or work, e.g. the construction of a facility at a Project site) are clearly defined in and whose costs are outlined in detail and assessed as economically viable as part of the Project Proposal, and (ii) with whom Grantee or a Sub-Grantee enters into a contract to perform the defined task.

“External Subcontractor” shall mean a third party who is contracted by Grantee or a Sub-Grantee to perform a certain task within the Project pursuant to a procurement procedure and who was not identified and approved by Blue Action as an Approved Subcontractor in the Project Proposal.

See **Section 9** for further provisions applicable to contracts of Approved Subcontractors and External Subcontractors and procurement of External Subcontractors.

3.2 Grantee shall sub-grant components of the Project to third parties identified in the Project proposal (the “Sub-Grantee(s)”) as contemplated by the Project Proposal. Notwithstanding the foregoing, Grantee may shift responsibilities among Sub-Grantees for Project components if (i) such shift implicates less than 20% of the Budget allocated to the Sub-Grantee and is notified to Blue Action as part of the progress reporting, or (ii) such shift implicates 20% or more of the Budget allocated to the Sub-Grantee and is approved by Blue Action in advance.

3.3 Grantee shall ensure that each Sub-Grantee signs an acknowledgement in the form included in

Annex 1b pursuant to which certain provisions of this Agreement become binding upon Sub-Grantee's signature (the "Sub-Grantee Acknowledgement") and provides the signed Sub-Grantee Acknowledgement to Blue Action. The Sub-Grantee Acknowledgement constitutes the contractual relationship between Blue Action and the Sub-Grantee(s). Grantee shall not disburse any funds under this Agreement to a Sub-Grantee prior to receipt from it of the signed Sub-Grantee Acknowledgement. The terms of the sub-grants are to be agreed between Grantee and Sub-Grantee.

3.4 It is agreed and understood that Grantee shall, notwithstanding any sub-grant or sub-contract, remain solely responsible *vis à vis* Blue Action for Sub-Grantees' or Subcontractors' performance.

4. TERM

The period covered by the Agreement shall commence on the date of the last Party's signature to this Agreement (the "Effective Date"). The Project shall start on [DATE] ("Project Start Date") and shall terminate (except for the provisions that survive termination) on either (i) on [DATE] or (ii) the date of notification by the Grantee to Blue Action that there shall be no further expenditures (except for expenditures related to preparation of final reports and the review of such reports under **Section 7**) under the Project, whichever is earlier (the "Project End Date") unless terminated prior to the Project End Date in accordance with the terms of **Section 14**.

5. PROJECT WORK PLAN, WORK PERIOD AND GRANT PAYMENTS

5.1 Project Work Plan. Grantee shall submit to Blue Action for approval a Project work plan ("Work Plan") covering the entire term of the Project, dividing workstreams into quarterly activities and deliverables. The Work Plan shall be based on calendar quarters, but the first and last period of the Work Plan may be for a shorter or longer period than a calendar quarter as determined by Blue Action so that the Work Plan coincides with Blue Action's payment and review schedule for the Project. The Work Plan shall be submitted as soon as possible after the Project Start Date (and in any case no later than 60 days thereafter).

Each six-month period (or a shorter or longer period at the beginning or end of the Grant) covered by the Work Plan is considered a "work period". The first work period will be the "inception phase" during which baseline information is collected and the work plan, logical framework and environmental and social safeguard documentation are refined and validated, and templates for sub-contracts are no-objected.

5.2 Cash Flow Advance. Promptly after the Effective Date, Blue Action will advance to Grantee Euro XXX,XXX (5% of the total Grant amount) as a cash buffer to cover Project expenditures at the beginning of any work period prior to approval of the Funding Advance Request for such work period.

5.3 Funding Advance Requests. Grantee shall submit to Blue Action funding advance requests consisting of the documents specified below (each a "Funding Advance Request") in relation to each work period at the following times:

- for the inception phase, contemporaneously with the submission of the initial Work Plan
- for subsequent work periods, within 45 days after the end of the previous work period as part of the Project Reporting as outlined in **Section 6.2.2**.

The Funding Advance Request in relation to each new work period shall consist of the following documents:

- (i) a detailed expenditure forecast for the upcoming work period and
- (ii) a payment request in Euro of the amount of the requested funding advance.

Blue Action will review and either approve for payment each Funding Advance Request within 30 days

of receipt or revert to Grantee with comments. In any case, Blue Action and Grantee will use their best efforts to resolve any issues in connection with a Funding Advance Request promptly so that Blue Action's funding instruction to its bank is issued not later than the 30th day (or first business day in Germany thereafter) following Grantee's initial submission of the Funding Advance Request.

If during any work period Grantee incurs Project expenditures in excess of the amount budgeted for such period and accordingly uses the cash flow advance, it can request a replenishment of the cash flow advance. If at the end of any work period there are unused funds in excess of the advanced amount, they will be reimbursed to Blue Action or applied to the next Funding Advance Request.

5.4 Final Payment. When the total amount advanced to Grantee (including the cash flow advance under **Section 5.2**) equals Euro XXX,XXX,XX (95%) of the amount of the Grant, no further advance payment shall be made and Grantee may begin to use the cash flow advance made at the outset of the grant. A final instalment consisting of a lump sum of Euro X,XXX,XXX (5%) of the Grant will be paid by Blue Action upon receipt and written approval of Grantee's Final Report (**Section 6.5**) and the final technical and financial review (**Section 7.1**). Blue Action may withhold any part or all of the final payment until after it has approved the aforesaid report. Blue Action will review and either approve for payment the final instalment within 60 days of receipt of the Final Reviews as defined in **Section 7.1** or revert to Grantee with comments.

5.5 Bank account. Blue Action shall make payments under this Agreement to a bank account or sub-account in Grantee's name and for its sole benefit. Grantee will track income and expenditures under this Grant using separate and traceable coding or bookkeeping entries in Grantee's financial management system, created and used solely for Blue Action Contribution. Transfers of Blue Action Contribution from Grantee's account shall require at least dual approval of authorized representatives of Grantee. Grantee shall notify Blue Action of the relevant bank account details for transfer of funds in its Funding Advance Request.

5.6 At the end of the term of this Agreement, Grantee shall return to Blue Action any unexpended Blue Action Contribution that is not required to meet expenditures or to pay previously committed contractual obligations, it being understood that Blue Action shall have the right to take all actions necessary to recover any such unreturned Blue Action Contribution at Grantee's sole expense.

6. REPORTING AND RECORD KEEPING

6.1 The Grantee shall report regularly to Blue Action on a semi-annual basis, as well as on ad hoc basis as applicable, and shall provide a final report after Project End Date, all as provided in this **Section 6**.

6.2 Progress Report. Within 45 days after the end of each work period Grantee shall provide a progress report. The progress report shall include a report against the Work Plan, an updated Work Plan (if applicable) as well as technical and financial information as specified below.

6.2.1 The technical part of the progress report shall include such technical data as shall be specified in a reporting template to be timely provided to Grantee by Blue Action.

6.2.2 The financial part of the progress report shall:

- (i) detail expenditures (both from Blue Action Contribution and Match Funding) actually incurred during the reporting period and the total Project expenditures from inception through the end of the reporting period, in each case by cost category as specified in **Annex 3** and the Project Proposal;
- (ii) show the remaining Grant balance at the end of the reporting period, the amount not yet advanced and the unused portion of any amounts previously advanced; and
- (iii) include the Funding Advance Request for the coming work period as stipulated in **Section 5.3**.

A template will be provided to Grantee by Blue Action.

In addition, the financial part of the progress report will include a list of goods, services and works that have been purchased with Blue Action Contribution in an amount above EUR 5,000 from the start of the Project through the end of the most recent reporting period. This list should also indicate planned purchases and contracts above EUR 5,000 for the next work period. The list shall contain the following data: item (description of the goods, services and works), date, supplier/contractor/vendor, relevant reference number(s), e.g. Contract), total contracted amount and amount financed with Blue Action Contribution. "Works" for these purposes means, for example, construction of buildings or infrastructure.

6.2.3 In addition to the documents and reports submitted pursuant to **Section 6.2.1** and **6.2.2**, on an **annual basis** (either in relation to a calendar year or the work periods described in **Section 5** as determined by Blue Action and timely notified to Grantee), the Progress Report shall include additional Annexes as specified below or further defined by Blue Action:

(i) Logframe Update. An update of progress on achievement of targets in the logical framework as shall be specified in a reporting template to be timely provided to Grantee by Blue Action.

(ii) ESMS Update. An updated version of the Project's Environmental and Social Management System documentation.

(iii) Transaction list. An itemized list showing all Project expenditures and income in Euro (on a cash basis) allocated according to Blue Action's cost categories. A template will be provided to Grantee by Blue Action.

6.3 In connection with each financial review of the Project under **Section 7.1**, Grantee shall provide a Financial Statement showing budgeted and actual spending and income structured according to Blue Action's cost categories as shall be specified in a Financial Statement template to be timely provided to Grantee by Blue Action.

6.4 Ad hoc Reports. Grantee undertakes to timely report to Blue Action about significant developments of relevance to the Project, including without limitation developments relating to the Grantee or its key project personnel, developments in the country or the community in which the Project is being implemented, and the like. Such reporting can be included as part of either the regular Progress Report but shall be made on an ad hoc basis if the development is especially important.

6.5 Final Report: At the end of the Project, Grantee will submit a Final Report in two parts. The Final Report shall be submitted within 60 days after the Project End Date.

6.5.1. Part I shall be a technical report covering the entire project duration and summarizing the overall achievements and lessons learned of the project. A reporting template will be timely provided to Grantee by Blue Action.

6.5.2. Part II of the Final Report shall be the financial report consisting of

(i) the financial progress report as per Section 6.2.2 including project closure expenses as permitted by Section 8.1 (f).

(ii) the Financial Statement as per Section 6.3

(iii) the Transaction list as per Section 6.2.3 covering the period since last annual report.

6.6 Record keeping. Grantee shall keep all pertinent financial, technical and administrative records relating to this Agreement for a period of seven years, following grant completion. Such records may be kept in electronic format.

6.7 Reports and Funding Advance Requests under **Section 5** and this **Section 6** may be submitted electronically (e.g. by e-mail) to Blue Action.

7. PROJECT REVIEWS AND SITE VISITS

7.1 Financial and Technical Reviews

[for Section 7.1.1 please choose the applicable option]

[Option 1 – For Grants without an audit after year 1]

7.1.1 Grantee and Blue Action shall cooperate to effect a Mid-term Financial and Technical Review and a Final Financial and Technical Review of the Project (together the “Project Reviews”). Both Mid-term Project Reviews shall cover the first half of the Project. The Final Financial Review shall cover the second half of the Project. The Final Technical Review shall cover the whole duration of the Project, i.e. from start date to Project End Date. The precise dates for the Project Reviews will be agreed by the Parties, but in the case of the Final Project Review it shall be commenced after submission of the Final Report under **Section 6.4** and shall be completed within 60 days after submission of the Final Report.

The auditing firm and consultants conducting the Project Reviews shall be entitled to communicate and share findings. To the extent practicable, the Project Reviews should be carried out at the same time to facilitate exchange of information.

[Option 2 – For Grants including an audit after year 1]

7.1.1 Grantee and Blue Action shall cooperate to effect a Financial Review after year 1, a Mid-term Financial and Technical Review and a Final Financial and Technical Review of the Project (together the “Project Reviews”). The first Financial Review shall cover the first year of the Project, the Mid-term Financial Review shall cover the period from end of year 1 to mid-term and the Mid-term Technical Review shall cover the first half of the Project. The Final Financial Review shall cover the second half of the Project. The Final Technical Review shall cover the whole duration of the Project, i.e. from start date to Project End Date. The precise dates for the Project Reviews will be agreed by the Parties, but in the case of the Final Project Review it shall be commenced after submission of the Final Report under **Section 6.4** and shall be completed within 60 days after submission of the Final Report.

The auditing firm and consultants conducting the Project Reviews shall be entitled to communicate and share findings. To the extent practicable, the Project Reviews should be carried out at the same time to facilitate exchange of information.

7.1.2 The Project Financial Reviews will be conducted in accordance with the Terms of Reference for Auditor’s Reports for Blue Action Fund Grants as set forth under **Annex 2**. Unless otherwise specified by Blue Action, the Project Financial Reviews will be conducted by an external auditing firm proposed by Grantee and no-objected by Blue Action. The Project Financial Reviews shall be paid by Grantee from the Grant, but Blue Action shall specifically be designated as the beneficiary of the review.

Grantee shall reimburse to Blue Action, at Grantee’s sole expense, the amount of any expenditure disallowed by auditors through an exception or other appropriate means, based upon a finding that such expenditure failed to comply with an applicable provision of this Agreement.

7.1.3 The Project Technical Reviews will cover such matters as the accomplishment of the Work Plan, impacts of the project and contribution to the fulfilment of the Blue Action Results Matrix as shall be determined by Blue Action. The Project Technical Reviews will be conducted by external consultants selected by Blue Action and paid by Blue Action separately from the Grant. Incidental expenditures for the conduct of the Project Technical Review, such as for local transportation or translations, shall be covered up to an amount of EUR 1,500 per Review by the Grantee. Should the incidental expenditures exceed EUR 1,500, the Grantee shall timely notify Blue Action of the relevant circumstances. In justified cases, Blue Action may in its discretion cover such expenditures.

