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* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

AGREEMENT

between the European Union and European Atomic Energy Community of the one part and Ukraine of the other part, on the participation of Ukraine in Horizon Europe – the Framework Programme for Research and Innovation and the Research and Training Programme of the European Atomic Energy Community (2021-2025) complementing Horizon Europe – the Framework Programme for Research and Innovation

The European Commission (hereinafter referred to as ‘the Commission’), on behalf of the European Union and the European Atomic Energy Community (hereinafter referred to as ‘Euratom’),

of the one part,

and

Ukraine (hereinafter referred to as ‘Ukraine’),

of the other part,

hereinafter referred to as ‘the Parties’

WHEREAS the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part ⁽¹⁾ (hereinafter referred to as ‘the Association Agreement’), stipulates that Parties are to develop and strengthen their scientific and technological cooperation in order to contribute both to scientific development itself, and to reinforce their scientific potential for contributing to the resolution of national and global challenges;

WHEREAS the Association Agreement specifically provides for promoting civil scientific research in the fields of nuclear safety and security, including joint research and development activities, and training and mobility of scientists and stipulates that cooperation in the civil nuclear sector should take place through the implementation of specific agreements in this field;

WHEREAS Protocol III to the Association Agreement stipulates that the specific terms and conditions regarding the participation of Ukraine in each particular programme, in particular the financial contribution payable and reporting and evaluation procedures, are to be determined in a Memorandum of Understanding between the Commission and the competent authorities of Ukraine on the basis of the criteria established by the programmes concerned ⁽²⁾;

⁽¹⁾ OJ L 161, 29.5.2014, p. 3.

⁽²⁾ This Agreement constitutes and has the same legal effects as a Memorandum of Understanding stated under Protocol III to the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other on a Framework Agreement between the European Union and Ukraine on the general principles for the participation of Ukraine in Union programmes.

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation (hereinafter referred to as 'the Horizon Europe Programme') was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽³⁾;

WHEREAS the Research and Training Programme of the European Atomic Energy Community (2021-2025) complementing Horizon Europe – the Framework Programme for Research and Innovation (hereinafter referred to as 'the Euratom Programme') was established by Council Regulation (Euratom) 2021/765 ⁽⁴⁾;

CONSIDERING the European Union's efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda 'Transforming our World: the 2030 Agenda for Sustainable Development', and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695 and Regulation (Euratom) 2021/765;

WHEREAS the general objective of the Euratom Programme is to pursue nuclear research and training activities, with an emphasis on the continuous improvement of nuclear safety, security and radiation protection, as well as to complement the achievement of the Horizon Europe Programme's objectives *inter alia* in the context of the energy transition;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries are key partners in this endeavour;

EMPHASISING the role of the European Partnerships addressing some of Europe's most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union's and Euratom's priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries' involvement in those Partnerships;

SEEKING to establish mutually advantageous conditions in order to create decent jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

⁽³⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

⁽⁴⁾ Council Regulation (Euratom) 2021/765 of 10 May 2021 establishing the Research and Training Programme of the European Atomic Energy Community for the period 2021-2025 complementing Horizon Europe – the Framework Programme for Research and Innovation and repealing Regulation (Euratom) 2018/1563 (OJ L 167 I, 12.5.2021, p. 81.).

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

CONSIDERING the common goals, values and strong links of the Parties in the field of research and innovation, including in the nuclear sector, established in the past through the agreements on Ukraine's participation in the Horizon 2020 and Euratom Research and Training Programme (2014-2018) and its successor Programme, and numerous other international agreements which underpin the relationship between the Parties ⁽⁵⁾, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. Ukraine shall participate as an associated country in and contribute to all parts of the Horizon Europe – the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Council Decision (EU) 2021/764 ⁽⁶⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology. Ukraine shall participate as an associated country in and contribute to all parts of the Research and Training Programme of Euratom (the Euratom Programme) established by Regulation (Euratom) 2021/765 in its most up to date version.
2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁷⁾, and Decision (EU) 2021/820 ⁽⁸⁾, in their most up to date versions, shall apply to the participation of Ukraine's legal entities in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme and the Euratom Programme

