

ANNEX VIII PRE-FINANCING GUARANTEE FORM

(To be completed on paper bearing the letterhead of the financial institution)

For the attention of
<Address of the contracting authority>
referred to below as the 'contracting authority'

Subject: Guarantee No ...
Financing guarantee for the repayment of pre-financing payable under grant contract <contract number and title> (please quote number and title in all correspondence)

We the undersigned, <name and address of financial institution>¹ hereby irrevocably declare that we guarantee as primary obligor, and not merely as a surety, on behalf of <name and address of the coordinator>, hereinafter referred to as 'the coordinator', payment to the contracting authority of <amount of the pre-financing in euros/contracting authority currency²>, this amount representing the guarantee referred to in Article 4 of special conditions of the grant contract <contract number and title> concluded between the beneficiary(ies) and the contracting authority, hereinafter referred to as 'the contract'.

Payment shall be made without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation of receipt) stating that the coordinator has not repaid the pre-financing on request or that the contract has been terminated. We shall not delay the payment, nor shall we oppose it for any reason whatsoever. We shall not under any circumstances benefit from the defences of the security. We shall inform you in writing as soon as payment has been made.

We accept notably that no amendment to the terms of the contract can release us from our obligation under this guarantee. We waive the right to be informed of any change, addition or amendment to the contract.

We note that the guarantee will be released 45 days at the latest after the first of the following events:

- when the balance provided for in the contract has been paid;
- [and in any case at the latest 18 months after end of the implementation period of the action mentioned in the contract]³

[Any request to pay under the terms of the guarantee must be countersigned by the head of delegation of the European Union or his designated empowered deputy as per the applicable Commission rules. (This sentence should be deleted when the contracting authority is the Commission)]

The law applicable to this guarantee shall be that of [If the contracting authority is the European Union and the financial institution issuing the guarantee is established outside the EU: Belgium] [(i) if the contracting authority is the European Union and the financial institution issuing the guarantee is

¹ The guarantee has to be supplied by a recognised bank or financial institution established in a Member State of the European Union. Where the coordinator is established in another State, the contracting authority may accept that a bank or financial institution established in that State supplies the guarantee, if it considers that this institution offers insurances and characteristics equivalent to those offered by a bank or financial institution established in a Member State of the European Union.

² To be used in the case where the contract is in the contracting authority's currency.

³ This mention has to be inserted only where required, for example where the law applicable to the guarantee imposes a precise expiry date or where the guarantor can justify that he is unable to provide such a guarantee without expiry date.

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established inside the EU; OR (ii) if the contracting authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>]. Any dispute arising out of or in connection with this guarantee shall be referred to the courts of < [If the contracting authority is the European Union and the financial institution issuing the guarantee is established outside the EU: Belgium] [(i) if the contracting authority is the European Union and the financial institution issuing the guarantee is inside the EU; or (ii) if the contracting authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established.

This guarantee shall come into force and shall take effect on payment of the pre-financing to the coordinator.

Done at [*insert place*], on [*insert date*]

[*Signature*]

[*Signature*]

[*Function at the financial institution/bank*]

[*Function at the financial institution/bank*]