7.1.4 Blue Action will follow up with Grantee with regards to the implementation of the recommendations of the Project Reviews. In addition to the above, Blue Action reserves the right to require, in its sole discretion and at its cost, additional reviews of the Project (including the performance of Grantee or of Sub-Grantees on the Project) and all funds expended by Grantee on the Project.

7.2 Site visits/ examinations. At the request of Blue Action or its donors and upon reasonable notice, Grantee shall enable their representatives to visit facilities and sites related to Grant activities to review the Grant's progress and results, and to examine the goods financed out of the Blue Action Contribution and any installations, sites, works, records and documents relevant to the activities financed from the Grant. To the extent possible, Blue Action shall advise Grantee of any such visit in advance by notice of at least 14 days. Blue Action understands that site and similar visits may be subject to obtaining any required permits or authorizations from the relevant authorities, and that Blue Action and any accompanying donors may be required to sign releases of liability before going on any such visits. Blue Action, its representatives, and assignees reserve the right, in their sole discretion and upon reasonable notice to Grantee, to inspect, review or audit any and all records relating to this Grant through the period specified in **Section 6.6**.

8. USE OF FUNDS

8.1 All funds provided under this Grant shall be used only for approved purposes and for eligible expenditures and measures (**Annex 3**) included in the Project Proposal, unless otherwise approved in writing by Blue Action. In addition, expenditures must meet the following general criteria:

- a. be indicated in the Budget;
- b. be necessary for the implementation of the Project which is the subject of the Grant;
- c. be identifiable and verifiable, recorded in the accounting records of Grantee or its sub-grantees and determined according to the applicable accounting standards of the country where the beneficiary is/are established and according to the usual cost-accounting practices of Grantee;
- d. comply with the requirements of applicable tax and social legislation;
- e. be reasonable, justified and comply with the principle of sound financial management, in particular regarding economy and efficiency.
- f. be incurred by Grantee during the duration of the Grant as defined in **Section 4**, with the exception of (i) up to EUR 50,000 match funding expenditures for full proposal development as defined in Grant Procedures Manual Section 3.5, (ii) expenditures for the Final Financial Review (Section 7.1) and (iii) a lump sum of EUR 10,000 from the Budget to cover the expenditures of post grant reporting, including the Final Report (Section 6.5) and the Grantee's work associated with the Final Project Reviews.

8.2 Grantee is responsible for ensuring that the Grant is administered in accordance with the terms of this Agreement and that no Blue Action Contribution distributed to it is disbursed to any third-party organization or natural or legal person whether or not related to or established by Grantee, unless the third-party organizations are Sub-Grantees or Approved Subcontractors or pursuant to a procurement conducted in compliance with **Section 9 and Annex 4**.

[for Section 8.3 please choose the applicable option]

[Option 1 - For Euro, other non-USD based grantees, or USD based grantees who elect not to use Section 8.3 for USD grantees]

8.3 Blue Action and Grantee acknowledge that there is a currency depreciation risk associated with the transfer of funds into the local currency or currencies of the Project. Accordingly, in order to reduce such risk and to allow retransfer at all times, (i) pending transfer into the local currency or currencies all Blue Action Contribution provided under this Agreement is to be kept in the country of Grantee in Euro, and (ii) transfers of Euro to local currency accounts are permitted only on a requirements basis for maximum of three (3) months.

All Blue Action Contribution provided under this Agreement in Euros that is converted into another currency must be converted at the best available rate through the channels authorized by applicable

laws and regulations. All such transactions must be verifiable through bank receipts or other documents or publications sufficient to demonstrate the legality of such transactions.

[Option 2 - For USD based Grantees electing to hold in USD]

8.3 Blue Action and Grantee acknowledge that there is a currency depreciation risk associated with the transfer of funds into the local currency or currencies of the Project. As an exception to its usual rule that Blue Action Contribution need to be maintained in Euro pending transfer into the local currency or currencies of the Project, Blue Action permits Grantees whose primary operating currency is US dollars to maintain the Blue Action Contribution in US dollars. Grantee represents to Blue Action that its primary operating currency is US dollars and elects to maintain Blue Action Contribution in US dollars.

Accordingly, in order to reduce currency depreciation risks and to allow retransfer at all times, (i) pending transfer into the local currency or currencies of the Project all Blue Action Contribution provided under this Agreement is to be kept in the country of Grantee in US dollars, and (ii) transfers of US dollars to local currency accounts are permitted only on a requirements basis for maximum of three (3) months.

For purposes of reporting Grant expenditures to Blue Action (in Euros), Grantee shall use the actual exchange rate of each Euro transfer to US dollars. Blue Action recommends using a “first in-first out” (FIFO) method.

All Blue Action Contribution provided under this Agreement in Euros that is converted into another currency must be converted at the best available rate through the channels authorized by applicable laws and regulations. All such transactions must be verifiable through bank receipts or other documents or publications sufficient to demonstrate the legality of such transactions.

8.4 Blue Action Contribution shall not be expended in a way that is or gives the appearance of a conflict of interest. A conflict of interest is defined as a transaction in which a legal person or employee's personal or financial interests conflict or appear to conflict with his or her official responsibility. Examples include, but are not limited to, such transactions as payments to the business partner(s) of the Project Manager, Co-Project Manager, or members of their immediate families for salaries, expense reimbursement, or any other type of compensation, or payments to organizations in which the Project Manager, Co-Project Manager, or member(s) of their immediate families have a financial or other substantial interest. It is Grantee's responsibility to ensure compliance with this clause, and to maintain, and provide at Blue Action's request, documentation demonstrating such compliance.

8.5 Blue Action Contribution shall not be expended in a fraudulent or corrupt manner as defined under **Section 12**.

8.6 Grantee shall use its best efforts to avoid or minimize tax liability on the purchase of goods and services, or on the importation, manufacture, procurement or supply thereof. If Grantee is eligible to apply for refunds on taxes paid, Grantee shall do so promptly and effectively, and all such tax refunds received by Grantee shall be used solely for Project purposes. In particular, no import duties may be financed from the Grant; such import duties, if part of the contract value, shall be stated separately in the contracts for the goods and services and in the invoices and be borne by Grantee.

8.7 Within each cost category group specified in **Annex 3** and the Budget, Grantee may shift up to a maximum of fifteen percent (15%) of Blue Action Contribution budgeted to an individual cost category to another cost category within the same cost category group, provided that that the funds shifted to the new cost category may not increase the budget allocated to such cost category by more than 50%. Grantee must receive written approval from Blue Action prior to shifting any funding between cost category groups, or other changes to the budget other than as permitted by the first sentence of this **Section 8.7 or Section 3.2**.

8.8 Promptly upon signature of this Agreement, Grantee shall sign and return to Blue Action the

Declaration of Undertaking (attached to this Agreement as **Annex 5**) completed by it, and shall cause all Sub-Grantees to complete and return the Declaration of Undertaking to Blue Action. The Declaration of Undertaking underscores amongst others, the importance of a free, fair and competitive contracting procedure that precludes abusive practices. Grantee shall not disburse any funds under this Agreement to Sub-Grantees prior to receipt of such declaration by the relevant Sub-Grantee.

8.9 The Budget in the Project Proposal includes a contingency line. This amount is a reserve for contingencies and/or possible fluctuations in exchange rates to allow for adjustments to the Budget during the term of the Agreement. It can be used with the written consent of Blue Action following a written request submitted by Grantee.

8.10 At the end of each calendar year, Grantee shall provide a signed donation certificate detailing the funds received from Blue Action within that year. The template for this certificate will be provided by Blue Action.

8.11 Any income generated from the Blue Action Contribution, such as interest earnings, shall be used for the purpose of the Project. Grantee must inform Blue Action within the Progress Report (see **Section 6.2**) about any income generated and receive written approval from Blue Action prior to using such income.

8.12 At the end of a project (at the latest), assets (including goods and equipment) > EUR 5,000 (acquisition cost) purchased from Blue Action's Contribution shall be transferred to the beneficiaries or Grantee or Subgrantee, for continued use for the purpose of the Project. Prior to transferring any assets, Grantee needs to obtain Blue Action's no-objection. As part of such no objection, Blue Action may require evidence of appropriate insurance coverage of such assets.

9. PROCUREMENT OF GOODS AND SERVICES

9.1 For the procurement of all goods, services, consulting services and works (the "Procurement"), with Blue Action Contribution, Grantee shall abide by the procurement rules set forth in **Annex 4** and the provisions of this **Section 9** (together, the "Procurement Rules"). The Procurement Rules are fundamental to this Agreement and any deviation that has not received Blue Action's prior written no-objection will be deemed a material breach by Blue Action.

9.2 Given that the role and responsibilities of Sub-Grantees are separately assessed as economically viable (see **Section 3**), the award of the sub-grant to Grantee's Sub-Grantees shall not be subject to the Procurement Rules.

9.3. The forms of contracts for Approved Subcontractors and External Subcontractors shall comply with Blue Action's sub-contract approval requirements as detailed in the Procurement Policy (**Annex 4**). Given that the role and responsibilities of Approved Subcontractors are clearly defined in the Project Proposal, and the respective costs described and assessed as economically viable in the course of the proposal selection process, the award of the sub-contract to Approved Subcontractors on the terms pre-approved shall not be subject to the bidding and tender procedures of the Procurement Rules.

9.4 All other Procurement activities conducted under this Agreement shall be thoroughly documented and conducted strictly in accordance with **Annex 4**. Grantee shall keep and maintain available for possible inspections for a period of seven years following grant completion (see **Section 6.6**) all relevant Procurement documentation which shall include but not be limited to the tender documents, original offers, evaluation reports, invoices and contracts. Such documentation may be maintained in electronic format.

9.5 No entity or person listed on the list(s) of persons, groups or entities subject to financial sanctions by the United Nations, the European Union, Germany or France may be awarded any contract or sub-

grant.¹

10. INTELLECTUAL PROPERTY AND COMMUNICATION SUPPORT

10.1 The know-how gathered by Grantee, and any work developed or created by Grantee for the Project funded under this Agreement, including without limitations any data, datasets, research, study reports, knowledge and all written, graphic, audio, visual and any other materials, contributions, applicable work product and production elements contained therein, whether on paper, disk, tape, digital file or any other medium or form (the “Work”), shall remain the intellectual property of Grantee. Grantee hereby grants to Blue Action, a perpetual, irrevocable, royalty-free, non-exclusive license (with right to sub-license as set out in **Section 10.1.2**), to copy, distribute, publish, modify, localize, adapt and prepare derivative works from the Work for non-commercial use worldwide in offline and online media and provided that in any modification, adaptation or other derivative work, reference is retained to Grantee.

10.1.1 Legally mandatory revocation rights as well as Grantee's moral rights in the Work that Grantee is not able to license or waive are not affected by **Section 10.1**. Furthermore, for the sake of clarity, Blue Action acknowledges that certain underlying information, data and/or other intellectual property collected or generated by Grantee in the preparation of specific outputs under this Grant may be subject to restrictions on disclosure and dissemination, including, without limitation, to protect the rights of indigenous and local communities. These restrictions may derive from applicable law and regulations, customs/customary rights, agreements with communities and/or national governments, international conventions and/or pursuant to voluntary guidelines and protocols on social safeguards (**Annex 6**). Grantee shall inform Blue Action if such restrictions exist with respect to any Works under **Section 10.1**, and may take prudent measures (e.g., redaction; confidentiality markings) to protect confidential and sensitive information; to comply with those restrictions; and to ensure the continued validity of the representations set forth in **Section 10.2** below.

10.1.2 Blue Action is allowed to grant royalty-free, non-exclusive sub-licenses for non-commercial use only, subject to **Section 10.1.1**.

10.1.3 If in any jurisdiction where the Work is used, Grantee is entitled to an equitable remuneration for the use of the Work and Grantee cannot waive this claim, the Parties agree that the equitable remuneration is compensated with the Grant.

10.2 Grantee hereby represents and warrants to Blue Action that:

10.2.1 it rightfully owns or controls the rights granted to Blue Action and no royalties for the use of the Work is required to be paid by Blue Action to any collecting society, entity, administrator or copyright holder;

10.2.2 it has obtained any artist permissions or consents required for the exploitation of Work allowed hereunder;

10.2.3 the Work has been originally produced or validly acquired by Grantee, and that the Work and/or its use by Blue Action in accordance with this Agreement does not infringe any intellectual property rights of any third party;

10.2.4 the Work or its use in accordance with this Agreement is not contrary to any applicable law,

¹ For information purposes only and for the convenience of Grantee, who may not rely on the following references: **For the United Nations**, see the sanctions list of the UN Security Council: <https://www.un.org/securitycouncil/content/un-sc-consolidated-list>; **For the European Union**, see the sanctions list at: <https://data.europa.eu/data/datasets/consolidated-list-of-persons-groups-and-entities-subject-to-eu-financial-sanctions?locale=en> **For Germany**, see <https://www.finanz-sanktionsliste.de/fisalis/>; **For France**, see: <https://www.tresor.economie.gouv.fr/services-aux-entreprises/sanctions-economiques/dispositif-national-de-gel-des-avoirs>

statute or regulation;

10.2.5 the granting of the licensing rights under this Agreement does not violate any agreement, right or obligation between Grantee and any other person or entity and neither the execution and delivery of this Agreement nor the performance of the terms, obligations and services herein shall conflict with any agreement or commitment to which Grantee is a party or violate any law applicable to Grantee, including but not limited to advertising, digital rights management, confidentiality, authority requests, notice and takedown procedures and privacy and data protection; and

10.2.6 the Work does not contain any restrictions in terms of to whom it can be delivered and/or showed.