1. Ukraine shall participate in the Horizon Europe Programme and the Euratom Programme in accordance with the conditions laid down in Protocol III to Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of those Programmes, in their most up to date versions.
2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in Ukraine may participate in indirect actions of the Horizon Europe Programme and the Euratom Programme under conditions equivalent to those applicable to legal entities established in the European Union, including respect for EU restrictive measures ⁽⁹⁾.
3. Before deciding on whether legal entities established in Ukraine are eligible to participate in an action related to the European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:
 - a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes, projects and activities of Ukraine equivalent to the Horizon Europe action concerned;

⁽⁵⁾ The Agreement for Cooperation between the Cabinet of Ministers of Ukraine and the Community in the field of controlled nuclear fusion (OJ L 322, 27.11.2002, p. 40.), the Agreement for Cooperation between the Cabinet of Ministers of Ukraine and the Community in the field of nuclear safety (OJ L 322, 27.11.2002, p. 33.) and the Agreement between the Cabinet of Ministers of Ukraine and the Euratom for Co-operation in the Peaceful Uses of Nuclear Energy (OJ L 261, 22.9.2006, p. 27.).

⁽⁶⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1.).

⁽⁷⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast). (OJ L 189, 28.5.2021, p. 61.).

⁽⁸⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

⁽⁹⁾ The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

- b) information whether Ukraine has in place a national investment screening mechanism and assurances that authorities of Ukraine will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside Ukraine of a Ukrainian legal entity, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies Ukraine with the list of the relevant legal entities established in Ukraine following the signature of grant agreements with these entities; and
- c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in Ukraine shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. Ukraine will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.
4. Legal entities established in Ukraine may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to legal entities established in the European Union unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 2 and 3 of this Article.
5. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, Ukraine and Ukrainian legal entities may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.
6. This agreement shall not entitle Ukraine to membership to the European Joint Undertaking for ITER and the Development of Fusion for Energy, or participation in the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project.
7. Representatives of Ukraine shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764 and in the committee referred to in Article 16 of Regulation (Euratom) 2021/765, without voting rights and only for points which concern Ukraine.
- These committees shall meet without the presence of the representatives of Ukraine at the time of voting. Ukraine will be informed of the result.
8. Participation as referred to in the previous paragraph shall take the same form, including procedures for receipt of information and documentation, as that applicable to representatives from Member States of the European Union. Ukraine's rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to associated countries.
9. Representatives of Ukraine shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns Ukraine.
10. Ukraine may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽¹⁰⁾, in its most up to date version, and with the legal act establishing the ERIC.
11. Travel costs and subsistence expenses incurred by representatives and experts of Ukraine for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764 and in the committee referred to in Article 16 of Regulation (Euratom) 2021/765, or in other meetings related to the implementation of the Horizon Europe Programme or Euratom Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

⁽¹⁰⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

12. The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

13. Ukraine shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in Ukraine or imported into Ukraine, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in Ukraine.

Article 3

Financial contribution

1. Participation of Ukraine or Ukrainian legal entities in the Horizon Europe Programme and in the Euratom Programme shall be subject to Ukraine contributing financially to each of the respective Programmes and their related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'Union budget').

2. The financial contribution of Ukraine to each Programme shall take the form of the sum of:

a) an operational contribution; and

b) a participation fee.

3. The financial contribution of Ukraine to each of the two Programmes shall take the form of an annual payment in two instalments, and shall be due at the latest in June and September.

4. The operational contribution of Ukraine to each Programme shall cover operational and support expenditure of that Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the respective Programme, including any appropriations corresponding to commitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased, by external assigned revenue that does not result from financial contributions to the respective Programme from other donors ⁽²⁾.

For external assigned revenue allocated to the Horizon Europe Programme under Article 3(1) of Council Regulation (EU) 2020/2094 ⁽³⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Commission Draft Budget for the Horizon Europe Programme.

5. The initial operational contribution of Ukraine to each Programme shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of Ukraine at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution of Ukraine to each Programme shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key are laid down in Annex I.

6. The initial operational contribution of Ukraine to each Programme shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the Union budget definitively adopted for the applicable year for financing of the respective Programme, increased in accordance with paragraph 4.

⁽¹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1.).