11. REPRESENTATIONS, WARRANTIES AND COVENANTS

Grantee represents and warrants as follows:

11.1 At the time of signing and throughout the term of this Agreement, it is registered as a charitable or not-for-profit organization under the laws of its jurisdiction of organization and is exempt from income taxes. Grantee shall provide Blue Action with appropriate evidence of its charitable and tax-exempt status prior to the initial disbursement of the Blue Action Contribution and, at Blue Action's request, annually thereafter. Grantee shall immediately notify Blue Action in the event that its charitable or tax-exempt status were revoked.

11.2 At the time of signing of this Agreement, it is in all material respects in compliance with any laws that apply in the jurisdiction in which Grantee is operating or carrying out Project related activities, including, but not limited to, anti-bribery laws, employment laws and tax laws. Grantee has and for the term of this Agreement will have systems and controls in place to prevent any material violation or breach of such laws from occurring and, in the event that any such violation or breach occurs, will promptly notify Blue Action and take prompt action that effectively remedies such breach or violation.

11.3 At the time of signing and throughout the term of this Agreement, neither it nor its Subgrantees are or shall be listed on the list(s) of persons, groups or entities subject to financial sanctions by the United Nations, the European Union, Germany or France.

11.4 It is legally registered, authorized to do business and/or has procured any necessary permits or licenses required to carry out Project related activities in the jurisdiction of Project implementation and to grant Blue Action the rights described in **Section 10**.

11.5 All statements and undertakings made by it in the Project Proposal and Concept Note are true, accurate and complete in all material respects and do not omit information which, if disclosed, would be material to the making of this Grant or the implementation of Project. Without limiting the generality of the foregoing, Grantee acknowledges and undertakes to comply with the Environmental and Social Management Safeguards set forth in **Annex 6**.

11.6 In respect of its entire operations (i.e. including but not limited to the Grant), Grantee confirms that it prepares and shall for the term of this Agreement continue to prepare annual financial statements. Grantee agrees that, whether or not required by law, such financial statements shall be audited annually by a qualified independent auditor. Grantee shall inform Blue Action without delay if in connection with any such annual audit of its financial statements the auditor does not render an unqualified opinion.

12. FRAUD AND CORRUPTION

12.1 For the purposes of this Section, the terms set forth below are defined as follows:

12.1.1 A "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.

12.1.2 A “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

12.1.3 A “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

12.1.4 A “coercive practice” is 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 a party.

12.1.5 An “obstructive” practice” is (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede any investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) acts intended to materially impede the exercise of Blue Action’s or other funding partner’s rights of audit or access to information described under this Agreement.

12.1.6 The above practices, as so defined, are referred to collectively as “fraud and corruption”.

12.2 Grantee may not engage in fraud and corruption in carrying out the Project under this Agreement.

12.3 If it is determined that Grantee has engaged in fraud and corruption in competing for or in executing this Agreement, then (i) Blue Action may suspend or refuse payments and terminate this Agreement for cause in accordance with **Section 14.1**; and (ii) Grantee shall reimburse Blue Action for the amount under this Agreement with respect to which fraud and corruption has occurred as well as any damages incurred by Blue Action as a result of the fraud and corruption of Grantee. Any violations of these standards may subject Grantee to termination as set forth in **Section 14.1**, including debarment from future work with Blue Action for a period of time determined by Blue Action.

13. ACKNOWLEDGEMENTS/LOGOS AND PUBLICATIONS

13.1 Grantee shall provide Blue Action with electronic copies of any articles, reports, media interviews or other publication directly relating to activities covered under this Agreement.

13.2 On all publications, reports, banners, press materials and all other products that the Grant helps produce, the Blue Action logo should be clearly visible and the full name of “Blue Action Fund” should also be acknowledged.

13.3 In addition, Blue Action will be acknowledged on Grantee social media posts and on Grantee website, if appropriate.

13.4 Prior to the use of Blue Action’s name and logo in accordance with **Section 13.2, 13.3 or 13.4**, Grantee shall present the manner of use to Blue Action and obtain Blue Action’s written consent. Unless otherwise notified to Grantee by Blue Action, subsequent use by Grantee consistent in all material respects with the approved manner of use shall not require a new consent. Use of the Blue Action logo and name for any other purpose shall require the prior written consent of Blue Action.

13.5 Blue Action shall be entitled to use Grantee’s name in its reports, publications, brochures and similar written media it distributes in relation to its activities. Prior to the use of Grantee’s logo in such media, Blue Action shall present the manner of use to Grantee and obtain Grantee’s written consent. Unless otherwise notified to Blue Action by Grantee, subsequent use by Blue Action consistent in all

material respects with the approved manner of use shall not require a new consent. Use of Grantee logo and name for any other purpose shall require the prior written consent of Grantee.

14. SUSPENSION OR TERMINATION

14.1 For Cause

This Agreement may be terminated with immediate effect by either Party by giving a written notice to the other Party in the event that:

14.1.1 the other Party breaches any material obligations hereunder and does not remedy such breach (if the same is capable of remedy) within thirty (30) days following the date of the other Party's written notice and request to do so;

14.1.2 the other Party commits fraud, acts in bad faith or otherwise engages in conduct that is materially prejudicial to the terminating Party or to the successful implementation of the Project;

14.1.3 the other Party enters into liquidation or dissolution other than for the purpose of an amalgamation or reconstruction;

14.1.4 the other Party ceases to carry on business, has a receiver or administrator appointed over all or any part of its assets or undertaking, enters into any composition or arrangement with its creditors or takes or suffers any similar action in consequence of a debt or other liability, or undergoes any process analogous to the foregoing in any jurisdiction throughout the world.

14.2 For Force Majeure

The performance of this Agreement by either Party is subject to *force majeure* events including, without limitation, acts of God, war, acts of terrorism, government regulations, political and/or economic events, national emergency, disaster, strikes (except by the relevant Party's own employees), civil disorders, or other emergencies making it illegal or reasonably impossible for that Party to perform its obligations hereunder. In the case of a *force majeure* event this Agreement may be suspended or terminated after reasonable prior written notice from either Party to the other with the following consequences:

14.2.1 In the event of suspension, except where not practical or materially disadvantageous to the Project, Grantee shall stop work, immediately suspend or give notice to terminate any sub-contracts or other obligations that it may have entered into in connection with this Agreement, and settle all legally binding obligations and claims resulting from such termination. Any work not stopped, or obligation not terminated in accordance with the exception in the previous sentence ("Continued Work") shall be notified by Grantee to Blue Action without delay. Such suspension shall be without any liability and Blue Action shall not be obligated to pay for any expenses incurred by Grantee after the date of suspension other than for: remuneration for activities performed by Grantee in accordance with the terms of this Agreement; expenditures properly incurred and documented up to the date of the *force majeure* event; unavoidable expenditures incurred after the date of the *force majeure* event; and Continued Work.

14.2.2 In the event of a termination, Grantee shall stop work, immediately give notice to terminate any sub-contracts or other obligations that it may have entered into in connection with this Agreement and settle all legally binding obligations and claims resulting from such termination. Such termination shall be without any liability and Blue Action shall not be obligated to pay for any expenses incurred by Grantee after the date of termination other than for: remuneration for activities performed by Grantee in accordance with the terms of this Agreement; expenditures properly incurred and documented up to the date of the *force majeure* event; unavoidable expenditures incurred after the date of the *force majeure* event; and any Continued Work up to the date of termination.

14.2.3 A termination notice shall replace any previously communicated suspension notice with effect from the date of termination.

14.3 For Frustration of Purpose

If at any time for unavoidable reasons the purpose of the Project cannot be achieved.

15. AMENDMENTS AND MODIFICATIONS

This Agreement may not be amended, supplemented, or modified in any respect except by written agreement duly signed by the authorized representative of each Party.

16. INDEMNIFICATION

Grantee shall indemnify Blue Action for and against any claim, action, damages or expenses (including reasonable legal fees) (collectively, "Indemnified Claims") made against or sustained by Blue Action in connection with Grantee's, Grantee's Sub-Grantees and their respective subcontractors' performance or non-performance of this Agreement, except to the extent that the Indemnified Claims arise out of Blue Action's acts or omissions.

17. LIABILITY

Blue Action shall not be liable for losses, damages, claims, or other liabilities arising out of Grantee's, Grantee's Sub-Grantees' and their respective subcontractors' performance or non-performance. It is expressly understood that Blue Action, by making this Grant, has no obligation to provide other or additional support to Grantee for the purposes of this Project or any other purposes.

18. RELATIONSHIP OF THE PARTIES

The relationship between the Parties is that of independent contractor. Nothing in this Agreement shall be construed to create a relationship of agency, partnership, or joint venture between the Parties, nor to render either Party liable for any debts or obligations incurred by the other. Neither Party is authorized to make representations on behalf of the other, or to bind the other in any manner whatsoever.

19. GOVERNING LAW AND DISPUTE RESOLUTION

19.1 This Agreement shall be construed and enforced in accordance with the laws of Germany, excluding conflict of law's provisions.

19.2 Any dispute, controversy or claim arising out of, or in relation to, this Agreement, including the validity, invalidity, breach, or termination thereof which the Parties have been unable to resolve amicably in a first instance, shall be resolved by arbitration in accordance with the United Nations Commission on International Trade Laws (UNCITRAL) Arbitration Rules ("Rules") in force on the date on which the notice of arbitration is submitted in accordance with these Rules. The number of arbitrators shall be one. The seat of the arbitration shall be Lausanne. The arbitral proceedings shall be conducted in English. The results thereof shall be final, non-appealable and binding on each Party, and enforceable in any court of competent jurisdiction.

20. SEVERABILITY

In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein, unless the deletion of such provision or provisions would result in such a material change so as to cause performance of the transactions contemplated herein to be unreasonable.

21. INSURANCE COVERAGE

Grantee is undertaking the Grant for its own account and at its own risk and shall be responsible for securing any appropriate general liability and other insurance coverage, the proof of which shall be provided to Blue Action upon request.

22. NON-ASSIGNMENT

This Grant shall not be transferred or assigned by Grantee without prior written consent of Blue Action.

23. WAIVER

Either Party may specifically waive any breach of this Grant by the other Party, but no such waiver shall be deemed effective unless in writing, signed by the waiving Party, and specifically designating the breach waived. No waiver shall constitute a continuing waiver of subsequent or similar breaches. One Party's consent or approval of any act by the other shall not be deemed to render unnecessary the consent to or approval of any subsequent act by the other Party.

24. ENTIRE AGREEMENT

24.1 This Agreement consists of this agreement proper and the following annexes and documents incorporated by reference which are an integral part hereof.

List of Annexes and Schedules

Annex 1a - List of Sub-Grantees and Approved Subcontractors;

Annex 1b - Acknowledgement of Sub-Grantees

Annex 2 - Information on Financial Reviews of Grants

Annex 3 - Eligible Measures

Annex 4 - Procurement Policy for the Implementation of Blue Action Fund Grants

Annex 5 - Declaration of Undertaking

Annex 6 - ESMS

Schedule A - Project Proposal

24.2 It is understood and agreed that in case of inconsistency between the terms of this agreement proper and the terms of these annexes, the terms of this agreement proper shall prevail to resolve such conflict.

24.3 Any inconsistency between the different parts of this Agreement shall be resolved by giving precedence in the following order:

(1) Grant Agreement

(2) Project Proposal

24.4 This Agreement constitutes the entire agreement and understanding between the Parties with respect to its subject matter and supersedes any prior or contemporaneous agreements or understandings in reference thereto between the Parties.

25. COMMUNICATION AND NOTICES

Blue Action and Grantee will each designate a project manager for purposes of day-to-day management of the Grant and shall notify one another of the identity and contact details of such person. All day-to-day communications and deliverables permitted or required to be provided under this Agreement by either Party to the other shall be first addressed to the respective project manager.

All notices permitted or required under this Agreement shall be deemed to have been validly given either

on the date of service if served personally, or on the date of mailing if sent with return receipt requested (i) by first-class registered or certified mail or equivalent, or (ii) by overnight courier service, addressed to the Parties at their respective addresses set forth below. In addition, electronic delivery acknowledged by the receiving Party shall constitute valid notice.

If to Blue Action:
Markus Knigge
Nature Trust Alliance / Blue Action Fund
Friedrich-Ebert-Anlage 36
60325 Frankfurt am Main
Germany

If to Grantee:
Attn: XXXXX
Address: XXXXXXXX
XXXXX
XXXXX
Tel: +XXXXXXXXXX

E-mail: mknigge@blueactionfund.org

E-mail: xxxxxxxxx

IN WITNESS WHEREOF, this Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement. The Parties agree that the signed counterparts may be delivered by e-mail in a ".pdf" format data file, and that in this case such signature shall create a valid and binding obligation of the party executing with the same force and effect as if such ".pdf" signature page was an original thereof.

Blue Action Fund

Name of Grantee

Date:

Date:

Markus Knigge
Executive Director

Name
Title

Annex 1a - List of Sub-Grantees and Approved Subcontractors;

The Sub-Grantees for the Project are:

[list them—full legal names]

The Approved Subcontractors for the Project are:

[list them—full legal names]

Grantee shall procure that each Sub-Grantee signs and returns to Blue Action the following acknowledgement:

Annex 1b - Acknowledgement of Sub-Grantees

Blue Action Fund—Sub-Grantee Acknowledgement

[Name of Organization “Sub-Grantee”] hereby acknowledges that it is named as a Sub-Grantee in the Project Proposal entitled “[Insert name of Project Proposal]” and the Grant Agreement related thereto between Blue Action Fund and [name of Grantee] and that it has received a copy of the Grant Agreement and its Annexes and Schedules (including the Project Proposal).

Sub-Grantee’s rights, obligations and contractual relations in relation to the Project Proposal are or shall be with the Grantee. Nevertheless, insofar as the Sub-Grantee receives a sub-grant under the Grant Agreement as contemplated by the Project Proposal, the Sub-Grantee acknowledges and agrees to the provisions of the following Sections of the Grant Agreement as if it were a party to the Agreement and as if references to the Grantee in such Sections were to the Sub-Grantee.

- **Section 3** - Sub-Grantees and Subcontractors
- **Section 7** – Project Reviews and Site Visits (except for the third **sentence of Section 7.1.2** (payment for financial reviews))
- **Section 8** - Use of Funds (except for **Sections 8.7, 8.9 and 8.10**)
- **Section 9** - Procurement of Goods and Services
- **Section 12** - Fraud and Corruption (except that in **Section 12.3** the reference to this Agreement shall be deemed also to refer to the sub-grant by Grantee to Sub-Grantee)

[name and title of signatory]

Signature

[name of Sub-Grantee]

Date:

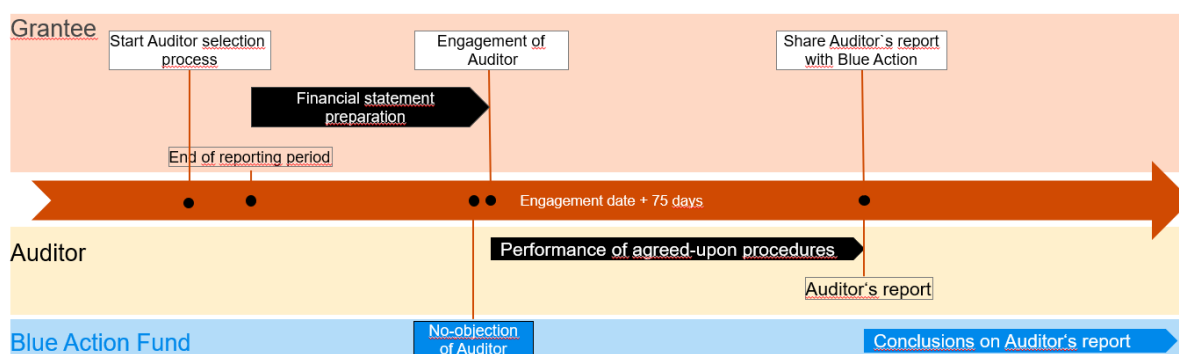
Annex 2 - Information on Financial Reviews of Grants (March 2023)

Introduction

The following “Terms of Reference - Auditor’s Reports for Blue Action Fund Grants” (the “ToR”) are mandatory for performing the Agreed-upon Procedures (AuPs) of Blue Action grants.

They consist of a contract template (**Form of Engagement Letter**) for the grantee to engage the audit firm to provide an independent report of factual findings on the financial statement prepared by the grantee and two annexes that provide the terms and conditions of this engagement (**Annex I: Base Terms**) as well as a template for the Auditor’s Report (**Annex II: Compulsory Report Format, Scope of Work And Procedures to be Performed**).

Timeline for the financial reporting and review process



Requirements for Auditor Selection—Blue Action Fund Grants

Blue Action Fund Grantees are responsible for adhering to the following requirements in connection with the selection of an auditor for Blue Action grants:

- The Audit Company must be Independent
 - This means that the Auditor cannot be involved in the preparation of the financial statement for the Blue Action projects, however it would not be an independence issue if the Auditor audits the financial statement of the Grantee in general)

- The Audit Company must be Qualified
 - Auditor should have experience in grant audits
 - In addition, note the following requirements of the ToR
By agreeing these ToR the Auditor confirms that he/she meets at least one of the following conditions:
 - 1.2.1. The Auditor and/or the firm is a member of a national accounting or auditing body or institution which in turn is member of the International Federation of Accountants (IFAC).
 - 1.2.2. The Auditor and/or the firm is a member of a national accounting or auditing body or institution. Although this organisation is not member of the IFAC, the Auditor commits him/herself to undertake this engagement in accordance with the IFAC standards and ethics set out in these ToR.
 - 1.2.3. The Auditor and/or the firm is registered as a statutory auditor in the public register of a public oversight body in an EU member state in accordance with the principles of public oversight set out in Directive 2006/43/EC of the European Parliament and of the Council (this applies to auditors and audit firms based in an EU member state).

1.2.4. The Auditor and/or the firm is registered as a statutory auditor in the public register of a public oversight body in a third country and this register is subject to principles of public oversight as set out in the legislation of the country concerned (this applies to auditors and audit firms based in a non-EU member state).

- In selecting the Auditor, the Grantee must comply with the Blue Action Fund procurement rules. As stated in Section 7.1 of the Grant Agreement, the selected Auditor needs to be no-objected by Blue Action.

TERMS OF REFERENCE FOR AUDITOR’S REPORTS FOR BLUE ACTION FUND GRANTS (“ToR”)

FORM OF ENGAGEMENT LETTER

Letterhead of Auditor appointed by Grantee

dd Month yyyy

Dear *[name of Grantee]*,

This letter together with its attachments form the terms of reference (ToR) on which *<name of the grantee>* (“Grantee”) agrees to engage *< name of the audit firm>* (“Auditor”) to provide an independent report of factual findings on the Financial Statement prepared by the Grantee (the “Auditor’s Report”) and to report in connection with a grant agreement *< title and number of the grant agreement>* (the “Grant Agreement”) between the Grantee and Blue Action Fund (“Blue Action”). Where in these ToR Blue Action is mentioned this refers to its quality as a party to the Grant Agreement with the Grantee. Blue Action is not a party to this engagement but shall be provided a copy of and be entitled to rely on the Auditor’s Report issued hereunder.

This engagement letter attaches two documents:

- The Base Terms for the engagement that have been agreed between the Grantee and the Auditor (Annex I to this letter - the “Base Terms”). Note that the provisions of paragraphs [1-7] of the Base Terms are imposed by Blue Action and may not be varied from the form specified by Blue Action.
- A form of Auditor’s Report (Annex II). The form of Auditor’s Report contains a detailed description (Appendix 3 to Annex II) including the procedures to be performed by the auditor and the findings expected to result therefrom. The Auditor’s Report is to be dated and signed by the Auditor on completion of its work and submitted to the Grantee.

Please note that this Engagement Letter signed by both parties is to be attached to the Auditor’s Report as Appendix 1, (i) the Grantee’s Financial Statement, (ii) the Auditor’s reconciliation of Financial Statement, (iii) the list of all procurements above EUR 5,000, and (iv) the representation letter signed by the Grantee (as per Base Terms, Section 1.1) is to be attached to the Auditor’s Report as Appendix 2 as well as the above mentioned Agreed-upon Procedures (AuPs) to be performed and standard factual findings to be confirmed by the Auditor as Appendix 3.

Your contact person and the Auditor responsible for carrying out this engagement will be [Mr .../Mrs ...].

Very truly yours,

[legal name of the Auditor]

Signature[s] of Auditor

[name and function of an authorised representative or representatives]

Accepted and Agreed as of the date first above written:

[legal name of the Grantee]

Signature[s] of Grantee

[name and function of an authorised representative or representatives]

Annex I to Engagement Letter

Base Terms for Grantee/Auditor Engagement Letters

1. Responsibilities of the Parties to the Engagement

1.1 ‘The Grantee’ refers to the legal entity that is receiving the grant and that has signed the Grant Agreement with Blue Action.

- The Grantee is responsible for preparing a Financial Statement for the project financed by the Grant Agreement in compliance with such agreement and providing it to the Auditor, and for ensuring that this Financial Statement can be properly reconciled to the Grantee’s accounting and bookkeeping system and to the underlying accounts and records. Notwithstanding the procedures to be carried out, the Grantee remains at all times responsible and reliable for the accuracy of the Financial Statement. The Financial Statement in this context refers solely to the Appendix to the Auditor’s Report by which the Grantee reports expenditures and income incurred under the Grant Agreement.
- The Grantee is responsible for the Financial Statement which will enable the Auditor to carry out the procedures specified and will provide the Auditor with a written representation letter supporting these statements, clearly dated and stating the period covered by the statement and attached to the Auditor’s Report as Appendix 2 (iv).
- The Grantee accepts that the ability of the Auditor to perform the procedures required by this engagement effectively depends upon the Grantee providing full and free access to the Grantee’s staff and its accounting and other relevant records.

1.2 ‘The Auditor’ refers to the Auditor who is responsible for performing the Agreed-upon Procedures as specified in these ToR, and for submitting an independent report of factual findings to the Grantee.

The Auditor must be independent from the Grantee.

- ‘Auditor’ refers to the audit firm contracted for this engagement and in particular to the partner or other person in the audit firm who is responsible for the engagement and for the report that is issued on behalf of the firm, and who has the appropriate authority from a professional, legal or regulatory body.
- The procedures to be performed are specified by Blue Action and the Auditor is not responsible for the suitability and appropriateness of these procedures.

By agreeing these ToR the Auditor confirms that he/she meets at least one of the following conditions:

1.2.1. The Auditor and/or the firm is a member of a national accounting or auditing body or institution which in turn is member of the International Federation of Accountants (IFAC).

1.2.2. The Auditor and/or the firm is a member of a national accounting or auditing body or institution. Although this organisation is not member of the IFAC, the Auditor commits him/herself to undertake this engagement in accordance with the IFAC standards and ethics set out in these ToR.

1.2.3. The Auditor and/or the firm is registered as a statutory auditor in the public register of a public oversight body in an EU member state in accordance with the principles of public oversight set out in Directive 2006/43/EC of the European Parliament and of the Council (this applies to auditors and audit firms based in an EU member state).

1.2.4. The Auditor and/or the firm is registered as a statutory auditor in the public register of a public oversight body in a third country and this register is subject to principles of public oversight as set out in the legislation of the country concerned (this applies to auditors and audit firms based in a non-EU member state).

2. Subject of the Engagement

The subject of this engagement is the *<interim or final; delete what is not applicable>* Financial Statement in connection with the Grant Agreement for the period covering *<dd Month yyyy to dd Month yyyy>*.

3. Reason for the Engagement

The Grantee is required to submit to Blue Action an Auditor's Report in the form of an independent report of factual findings produced by an external Auditor in support of the expenditures and income reported by the Grantee under the Grant Agreement. Blue Action requires this Report as the acceptance by it of expenditures and income incurred by the Grantee under the Grant Agreement. It is conditional on the factual findings of this Report.

4. Engagement Type and Objective

This constitutes an engagement to perform specific Agreed-upon Procedures regarding an independent report of factual findings on expenditures and income incurred under the Grant Agreement.

As this engagement is not an assurance engagement the Auditor does not provide an audit opinion and expresses no assurance. Blue Action derives its assurance by drawing its own conclusions from the factual findings reported by the Auditor on the Financial Statement and the payment request of the Grantee relating thereto.

The Auditor shall include in its Report that no conflict of interest exists between it and the Grantee in establishing this Report, as well as the fee paid to the Auditor for providing the Report.

5. Scope of Work

5.1 The Auditor shall undertake this engagement in accordance with these ToR and:

- in accordance with the International Standard on Related Services ('ISRS') 4400 (Revised) Agreed-upon Procedures Engagements as promulgated by the IFAC;
- in compliance with the Code of Ethics for Professional Accountants issued by the IFAC. Although ISRS 4400 (Revised) provides that independence is not a requirement for agreed-upon procedures engagements, the Blue Action Fund requires that the Auditor also complies with the independence requirements of the Code of Ethics for Professional Accountants.

5.2 Planning, procedures, documentation and evidence:

The Auditor should plan the work so that the procedures can be effectively performed. For this purpose, he performs the procedures specified in Annex II of these ToR ('Compulsory Report Format; Scope of Work and Procedures to be Performed') and uses the evidence obtained from these procedures as the basis for the Report of factual findings.

6. Reporting

The Report of factual findings, the format for which is attached as Appendix 3 to Annex II to these ToR, is designed to describe the purpose and the Agreed-upon Procedures of the engagement in sufficient detail in order to enable the Grantee and Blue Action to understand the nature and extent of the procedures performed by the Auditor. The Auditor will report on

his/her factual findings in accordance with ISRS 4400 (Revised). The Report shall be written in English.

The Auditor agrees to a disclosure of his/her Report to Blue Action in connection with the requirements as set out in the Grant Agreement with the proviso that the Report will be disclosed in complete, unabridged form including all its attachments.

7. Timing

The Report shall be provided to Grantee not later than 75 days after the date of the Engagement Letter.

8. Other Terms

Liability

[Please include the appropriate national liability modalities for Auditors under “Other terms”. Note that Blue Action typically requires liability exposure of the Auditor of at least Euro 500,000. These can look like the following:]

The contractual basis for this engagement are the national General Engagement Terms for Auditors and Audit Companies with the proviso that the Auditor's aggregate liability towards the Grantee and any other person who may at the Grantee's request and with the Auditor's consent be granted access to the Auditor's deliverables is strictly limited to the maximum amount set out in [Article, No. etc] of the attached General Engagement Terms for Auditors and Audit Companies. Please note for these purposes that the Grantee has specifically requested, and the Auditor's has consented to Blue Action being granted access to the Auditor's deliverables. These terms are appended hereto and are also binding upon third parties.