⁽²⁾ This includes notably in relation to the Horizon Europe Programme the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽³⁾ Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

7. The participation fee of Ukraine for each Programme shall be 4 % of the annual initial operational contribution to the respective Programme as calculated in accordance with paragraph 5 and 6 and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.

8. The initial operational contribution of Ukraine to each Programme for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.

9. The European Union shall provide Ukraine with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme and the Euratom Programme. That information shall be provided having due regard to the European Union's, Euratom's and Ukraine's confidentiality and data protection rules and shall be without prejudice to the information which Ukraine is entitled to receive under Annex III.

10. All contributions of Ukraine or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Rules for application of automatic correction mechanism to the operational contribution of Ukraine to Horizon Europe Programme

1. An automatic correction mechanism shall apply to the operational contribution of Ukraine to the Horizon Europe Programme.

2. An automatic correction mechanism of the initial operational contribution of Ukraine to the Horizon Europe Programme for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of Ukraine and Ukrainian legal entities in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

The amount of the automatic correction shall be calculated based on the difference between:

- a) the initial amounts of the legal commitments for competitive grants from the Horizon Europe Programme actually entered into with Ukraine or Ukrainian legal entities financed from commitment appropriations of the year N, increased in accordance with Article 3(4); and
- b) the corresponding operational contribution of the year N paid by Ukraine as adjusted pursuant to Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

3. Where the amount referred to in paragraph 2, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution of Ukraine to the Horizon Europe Programme as adjusted pursuant to Article 3(8), the initial operational contribution of Ukraine to that Programme for year N shall be corrected. The amount due by or to be received by Ukraine as an additional contribution or reduction of Ukraine's contribution to the Horizon Europe Programme under the automatic correction mechanism shall be the amount exceeding this 8 % threshold, the amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

4. Detailed rules on the automatic correction mechanism applicable to the operational contribution of Ukraine to the Horizon Europe Programme are laid down in Annex I.

*Article 5***Reciprocity**

1. Legal entities established in the European Union may participate in programmes, projects and activities of Ukraine equivalent to the Horizon Europe Programme or Euratom Programme, in accordance with Ukraine's legislation.
2. The list of the equivalent programmes, projects or activities of Ukraine open for participation of legal entities established in the European Union is provided in Part I Annex II. Ukraine shall make every effort to progressively open its programmes, projects and activities identified in Part II of Annex II to participation of legal entities established in the European Union.
3. Funding of legal entities established in the European Union by Ukraine shall be subject to Ukraine's legislation governing the operation of research and innovation programmes, projects and activities. Where funding is not provided, legal entities established in the European Union may participate with their own means.

*Article 6***Open Science**

The Parties shall mutually promote and encourage open science practices in their programmes, projects and activities in accordance with the rules of the Horizon Europe and the Euratom Programmes and Ukraine's legislation.

*Article 7***Monitoring, Evaluation and Reporting**

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Horizon Europe Programme and Euratom Programme, the participation of Ukraine in those Programmes shall be continuously monitored on a partnership basis involving the Commission and Ukraine.
2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

*Article 8***EU/Euratom-Ukraine Joint Research and Innovation Committee**

1. The EU/Euratom-Ukraine Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU/Euratom-Ukraine Joint Committee'). The tasks of the EU/Euratom-Ukraine Joint Committee shall include:
 - a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:
 - (i) the participation and performance of the legal entities of Ukraine in the Horizon Europe and Euratom Programmes;
 - (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes, projects and activities of the other Party;
 - (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
 - b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
 - c) examining how to improve and develop cooperation;
 - d) discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest; and
 - e) exchanging information, inter alia, on new legislation, decisions or national research and innovation programmes that are relevant for the implementation of this Agreement.

2. The EU/Euratom-Ukraine Joint Committee, which shall be composed of representatives of the European Union and Euratom and of Ukraine, shall adopt its Rules of Procedure.
3. The EU/Euratom-Ukraine Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.
4. The EU/Euratom-Ukraine Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by Ukraine.
5. The EU/Euratom-Ukraine Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities of Ukraine. The EU/Euratom-Ukraine Joint Committee may in particular conduct its tasks in writing whenever the need arises.