[The Grantee and the Auditor can also use this section to agree other specific terms such as Auditor's fee and cost reimbursement, applicable law, further cooperation requirements, etc.]

Annex II to Engagement Letter-

Compulsory Report Format, Scope of Work and Procedures to be Performed

The Auditor`s Report has the following structure:

“Independent Report of Factual Findings”

- Appendix 1 Copy of signed Engagement Letter
- Appendix 2 (i) Grantee’s Financial Statement
(ii) Auditor’s reconciliation of Financial Statement
(iii) List of all procurements above EUR 5,000,
(iv) Representation letter signed by the Grantee
- Appendix 3 Agreed-upon Procedures (AuPs) to be performed and standard factual findings to be confirmed by the Auditor

[To be printed on letterhead paper of the Auditor]

Independent Report of Factual Findings on expenditures and income claimed under a Grant Agreement financed by the Blue Action Fund (Blue Action)

<Name of contact person(s)>, < Position>

< Grantee’s name>

<Address>

<dd Month yyyy>

In accordance with our contract (the “Engagement Letter”) dated <dd Month yyyy> with <name of the Grantee> “the Grantee”, we [*legal name of the audit firm*], established in [*full address/city/state/province/country*] represented for signature of this Report by [*name and function of an authorised representative*] provide our Independent Report of Factual Findings (“the Report”), as specified below.

The Engagement Letter was prepared in compliance with the requirements of the Blue Action Fund (“Blue Action”) as set forth in a document entitled “Terms of Reference for Auditor’s Reports for Blue Action Fund Grants” (the “ToR”). Blue Action [*is financing/has financed*] a project of the Grantee under a grant agreement [*Blue Action grant agreement reference: title, acronym, number*] (the “Grant Agreement”). The Engagement Letter is attached to this Report as Appendix 1.

We confirm that we meet the condition specified in [*insert applicable section 1.2.1-1.2.4*] of the Base Terms included in the ToR.

Objective

We have performed Agreed-upon Procedures regarding the expenditures and income reported in the Financial Statement² of the Grantee as of <dd Month yyyy> which is attached to this Report as Appendix 2, and which [*is to be*][*were*] presented to Blue Action under the Grant Agreement for the following period [*insert period covered by the Financial Statement*]. This engagement involved

² Financial Statement in this context refers solely to Appendix 2 by which the Grantee claims expenditures and income under the Grant Agreement.

performing certain specified procedures, the results of which Blue Action uses to draw conclusions as to the eligibility of the expenditures and income claimed.

Scope of Work

Our engagement was carried out in accordance with:

- the ToR, and in particular the Base Terms attached as Annex I to the Engagement Letter including the mandatory Base Terms paragraphs [1-7];
- International Standard on Related Services ('ISRS') 4400 (Revised) Agreed-upon Procedures Engagements as promulgated by the International Federation of Accountants ('IFAC');
- the Code of Ethics for Professional Accountants issued by the IFAC. Although ISRS 4400 (Revised) provides that independence is not a requirement for agreed-upon procedures engagements, Blue Action requires that the Auditor also complies with the independence requirements of the Code of Ethics for Professional Accountants;

As requested, we have only performed the procedures set out in the Engagement Letter and the ToR and we have reported our factual findings on those procedures in the table included as Appendix 3 to this Report.

The scope of these Agreed-upon Procedures has been determined solely by Blue Action and the procedures were performed solely to assist Blue Action in evaluating whether the expenditures and income incurred by the Grantee in the accompanying Financial Statement have been claimed in accordance with the Grant Agreement. The Auditor is not responsible for the suitability and appropriateness of these procedures.

Because the procedures performed by us did not constitute either an audit or a review made in accordance with International Standards on Auditing or International Standards on Review Engagements, we do not express any assurance on the Financial Statement.

Had we performed additional procedures, or had we performed an audit or review of the Financial Statement of the Grantee in accordance with International Standards on Auditing, other matters might have come to our attention that would have been reported to you.

Sources of Information

The Report sets out information provided to us by the management of the Grantee in response to specific questions or as obtained and extracted from the Grantee's information and accounting systems.

Not applicable Findings

We examined the Financial Statement stated above and considered the following findings not applicable:

Explanation (to be removed from the Report):
<p>If a finding was not applicable, it must be marked as 'N.A.' ('Not applicable') in the corresponding row on the right-hand column of the table in Appendix 3, which means that the finding did not have to be affirmed by the Auditor and the related procedure(s) did not have to be carried out.</p> <p>The reasons of the non-application of a certain finding must be obvious, e.g. if the condition set to apply certain procedure(s) is not met, the related finding(s) and those procedure(s) are not applicable. For instance, if no procurement above the thresholds has been taken place, then the related finding(s) and procedure(s) are not applicable.</p>

List here all findings considered not applicable for the present engagement and explain the reasons of the non-applicability.

...

Exceptions

Apart from the exceptions listed below, the Grantee provided the Auditor all the documentation and accounting information needed by the Auditor to carry out the requested procedures and evaluate the findings.

Explanation (to be removed from the Report):

- If the Auditor was not able to successfully complete a procedure requested, it must be marked as 'E' ('Exception') in the corresponding row on the right-hand column of the table in Appendix 3. The reason such as the inability to reconcile key information or the unavailability of data that prevents the Auditor from carrying out the Procedure must be indicated below.
- If the Auditor cannot corroborate a standard finding after having carried out the corresponding procedure, it must also be marked as 'E' ('Exception') and, where possible, the reasons why the finding was not fulfilled, and its possible impact must be explained here below.

List here any exceptions and add any information on the cause and possible consequences of each exception, if known. If the exception is quantifiable, include the corresponding amount. Please explain the exceptions, specifying the cost category and the specific selected sample if possible.

....

Explanation (to be removed from the Report):

1. The Grantee was unable to substantiate the finding number 1 on ... because
2. Finding number 18 was not fulfilled because the procurement rules used by the Grantee were different from the one approved by Blue Action. The differences were as follows: ...
3. After carrying out the Agreed-upon Procedures to confirm the finding number 14, the Auditor found a difference of EUR _____ The difference can be explained by ...

Further Remarks

In addition to reporting on the results of the specific procedures carried out, the Auditor would like to make the following general remarks:

Explanation (to be removed from the Report):

1. Regarding finding number 18 the conditions for procurement were considered as fulfilled because ...
2. In order to be able to confirm the finding number 15 we carried out the following additional procedures:

Use of this Report

This Report is solely for the purpose set forth in the above objective.

This Report is prepared solely for the confidential use of the Grantee and Blue Action and solely for the purpose of submission to Blue Action in connection with the requirements of the Grant Agreement. This Report may not be relied upon by the Grantee or by Blue Action for any other purpose, nor may it be distributed to any other parties except (i) as required by any law or regulatory requirement applicable to Blue Action or any of its donors, (ii) as required by any contractual requirement applicable to Blue Action under any agreement with its donors, and (iii) consultants performing the technical review contemplated under the Grant Agreement.

This Report relates only to the Financial Statement specified above and does not extend to any other financial statements of the Grantee.

No conflict of interest³ exists between the Auditor and the Grantee in establishing this Report. The fee paid to the Auditor for providing the Report was Euro _____.

We look forward to discussing our Report with you and would be pleased to provide any further information or assistance which may be required.

[legal name of the audit firm]

[name and function of an authorised representative]

<dd Month yyyy>, <Signature of the Auditor>

³ A conflict of interest arises when the Auditor's objectivity to establish the certificate is compromised in fact or in appearance when the Auditor for instance:

- was involved in the preparation of the Financial Statement;
- stands to benefit directly should the certificate be accepted;
- has a close relationship with any person representing the Grantee;
- is a director, trustee or partner of the Grantee;
- is in any other situation that compromises his or her independence or ability to establish the certificate impartially.

Appendix 1 to Auditor's Report

Copy of signed Engagement Letter

Appendix 2 to Auditor's Report

- (i) Grantee's Financial Statement
- (ii) Auditor's reconciliation of Financial Statement
- (iii) List of all procurements above EUR 5,000
- (iv) Representation letter signed by the Grantee (as per Base Terms, Section 1.1)

Appendix 3 to Form of Auditor's Report

Agreed-upon Procedures (AuPs) to be performed and standard factual findings to be confirmed by the Auditor

The Auditor designs and carries out his work in accordance with the objective and scope of this engagement and the procedures to be performed as specified below. Among the key documents to be examined in carrying out the work are the Grantee's Financial Statement and Transaction List as defined in the Grant Agreement (GA):

GA, Section 6.3 "Financial Statement" means: The Grantee's budgeted and actual spending and income structured according to Blue Action's cost categories.

GA, Section 6.2.3 "Transaction List" means: An itemized list showing all project expenditures and income in Euro (on a cash basis) allocated according to Blue Action's cost categories.

GA, Section 2.3 "Budget" means: The budget included in the Project Proposal attached as Schedule A to the GA.

When performing these procedures, the Auditor may apply techniques such as inquiry and analysis, (re)computation, comparison, other clerical accuracy checks, observation, inspection of records and documents, inspection of assets, obtaining confirmations or any others deemed necessary in carrying out these procedures.

Blue Action reserves the right to issue guidance together with example definitions and findings to guide the Auditor in the nature and presentation of the facts to be ascertained. Blue Action reserves the right to vary the procedures by written notification to the Grantee.

The 'result' column has three different options: 'C', 'E' and 'N.A.':

- 'C' stands for 'confirmed' and means that the Auditor can confirm the 'standard factual finding' and there is therefore no exception to be reported.
- 'E' stands for 'exception' and means that the Auditor carried out the procedures but cannot confirm the 'standard factual finding', or that the Auditor was not able to carry out a specific procedure (e.g. because it was impossible to reconcile key information or data was unavailable).
- 'N.A.' stands for 'not applicable' and means that the finding did not have to be examined by the Auditor and the related procedure(s) did not have to be carried out. The reasons of the non-application of a certain finding must be obvious, e.g. if the condition set to apply certain procedure(s) is not met, the related finding(s) and those procedure(s) are not applicable. For instance, if no procurement above the thresholds has been taken place, then the related finding(s) and procedure(s) are not applicable.

Sampling Requirements and Reporting of Sampled Transactions

In order for Blue Action to assess the adequacy of the Grantee's financial reporting and verify the overall coverage target, where sampling is required (as indicated by an asterisk*) under the list of procedures below, the Auditor must indicate the number of expenditure items/transactions he/she has sampled and shall determine that number as follows:

- If there are 10 or fewer relevant expenditure items/transactions that fall into the category for review, all shall be examined.
- If there are between 11 and 100 expenditure items/transactions that fall into the category for review, the Auditor shall implement the sampling by reviewing the five largest expenditure items/transactions and five expenditure items/transactions selected randomly.
- If there are more than 100 expenditure items/transactions that fall into the category for review, the Auditor shall implement the sampling by reviewing the five largest expenditure items/transactions, five expenditure items/transactions selected randomly and an additional number of items such that the sample at a minimum includes 10% of the total number of items/transactions. The method used to select the additional transactions is at the discretion of the Auditor.

The sampled transactions overall must cover at least 10% of the total declared expenditures on the Financial Statement. If, following the sampling instructions above, an overall financial coverage of 10% of declared expenditures is not obtained, additional expenditure items/transactions should be tested to achieve this minimum financial coverage.

The procedures to be performed are listed as follows:

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
A	Overall Financial Management & Controls		
A.1	<p><i>Internal Controls</i></p> <p>As set forth in Section 2.1 of Blue Action’s Grant Procedures Manual, Grantees are required to have a strong financial management and internal control system. This includes adequate provisions for planning and budgeting, internal control and accounting, as well as funds, cash flow and assets management all in line with the applicable legislation.</p> <p>The Grantee prepares a process description of the financial management and internal control system. In relation to the use of Blue Action funds, the process description should at a minimum describe the relevant internal controls, the internal bookkeeping entry system used to track and keep separate Blue Action funds from other Grantee funds and the controls in relation to the procurement procedures (Section 5.5 of the Grant Agreement).</p> <ul style="list-style-type: none"> The Auditor examined said process description and traced the internal controls on the use of funds. 	<ol style="list-style-type: none"> The required information on internal controls relevant to the use of funds was provided by the Grantee. The application by the Grantee of its internal control system to the Grant was confirmed and traced with documents and records. Grantees internal bookkeeping system is adequate to trace Blue Action funds separately from other Grantee funds. 	
A.2	<p><i>Currency conversion</i></p> <p>As stated in Section 8.3 of the Grant Agreement, Blue Action and the Grantee acknowledge that there is a currency depreciation risk associated with the transfer of funds into the local currency or currencies of the Project. <i>[note to Auditor: please continue by selecting the applicable option below which will reflect the text adopted in Grant Agreement Section 8.3]</i></p> <p>[OPTION 1] Accordingly, in order to reduce such risk and to allow retransfer at all times, (i) pending transfer into the local currency or currencies all Blue Action Contribution provided under this Agreement is to be kept in the country of Grantee in Euro, and (ii) transfers of Euro to local currency accounts are permitted only on a</p>	<ol style="list-style-type: none"> The exchange rates used to convert Euros [US dollars] into other currencies were in accordance with the rules established of the Grant Agreement and there was no difference in the figures inspected. 	

<p>requirements basis for maximum of three (3) months.</p> <p>[OPTION 2] As an exception to its usual rule that Blue Action Contribution be maintained in Euro pending transfer into the local currency or currencies of the Project, Blue Action permits Grantees whose primary operating currency is US dollars to maintain the Blue Action Contribution in US dollars. Grantee represents to Blue Action that its primary operating currency is US dollars and elects to maintain Blue Action Contribution in US dollars.</p> <p>Accordingly, in order to reduce currency depreciation risks and to allow retransfer at all times, (i) pending transfer into the local currency or currencies of the Project all Blue Action Contribution provided under this Agreement is to be kept in the country of Grantee in US dollars, and (ii) transfers of US dollars to local currency accounts are permitted only on a requirements basis for maximum of three (3) months.</p> <p>For purposes of reporting Grant expenditures to Blue Action (in Euros), Grantee shall use the actual exchange rate of each Euro transfer to US dollars. Blue Action recommends using a “first in-first out” (FIFO) method. <i>[End of optional language to be chosen--please revert to the main text below]</i></p> <p>All Grant funds provided in Euros that are converted into another currency must be so converted at the best available rate through the channels authorized by applicable laws and regulations. All such transactions must be verifiable through bank receipts or other documents or publications sufficient to demonstrate the legality of such transactions.</p> <ul style="list-style-type: none"> • The Auditor obtained a process description for handling funds in Euros <i>[include as appropriate: and US dollars]</i> and for currency conversion including disbursements to project partners and other third parties. • The Auditor sampled* _____ currency transfers to sub-grantees, _____ currency transfers by the Grantee or project partners to other third parties, inspected the underlying evidence and examined in each case that the exchange rates used for converting other currencies into Euros were in accordance with the rules established in the Agreement. • In addition to that, the Auditor inspected relevant documents such as budgets and payment requests and examined that the three (3) month requirement for the sampled currency transfers to local currency accounts were met. <p><i>* Please refer to the introduction of these AuPs for instructions on the number of transactions to be sampled.</i></p>	<p>5. Transfers of Euro/US dollar to local currency accounts were within the requirement to consume the amount within three (3) months at the latest.</p>	
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Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
B	Spending in line with Budget and Compliance with Spending Rules		
B.1	<p><i>Budget</i></p> <p><i>The Grant Agreement contains a Budget and makes provisions for reporting against the Budget through the preparation of a Financial Statement and Transaction List. (for definitions please refer to the introduction to these AuPs).</i></p> <ul style="list-style-type: none"> The Auditor carries out a reconciliation of the Financial Statement and the Budget. The Auditor (i) verifies that the cost categories reported in the Financial Statement are presented in the same manner as contemplated in the Budget, and (ii) reconciles any differences between the Financial Statement and the Budget. The Auditor carries out a reconciliation of the Financial Statement and the Transaction List. The Auditor verifies that (i) the expenditures and income reported in the Transaction List are appropriately allocated to the relevant cost category and income item in the Financial Statement and (ii) when summed, the items listed in the Transaction List as falling under a cost category/income item equal the amounts shown in the Financial Statement. As stated in Section 8.7 of the Grant Agreement, the Grantee may shift up to a maximum of fifteen percent (15%) of Blue Action contribution budgeted to an individual cost category to another cost category within the same cost category group, provided that the funds shifted to the new cost category may not increase the budget allocated to such cost category by more than 50%. Grantee must receive written approval from Blue Action prior to shift funding between cost category groups, or other changes to the budget other than as permitted by the first sentence of the Section 8.7 or Section 3.2. The Auditor checks, on the basis of his/her reconciliations, whether shifts in excess of the above 15%/50% rules have been made and if so whether appropriate approval was obtained. 	<p>6. The cost categories reported in the Financial Statement are presented in the same manner as contemplated in the Budget. The reported expenditures were within the Budget with the differences noted in Appendix 2 (ii).</p>	
		<p>7. The expenditures and income reported in the Transaction List are appropriately allocated to the relevant cost category/income item in the Financial Statement and when summed, the items listed in the Transaction List as falling under a cost category/ income item equal the amounts shown in the Financial Statement.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)																																
	<ul style="list-style-type: none"> The Auditor's reconciliation is attached as Appendix 2 (ii) to these AuPs and standard factual findings to be confirmed by the Auditor. <p><i>Further guidance:</i></p> <p><i>Obtain the Budget, Grantee's Financial Statement and the Transaction List and perform the following procedures:</i></p> <p><i>a. Recalculate the % of expenditures spent to budget. For variances above 15% or shifts between cost category groups obtain the written approval from Blue Action. This approval should be given before the management shifted the use of funds.</i></p> <p><i>b. Make inquiries of management as to the basis for allocating entries on the Transaction List to the different cost categories in the Financial Statement. Review the Transaction List entries to assess whether its allocation to the relevant cost category is reasonable. Make further inquiries of management if that is not the case.</i></p> <p><i>c. Check the mathematical accuracy of the financial statement amount per cost category/income item against the total per cost category/income item within the transaction list.</i></p>	<p>8. Budget shifts within category groups are within the 15% and 50% limits or were made with prior approval in writing by Blue Action. No funding was shifted between category groups without prior approval of Blue Action.</p>																																	
<p>B.2</p>	<p>Spending</p> <p>The Auditor sampled the following number of expenditure items, per cost category as per the guidance in the introduction to these AuPs, items must be sampled from all cost categories reported in the Financial Statement. If applicable, expenditure items of any sub-grantees should be included in the sampling. Please fill in the table below:</p> <table border="1" data-bbox="197 981 1355 1268"> <thead> <tr> <th>Cost Category</th> <th>Total amount in EUR reported</th> <th>Total amount in EUR of selected samples</th> <th># of sampled expenditure items</th> </tr> </thead> <tbody> <tr> <td>Group 1 (Field Implementation)</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Capital Expenditures</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Operational and Maintenance Costs</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Capacity Development</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Consulting services</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Other Marine Conservation Activities</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Communications and Awareness</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Cost Category	Total amount in EUR reported	Total amount in EUR of selected samples	# of sampled expenditure items	Group 1 (Field Implementation)				Capital Expenditures				Operational and Maintenance Costs				Capacity Development				Consulting services				Other Marine Conservation Activities				Communications and Awareness				<p>9. Expenditures were adequately supported and reconciled with the accounts.</p> <p>10. The expenditure items sampled were assigned to the appropriate Blue Action cost category.</p> <p>11. The expenditure items sampled did not represent ineligible expenditures.</p>	
Cost Category	Total amount in EUR reported	Total amount in EUR of selected samples	# of sampled expenditure items																																
Group 1 (Field Implementation)																																			
Capital Expenditures																																			
Operational and Maintenance Costs																																			
Capacity Development																																			
Consulting services																																			
Other Marine Conservation Activities																																			
Communications and Awareness																																			

Ref	Procedures				Standard factual finding	Result (C / E / N.A.)
	Group 2 (Project Management)				12. The expenditure items sampled were incurred within the reporting period.	
	Staff (field)					
	Staff (admin)					
	Travel staff					
	Other operating costs					
	Contingency				13. Any sub-grantees receiving disbursements of funds were identified in the Grant Agreement and such sub-grantees received the disbursements.	
	Group 3 (outside target region)					
	Staff (International)					
	Travel international staff					
	Other indirect costs					
	For each cost category, the Auditor performs the following procedures:					
	<ul style="list-style-type: none"> • The Auditor examined that sampled items were accounted for in line with the Grantee’s usual accounting policy, and that the expenditures were supported by appropriate evidence in line with rules of the relevant jurisdiction and were incurred within the reporting period. • The Auditor examined that none of such items reflected ineligible expenditures as defined in Section 8.1 of the Grant Agreement. 					
	<p><i>Further guidance:</i> <i>For the transactions selected, the Auditor will perform the following procedures:</i></p> <ul style="list-style-type: none"> (i) Obtain and inspect underlying invoices and vouchers to determine that expenditures were approved and paid in line with Grantee’s controls and accounting practice, as documented. (ii) Compare the expenditures by invoices to the purchase order requests and that the expenditures were recorded in the proper general ledger account. (iii) Verify that the basis on which the expenditure items were charged to the Blue Action cost category appeared to be reasonable. (iv) Verify that the expenditures were incurred within the reporting period. 					
	<ul style="list-style-type: none"> • The Auditor also examined that any sub-grantees receiving disbursements of funds were identified in the Grant Agreement and disbursements to sub-grantees were received. 					

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
B.3	<p><i>Income</i></p> <p>As stated in Section 8.11 of the Grant Agreement, any income generated from the Blue Action Contribution, such as interest earnings, shall be used for the purpose of the Project. Grantee must inform Blue Action within the Progress Report about any income generated and receive written approval from Blue Action prior to using such income.</p> <ul style="list-style-type: none"> The Auditor examined that the Grantee included any income generated from Blue Action Contribution in the Financial Statement and that the income is supported by appropriate evidence. The Auditor examined Blue Action’s written approval for using the income exists. 	14. Income from the grant is correctly displayed and the use has been approved by Blue Action.	
B.4	<p><i>Match funding</i></p> <p>As stated in Section 2.3 of the Grant Agreement, the Grantee must ensure that at least 25% of the overall expenditures are funded by match funding.* The Auditor shall obtain evidence from the Grantee that supports the spending of match funding to cover project expenditures.</p> <p>*In some cases, the % of match funding can be below 25% - please check with the Grant Agreement and Project Budget.</p> <ul style="list-style-type: none"> The Auditor inspected the evidence and recalculated the total percentage of match funding. <p><i>Further guidance:</i></p> <p><i>Obtain from management the Financial Statement as well as relevant supporting documents relating to match funding and perform the following procedures:</i></p> <ol style="list-style-type: none"> <i>Using the Financial Statement, the Auditor will recalculate the total percentage of match funding.</i> <i>Select the five largest transactions underlying the match funding report in the Financial Statement and five transactions at random and test that the match funding reported for this grant is for the work related to the Blue Action Grant.</i> 	15. There were no discrepancies between the percentage of match funding reported by the Grantee and the percentage recalculated by the Auditor.	
		16. Match funding was related to the Blue Action Grant and adequately supported by evidence.	
C	Compliance with procurement rules		
C.1	<p><i>Procurement</i></p> <p>As stated in Section 9 and Annex 4 of the Grant Agreement, the procurement of goods, works and related services as well as consulting services funded through Blue Action shall be based on strict ethical principles and best international procurement practices for NGOs, and shall conform to the procurement policy.</p>	17. The required list of goods, works and associated services and consulting services was provided by the grantee.	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
	<ul style="list-style-type: none"> • The Auditor obtained a list prepared by the Grantee and attached as Appendix 2 (iii) to the Auditor`s Report of all purchased goods, works, associated services and consulting services above EUR 5,000. The Auditor sampled* _____ procurement items above EUR 5,000. • The Auditor consulted Annex 4 to the Grant Agreement and inspected documents and obtained confirmations that goods, works and related services and other consulting services were awarded according to the procedures in Annex 4 including an analysis of best offer which takes into account key criteria such as price, quality, suitability, delivery terms, warranty, etc. <p><i>Further guidance:</i></p> <p><i>*Using the List of all procurements above EUR 5,000 (Appendix 2 (iii)) the Auditor will perform the following procedures:</i></p> <ol style="list-style-type: none"> a) <i>Select the five largest procurement items above EUR 5,000.</i> b) <i>Select additional number of procurement items on a random basis, such that the sample at a minimum includes 10% of the total number of procurement items above EUR 5,000.</i> c) <i>For the items selected, the Auditor will examine the supporting documents (i.a. request for proposals, direct award memos, underlying contracts) and check that the procurement policy has been followed.</i> 	<p>18. The procurement procedures specified in Annex 4 to the Grant Agreement were appropriately applied in the sampled procurement items.</p>	

Ref	Procedures	Standard factual finding	Result (C / E / N.A.)
D	Follow-up		
D.1	<p><i>Only applicable for financial reviews beyond the first</i></p> <p>If the Auditor has reported deficiencies and made recommendations in previous reports on factual findings, the Grantee shall provide evidence that the recommendations have been implemented or that deficiencies have been rectified for the reporting period under review.</p> <ul style="list-style-type: none"> The Auditor inspected documents and obtained confirmations that the recommendations have been implemented and/or that deficiencies have been rectified by the Grantee. 	19. Deficiencies were adequately rectified and/or recommendations were adequately implemented.	

[legal name of the audit firm]

[name and function of an authorised representative]

<dd Month yyyy>, <Signature of the Auditor>

Annex 3 - Eligible Measures (Chapter 2.3. of GPM (August 2022))

General Eligibility Requirements.⁴

For all of its grants, Blue Action expects that:

- There will be a marine conservation focus, but a substantial share of funding will also be devoted to sustainable livelihoods activities.
- A substantial share of the funding will be used for capital expenditures, equipment and direct payments.
- Costs outside the target region (total of cost category group 3) will be less than 20% of the overall project budget, and only 10% of Blue Action's grant can contribute to the total costs outside the target region. It should be noted that 20% of the overall project budget is the absolute limit. Blue Action targets levels of costs outside the target region for its projects closer to 15%, and levels lower than 15% will be evaluated positively.

Blue Action project budgets are divided into the following three cost category groups consisting of separate cost categories:

- Category Group 1 (1.1.-1.6.): E.g. capital expenditures, operational and maintenance costs (for MPAs) and capacity building within the target region.
- Category Group 2 (2.1.-2.5.): Staff costs, travel costs and other operational costs of the implementing NGOs within the target region.
- Category Group 3 (3.1.-3.2.): Costs outside the target region, e.g. costs incurred at head office and for staff outside the target region⁵.

The following table presents the three cost category groups and categories used in Blue Action project budgets, including examples of eligible measures and costs. Blue Action will share a detailed budget template with organisations invited to prepare full proposals.

Cost Category	Examples Eligible Measures and Costs
1.1 Capital expenditures and equipment; direct payments	<p><u>Capital expenditures and equipment</u> for the beneficiaries (e.g. the MPA authority or the communities) of the project. These are items or infrastructure purchased or constructed for establishment of MPA, better MPA management and implementation of livelihood initiatives. The items must be transferred to the beneficiaries (latest at the of end of project). Capital expenditures are not intended for the implementing NGOs (grantee or subgrantees) to carry out the project - these should be listed under "Other operational costs".</p> <p>Examples include equipment for monitoring, control and surveillance, surveillance posts, buoys for demarcation, data collection devices (e.g. BRUVs), investments into cold chains, fishers' meeting house improvements, mobile phones, IT, motorcycles for park authorities or local communities, equipment and infrastructure for development of livelihoods activities (e.g. equipment for agricultural and aquaculture)</p> <p><u>Direct payments</u>: Financial support for communities e.g. saving and credit schemes, livelihood-support fund, provision of micro-credits, seed funding for small and medium community enterprises etc. Compensation for community work such as Beach Management Units, mangrove planting, payments to fishers for data collection, forest patrols or guards from the</p>

⁴ In addition to these requirements that address the project's content, more standard requirements generally applicable to grants are included in the Grant Agreement (see Section 4 below), e.g., that costs must be incurred by the grantee during the duration of the action, comply with the requirements of applicable tax and social legislation, and be reasonable, justified and comply with principles of sound financial management.

⁵ Exceptionally, staff costs for environmental & social risk management related work that are incurred outside the target country (e.g. an in-house expert that is based in the organisation's headquarters) can be budgeted in Cost Category Group 2 (i.e. as staff costs within the target country).

Cost Category	Examples Eligible Measures and Costs
	community.
1.2 Operational and maintenance costs	Temporary support for operating costs of MPA management. Examples include fuel, maintenance and insurances for patrol vehicles, share of running costs of MPA authority office. [Any operating costs of the implementing NGOs (grantee or subgrantees) should be listed under “Other operational costs”].
1.3 Capacity development, training and workshops	This category includes all costs surrounding capacity development, stakeholder engagement events, trainings and workshops, such as travel and accommodation costs of the participants, conference rooms rentals, moderator fees, event materials, etc. [Any travel costs for staff of the implementing NGOs (grantee or subgrantees) should be listed under “Travel staff”].
1.4 Consulting services	Any consultancy contract for works or services in support of the project. Examples include external expertise in development of management plans, business plans, tourism development plans, livelihood diversification, ESMS support, studies or assessments.
1.5 Other marine conservation activities	Any costs not covered by any of the other categories. This category should only be assigned following consultation with Blue Action.
1.6 Communication and Awareness	Communication products or any expenses related to raising awareness. Examples include handbooks for user groups, poster campaigns, signs, radio shows, public awareness raising events, environmental education curricula.
2.1 Staff (Field)	Salaries for field staff based within the target region (including a dedicated project manager working 100% on the project).
2.2 Staff (admin)	Salaries for administrative and finance staff based within the target region directly contributing to the project. [this may not cover staff already included in any central overhead under 2.4 “other operational costs”]
2.3 Travel staff	Travel costs, including fare, accommodation and daily allowances of staff based in the target region.
2.4 Other operating costs	Operational Costs of the implementing NGOs (Grantees and Sub-Grantees) to ensure smooth running of the project. These can be: <ul style="list-style-type: none"> - <u>Overhead costs</u>, i.e. partial support for shared costs for office rent, office supplies, telecommunication and electricity or shared services (e.g. staff costs for office management, HR, operations). IMPORTANT: Admin staff directly contributing to the project must be included in 2.2. “Staff admin”. Overhead costs need to be supported with a well-explained calculation and a reasonable allocation system. and <ul style="list-style-type: none"> - <u>Direct costs</u> such as equipment (cars, motorcycles, diving gear etc. needed for project implementation. IMPORTANT: It is not allowed to claim items as direct costs that are already covered by the overhead. and <ul style="list-style-type: none"> - Costs for external financial audits of the project.
2.5 Contingency	Contingency is for any unforeseen expenditures as well as exchange rate fluctuations. Projects are expected to calculate 4-5% of Blue Action contribution as contingency.
3.1 International Staff	Salary of any staff based outside the target region. ⁶
3.2 Travel international staff	Travel costs, including fare, accommodation and daily allowances of staff based outside the target region.
3.3 Other indirect costs	Other indirect costs accruing to NGOs outside the target region.

⁶ Exceptionally, staff costs for environmental & social risk management related work that are incurred outside the target region (e.g. an in-house expert that is based in the organisation’s headquarters) can be budgeted in Cost Category Group 2 (i.e. as staff costs within the target region).

Disfavoured Measures and Costs (Eligible only with Prior Approval)

The following *measures* and *costs* will generally not be considered appropriate for Blue Action funded projects. If, however, one of the measures or costs is considered indispensable for the project, the applicant may propose it with due justification.

Disfavoured *measures*:

- Capacity development not related to either the creation or management of MPAs or sustainable livelihoods;
- Infrastructure, equipment and training for national and regional organisations unless there is a direct linkage with establishment, surveillance, protection, monitoring or sustainability of MPAs;
- Research other than for the establishment of baselines, establishment of MPAs or pilots for innovation testing;
- Education and acquisition of formal qualifications in marine protection and management;
- Transboundary interventions to protect particular habitats (e.g. mangroves) without clear links to specific MPAs;
- International conferences, workshops, study tours as stand-alone activities, i.e. if they are not an essential element to achieve the project's objective;
- So-called “dish outs”: this means procurement of productive assets (such as cold storage equipment, fishing gear, etc.) that does not include at least a small contribution by recipients of the items either financially or in kind.

Disfavoured *costs*:

- Salary or travel costs of government officials
- Salaries above local rates

Import Duties. Import duties generally cannot be paid with Blue Action funds and, if part of the value of a contract for goods or services, must be stated separately in the contract and the related invoices and covered with other resources (e.g. match funding). If a significant share of goods and services must be imported, e.g. into a small island developing state, and NGOs are not in a position to fund import duties from their own contribution, they can request an exception.

Ineligible Measures

As described in Section 4.7, Blue Action maintains an [Environmental and Social Management System \(ESMS\)](#). The ESMS sets forth a list of measures or actions, including among others those that would result in the destruction of critical habitats, that are ineligible (without exception) for funding by Blue Action. Potential grantees must assure that their proposals do not include any such ineligible measures or actions.

Annex 4 - Procurement Policy for the Implementation of Blue Action Fund Grants

Procurement of goods, works and related services and consulting and other services funded through Blue Action shall be based on strict ethical principles and best international procurement practices for NGOs, and shall conform to this procurement policy (the “Procurement Policy”, also referred to in this document as the “Policy”).⁷ The Grantee must ensure that it and all Sub-Grantees comply with the Procurement Policy.

1. Scope of Procurement Policy

The Policy applies to all procurements using Blue Action funds, including procurements involving “mixed funds” (i.e., funds from Blue Action and any other source). The Policy does not apply to:

- any procurement that does not use any Blue Action funds, including procurements with funds that are considered “match funds” under the relevant Grant.
- Sub-contracts that are “pre-approved” as part of the approval process of a full proposal for a Grant which has assessed the related costs as economically viable based on a clear presentation and clearly defined the role and responsibilities of the sub-contractor in the full proposal (Art. 3.1 of Grant Agreement). If, however, the pre-approved sub-contractor later has to be substituted (e.g. because its services are no longer available), the substitute is not exempt from procurement rules and a procurement method permitted under this Policy shall be applied.

2. Procurement Methods and Thresholds

Five basic procurement methods, set forth below in ascending order of their level of competition, are contemplated by this Procurement Policy:

- Direct Award
- Price Quotation
- Limited Competitive Bidding (LCB)
- National Competitive Bidding (NCB)
- International Competitive Bidding (ICB)

The following table sets forth the lowest competition level procurement method that may be used for the different types of procurement for goods, services (including consulting services) and works at different contract value levels. Higher competition levels (and, more generally, stricter procurement methods than the minimum standards set forth in this Policy) may also be used for any procurement, and it will often be good practice to do so. Two examples in the footnote illustrate this principle.⁸ Grantees/Sub-Grantees are expected to be able to implement efficient and effective procurements which, in addition to complying with the minimum standards set forth in this Policy, reflect professional business practices and the exercise of good judgment.

⁷ This Procurement Policy is an adaptation of KfW’s “Guidelines for the Procurement of Consulting Services, Works, Plant, Goods and Non-Consulting Services in Financial Cooperation with Partner Countries” dated January 2019.

⁸ (1) While the Direct Award method would be permissible for standard goods or consulting services valued at EUR 9,000, in many cases it will be better practice, ensure a better result and even perhaps more efficient (among other things eliminating the need to prepare a Direct Award Memo) to use the Price Quotation or Limited Competitive Bid method. (2) In a LCB, in addition to identifying known qualified providers, publicizing the procurement in some way short of a formal NCB/ICB (on a web site or using social media for example) may help identify previously unknown qualified providers.

A description of each of the five basic procurement methods is set forth below the table. If a proposed procurement does not fit in one of these five categories, Blue Action should be consulted.⁹

Procurement Methods and Thresholds

Minimum Required Procurement Method	Type of goods, services or works procured	Contract Value (without VAT) ¹⁰
1. Direct Award (Based on verification exercise for contract values between EUR 5,000 and EUR 20,000 to be documented in a Direct Award Memo)	Any type	< EUR 20,000
2. Price Quotation	Standard goods and services ¹¹	EUR 20,000 to EUR 200,000
3. Limited Competitive Bidding (LCB)	Consulting services, non-standard-goods and non-standard services	EUR 20,000 to EUR 200,000
	Works (construction)	EUR 20,000 to EUR 500,000
4./5. National Competitive Bidding or International Competitive Bidding (NCB/ICB) (always consult with Blue Action for procurements above these thresholds)	All goods (standard and non-standard), consulting and non-consulting services	> EUR 200,000
	Works (construction)	> EUR 500,000

2.1 Direct Award

In a Direct Award, only one preselected, qualified Person¹² is requested to submit an offer on the basis of a functional description, a specification or a terms of reference, as the case may be, elaborated by Grantee or Sub-Grantee. Direct Awards may ordinarily be used as an exception to using a price quotation or LCB only if the amount involved is <Euro 20,000. For many purchases, even of standard goods or relatively simple consulting services below that amount, it will be good practice and sensible to seek an offer from more than one supplier.

In all Direct Awards, Grantee or Sub-Grantee shall verify (satisfy itself of) (i) the qualification of the selected contract partner and (ii) the appropriateness and competitiveness of the offer/price (“verification exercise”).¹³ For Direct Awards the value of which is between EUR 5,000 and EUR 20,000, the Grantee or Sub-Grantee shall document the outcome of the verification exercise.

Under the special circumstances and upon receipt of a no-objection from Blue Action as specified below a Direct Award may also be made for contract values between EUR 20,000 and EUR 100,000.

Special circumstances are as follows:

⁹ For example, if Grantee or Sub-Grantee wishes to make a Direct Award in excess of EUR 20,000 and not falling in the special circumstances described below under Direct Award (where Grantee or Sub-Grantee should follow the prescribed procedure before contacting Blue Action).

¹⁰ Contracts cannot be artificially split to fall within the designated value range.

¹¹ Standardized commercially obtainable off-the-shelf goods or non-consulting services that do not require elaborated specifications/task descriptions, nor elaborated technical offers by the bidders. Examples are standard vehicles, office supplies, standard computer hard- and software, transport and distribution of goods, a topographical survey, or food supplies.

¹² “Person” means any natural or legal person or an association of two or more of the foregoing.

¹³ Factors in support of these two points might include, for example: an established relationship with the supplier based on previous recent tenders; commodity pricing; known hourly/daily rates for similar services, etc.)

- 1) Purchase of any type of goods, services (incl. consulting) or works where there is a unique selling point. A "unique selling point" exists when, due to a specific combination of expertise and experience required, technical reasons/features or the protection of exclusive rights (e.g. patent, copyright), the Contract can only be performed by a specific Person.
- 2) Purchase of any type of goods, services (incl. consulting) or works where there is *force majeure*. Force Majeure is defined as reasons brought about by unforeseeable events not attributable to Grantee (e.g. in the cases of natural disaster, crisis or conflict).
- 3) Amendments of an existing contract, provided that the nature and scope of the amendment does not result in a substantial modification of the initial Contract content and the amount is less than 25% of the original contract value.
- 4) Follow-up phases of existing contract EUR 20,000 to EUR 100,000 and < 100% of original contract value, provided that all four of the following conditions are met: (i) attention was drawn to this potential follow-on phase in the original contract award precedent Tender Documents; (ii) the original contract was awarded on at least a price quotation basis; (iii) the Contractor's performance in the previous phase is satisfactory; and (iv) the specifications or the terms of reference are largely identical.

For Direct Awards in excess of EUR 20,000 based on one of the above mentioned special circumstances Grantee or Sub-Grantee shall (i) document the outcome of the verification exercise and (ii) explain fully in writing the basis for meeting the foreseen special circumstances and request a no-objection¹⁴ from Blue Action prior to contracting.

The written documentation and explanations called for in the above section are referred to as a "direct award memo". A sample format for a direct award memo is set forth in Appendix 1.¹⁵

2.2 Price Quotation

In a Price Quotation, at least three preselected qualified suppliers are requested to submit a price quotation. The request for quotation shall specify the information necessary and relevant for a supplier to quote a price, including the technical specifications or requirements, a quotation deadline (not less than 20 days) and any required delivery timing and details. As long as the three suppliers were selected in good faith, the failure of a supplier to timely respond to the quotation request shall not prevent the award of the contract to a supplier who does respond.

The selection of the Supplier is generally based on the best offer¹⁶. The composition of the price quotations to be selected shall ensure a fair competition, i.e. preferably only quotes from local or only international suppliers. A sample format for a Price Quotation record is set forth in Appendix 2.¹⁷

2.3 Limited Competitive Bidding (LCB)

In a LCB, a tender process in the form of a request for proposals (RFP) is conducted that is restricted to a limited number of preselected, qualified Persons who are invited to submit an offer. In general, not less than three qualified Persons shall be requested to submit an offer. To this end, Grantee or Sub-Grantee will develop a list of the proposed Persons from whom offers will be solicited and will document in writing the

¹⁴ Please note that for a no-objection, Blue Action will normally assume that the facts as specified in the direct award memo are true and review only the plausibility of the argumentation. No-objection accordingly does not substitute for Grantee or Sub-Grantee analysis and decision and is not to be considered an endorsement or approval of the procurement decision, which remains that of Grantee or Sub-Grantee.

¹⁵ Grantee or Sub-Grantee is free to adapt the sample format or use its own standard documentation if it reflects the substance of the requirements of this Policy.

¹⁶ Best offer takes into account key criteria such as price, quality, suitability, delivery terms, warranty, etc.

¹⁷ Grantee or Sub-Grantee is free to adapt the sample format or use its own standard documentation if it reflects the substance of the requirements of this Policy.

decision that the proposed Persons are qualified for the envisaged activity i.e. overall experience, human resources, financial resources and expertise in relation to the subject of the Contract.

Grantee or Sub-Grantee will ensure that the RFP will:

- Include specifications or terms of reference that are sufficiently detailed for the bidder to be able to determine the nature and quality of the goods, services or works required, including, in the case of civil works, a description of the works and the site and technical and/or architectural drawings.
- Specify the award criteria (e.g. price, technical/quality scoring, combined).
- Include a sample contract and Declaration of Undertaking.
- Specify process and deadlines (including bid validity) and clear instructions to bidders and provide that the tender shall remain open for at least 20 days.

A sample format for a Limited Competitive Bidding record is set forth in Appendix 3.¹⁸

2.4 National Competitive Bidding (NCB) or International Competitive Bidding (ICB)

In a NCB or ICB, a full public tender is conducted. Grantee or Sub-Grantee will ensure that:

- The tender is advertised in recognized national, regional, and international newspapers.
- The tender documents will:
 - Provide that the tender shall remain open for at least 20 days;
 - Specify process and deadlines (including bid validity) and clear instructions to bidders;
 - Include bidder eligibility criteria, including qualifications and financial status;
 - Specify the award criteria (lowest evaluated bid price, technical scoring, or combined);
 - Include provisions on the cancellation of the invitation to tender;
 - Include a sample contract and Declaration of Undertaking;
 - Include specifications or terms of reference that are sufficiently detailed for the bidder to be able to determine the nature and quality of the goods, services or works required, including, in the case of civil works, a description of the works and the site and technical and/or architectural drawings.

Prior to the launch of the tender, Grantees and Sub-Grantees are required to submit to Blue Action the tender documents for no-objection.

Grantees and Sub-Grantees will consult with Blue Action as early as possible about any procurement that would require a NCB or ICB procedure. In certain limited circumstances a LCB might be appropriate even if the NCB/ICB threshold is exceeded, and Blue Action may waive the requirement to conduct grant exemptions in such circumstances. Exemptions from NCB or ICB must be agreed in writing by Blue Action.

3. General Procedures Applicable for all Procurement Procedures

3.1 No-objection of tender documents and subcontract templates

Prior to the first tender, Grantee will obtain Blue Action Fund's no-objection for the standard tender documents and standard sub-contract template for each type of procurement.

With regards to the standard sub-contract template, Grantee needs to inform Blue Action of the type of contract template to be used. Grantees have two options when sub-contracting to third parties:

- 1) Using Blue Action Fund's standard templates for a) consulting services, b) goods purchases and c) civil works.

¹⁸ Grantee or Sub-Grantee is free to adapt the sample format or use its own standard documentation if it reflects the substance of the requirements of this Policy.

- 2) Using their own standard templates for these different contract types. In this case, the standard templates have to be no-objected by Blue Action¹⁹ before being used (i.e., no-objection must happen before any subcontracts are signed).

Procurements for standard goods and standard non-consulting services of < EUR 200,000 (i.e. procurements eligible for Price Quotation) are not subject to the requirement to use a Blue Action template or a no-objected form.

3.2 Tender Committee

Grantee and each Sub-Grantee shall create a tender committee of at least three and not more than six persons who will familiarize themselves with this Procurement Policy and be responsible for adherence to it. Alternatively, Grantee and Sub-Grantees may establish a joint tender committee that reviews procurement for the entire project.

In terms of membership qualifications and seniority, the tender committee shall include at a minimum:

- the project manager and
- at least one person from the head office of Grantee or Sub-Grantee (e.g. a procurement or financial officer)

The deputy project manager and a second person from head office may be designated as alternate members. Committee membership that deviates from these principles must be agreed with Blue Action.

Procurement evaluation and approval shall at a minimum meet the following standards:

- For all procurements of up to EUR 10,000, at least two members of the tender committee, including the project manager or his/her alternate shall be involved and approve the award (e.g. the project manager (or his/her alternate) and a local member of the project team assigned to the tender committee could evaluate and approve a procurement of EUR 9,000).
- For all procurements of EUR 10,000 or more, at least three members of the tender committee, including both the project manager and a member from head office or their alternates, shall be involved and approve the award.
- Award approval shall be in written form (which includes electronic/e-mail form) and shall be maintained as part of the award record.
- For any Direct Award in excess of EUR 5,000, evaluation and approval shall include review and approval of the Direct Award Memo. For any Direct Award Memo for an award pursuant to one of the special circumstances stated in Section 2.1 of this Policy, after approval by the committee and prior to contracting, the direct award memo will be submitted to Blue Action for no-objection.

3.3 Documentation

Grantee and Sub-Grantees will always document their award decisions in excess of EUR 5,000 and its rationale and keep them for review and audit by Blue Action or other external auditors, as needed.

- Document requirements for Direct Awards are noted in the explanation of the Direct Award method above.
- For awards other than Direct Awards, the record will document adherence to this Policy, the list of suppliers/firms invited, the list and value of the quotations/offers received, the outcome of the procedure, and the (sound) economic criteria on which the award is based. The record shall also store the request for quotation/RFP/tender documents and the quotations/offers submitted.

¹⁹ Blue Action will no-object the contract template according to a checklist and template which will be provided to Grantee.

For contracts other than contracts for standard goods, the record will also document any decision to base the contract on the supplier's standard terms.

As required by the Grant Agreement (GA, Art.6.6), relevant documentation to demonstrate compliance must be stored, complying with the relevant legislation of the country, at least for a period of seven years following grant completion.

3.4 Corrupt Practices and Confidentiality

Corrupt and fraudulent practice are excluded.

Except for Direct Awards, the selection procedure will be confidential. While the tender procedure is ongoing, Grantee or Sub-Grantee will not release any information on the assessment of the bids or the recommendations on the award of contracts to bidders or to any other persons who are not officially involved in the selection procedure.

Appendix 1 to Procurement Policy – Sample Direct Award Memo and Related Recordkeeping

[required for all direct awards in excess of EUR 5,000]

Blue Action Fund Project: XXX

Memo to Tender Committee:

1. A Direct Award to *[name of contracting partner]* is recommended based on (please choose one):
 - Contract value between EUR 5,000 and EUR 20,000;
 - One of the exemptions applicable for Direct Awards in excess of EUR 20,000 in the Blue Action Procurement Policy.
2. The functional description, a specification or a terms of reference for the Direct Award is *[set forth below/set forth in an Annex to this memo]*
3. The qualifications of the contracting partner and competitiveness of the offer were assessed as suitable based on ...
[brief description of the verification exercise required for all Direct Award Memos]

[Include the following two paragraphs if the Direct Award is based on one of the special circumstances specified in Section 2.1 of the Blue Action Procurement Policy]

4. The exemption for Direct Awards applicable to the procurement was ...
[indicate the exemption, e.g., unique selling point].
5. The basis for the application of the exemption is ...
[provide full explanation why the exemption is applicable]

Additional information required for a Direct Award record

- Evidence of approval by appropriate representatives of the Tender Committee as required by the Blue Action Procurement Policy (physical or electronic signatures or e-mail approvals)
- Where required (Direct Awards > EUR 20,000), evidence of no-objection by Blue Action

Appendix 2 to Procurement Policy – Sample Price Quotation Record

1. The information provided to proposed suppliers as the basis for the price quote (e.g. the technical requirements or specifications, a quotation deadline and any required delivery timing and details) was: *[set forth here or in an Annex]*
2. A request to quote (including the quote information as above) was provided to: *(names and dates)*
3. Quotations were received from: *(names and dates)*
4. Analysis:

Name of Supplier	Price Quoted	Advantages	Disadvantages

5. Decision of the Tender Committee: *(supplier chosen and reasons)*
6. Evidence of approval by appropriate representatives of the Tender Committee as required by the Blue Action Procurement Policy (physical or electronic signatures or e-mail approvals)
7. The request for quotation and supplier price quotation documentation is *[attach as an Annex or indicate where stored]*

Appendix 3 to Procurement Policy – Sample LCB Record

1. The names and bases for determining that the proposed Persons invited to offer were qualified for the envisaged activity (i.e. overall experience, human resources, financial resources and expertise in relation to the subject of the contract)
(names and bases for qualification of each Person invited)
2. The LCB tender documents meeting the requirement for Blue Action tenders (RFPs) for Limited Competitive Bids are *[attach as an Annex or indicate where stored]*
3. Offers were received from:
(names and dates)
4. Analysis:

Name of Bidder	Price Quoted	Advantages	Disadvantages

5. Decision of the Tender Committee:
(bidder chosen and reasons, including discussion of the chosen award criteria (e.g. price, technical/quality scoring, combined) and its application [attach as an Annex or indicate where stored])
6. Evidence of approval by appropriate representatives of the Tender Committee as required by the Blue Action Procurement Policy (physical or electronic signatures or e-mail approvals)
7. Reasons for any decision to base the contract on the bidder's standard terms
[discussion of reasons]

Annex 5 - Declaration of Undertaking

Declaration of Undertaking

We underscore the importance of a free, fair and competitive contracting procedure that precludes abusive practices. In this respect, we have neither offered nor granted directly or indirectly any inadmissible advantages to any public servant or other person nor accepted such advantages in connection with our bid, nor will we offer or grant or accept any such incentives or conditions in the present tendering process or, in the event that we are awarded the contract, in the subsequent execution of the contract. We also declare that no conflict of interest exists, i.e. the bidder or individual members of the bidder's staff or a sub-contractor has no economic links or family ties with personnel of our organization who are involved in preparing the tender documents, awarding the contract or supervising the execution of the contract.

We also underscore the importance of adhering to environmental and social standards in the implementation of the project. We undertake to comply with applicable labour laws and the Core Labour Standards of the International Labour Organization (ILO) as well as national and applicable international standards of environmental protection and health and safety standards.

We will inform our staff of their respective obligations and of their obligation to fulfil this declaration of undertaking and to obey the laws of the country of (name of the country) or any relevant country for the implementation of the project.

We also declare that our organisation has not been included in the list of sanctions of the United Nations, nor of the EU, nor of the German Government, nor in any other list of sanctions and affirm that our organisation will immediately inform Blue Action if this situation occurs at a later stage.

We acknowledge that, in the event that our organisation is added to a list of sanctions that is legally binding on German development cooperation or international development cooperation under OECD rules, Blue Action shall be entitled to exclude us or, if the contract is awarded to our organisation, to immediately cancel such contract if the statements made in the Declaration of Undertaking were objectively false or the reason for exclusion from the tender procedure occurs after the Declaration of Undertaking has been issued.

.....
(Place)

.....
(Date)

.....
(Signatory)

Annex 6 - ESMS

Blue Action's Environmental and Social Management System (ESMS) defines procedures, tools and responsibilities for assessing, managing and monitoring environmental and social risks and impacts associated with projects supported by Blue Action throughout the entire project lifecycle. It is an integral part of Blue Action's grant award and implementation procedures and the grant agreement itself. The ESMS, including all relevant templates, is available on Blue Action's [website](#).

The environmental and social (E&S) risks and impacts of the planned project will be documented and managed through various safeguard instruments. Grantee is required to diligently implement the project's safeguards and will monitor and report on the E&S performance regularly. The specific risks and impacts for the project are listed in Annex 10 of the Full Proposal.

Schedule A - Project Proposal