Article 9

Final provisions

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects, actions, activities, or parts thereof, financed from the Horizon Europe and Euratom Programmes, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.
3. This Agreement shall be extended and apply for the period 2026-2027 under the same terms and conditions to the successor of the Euratom Programme, unless within 3 months of the publication in the *Official Journal of the European Union* of that successor programme either Party notifies its decision not to extend this Agreement to that successor programme. In case of such a notification, this Agreement shall not apply as of 1 January 2026 in respect of the successor to the Euratom Programme.
4. The application of this Agreement in relation to the Horizon Europe Programme or the Euratom Programme may be suspended by the European Union or Euratom in case of partial or full non-payment of the financial contribution to the respective Programme due by Ukraine under this Agreement.

In case of non-payment which may significantly jeopardise the implementation and management of the Horizon Europe Programme or the Euratom Programme, the European Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement in relation to the relevant Programme shall be notified by the European Commission to Ukraine by a formal letter of notification which shall take effect 15 days following the receipt of this notification by Ukraine.

In case the application of this Agreement is suspended in accordance with the first subparagraph of this paragraph, legal entities established in Ukraine shall not be eligible to participate in award procedures under the relevant Programme not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into under the relevant Programme with the legal entities established in Ukraine before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The Commission acting on behalf of European Union and Euratom shall immediately notify Ukraine once the entire amount of the financial contribution due for the relevant Programme has been received by it. The suspension in relation to this Programme shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities of Ukraine shall be again eligible in award procedures launched under the relevant Programme after this date and in award procedures launched before this date, for which the deadlines for submission of applications have not expired.

5. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it.

The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

6. Where this Agreement is terminated in accordance with paragraph 5, the Parties agree that:

- (a) projects, actions, activities or parts thereof in respect of which legal commitments have been entered into after the entry into force of this Agreement, and before this Agreement ceases to apply or is terminated shall continue until their completions under the conditions laid down in this Agreement;
- (b) the annual financial contribution for each of the two Programmes referred to under Article 3(1) of this Agreement of the year N during which this Agreement is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N under Horizon Europe Programme shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The operational contribution of the year N under Euratom Programme shall be adjusted in accordance with Article 3(8) of this Agreement. The participation fee paid for the year N as part of the financial contribution for each of the two Programmes respectively shall not be adjusted or corrected.
- (c) following the year during which this Agreement is terminated, the initial operational contributions paid for each of the two Programmes referred to in Article 3(1) for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8). In relation to the Horizon Europe Programme, these contributions shall be automatically corrected in accordance with Article 4.

The Parties shall settle by common consent any other consequences of termination of this Agreement.

7. This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

8. The Annexes to this Agreement shall form an integral part of this Agreement.

Done at Kyiv on twelve October in the year two thousand twenty one, in duplicate, in English and in Ukrainian, each of these texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

*For the European Commission, on behalf of the
European Union and Euratom,*

Josep BORRELL
Vice-President of the European Commission

For Ukraine,

Serhii SHKARLET
Minister of Education and Science of Ukraine

ANNEX I

Rules governing the financial contribution of Ukraine to the Horizon Europe Programme (2021-2027) and to the Euratom Research and Training Programme (2021-2025)**I. Calculation of Ukraine's financial contribution**

1. The financial contributions of Ukraine to the Horizon Europe Programme and to the Euratom Programme shall be separate. The financial contribution of Ukraine to each the Horizon Europe Programme and the Euratom Programme respectively shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme and of the Euratom Programme respectively.

2. The participation fee for each of the two Programmes referred to in Article 3(7) of this Agreement shall be phased in as follows:

— 2021: 0,5 %;

— 2022: 1 %;

— 2023: 1,5 %;

— 2024: 2 %;

— 2025: 2,5 %;

— 2026: 3 %;

— 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by Ukraine for its participation in each the Horizon Europe Programme and in the Euratom Programme respectively will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficients used for the above calculation to adjust the contribution key shall be 0,07 for the Horizon Europe Programme and 0,21 for the Euratom Research and Training Programme respectively.

4. In line with Article 3(8) of this Agreement, the first adjustment of the financial contribution to each Programme referred to in Article 3(1) pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution for this Programme of year N shall be adjusted upwards or downwards by the difference between:

a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:

i. the amount of budgetary commitments made on commitment appropriations authorised for year N for the respective Programme under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and

ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to the respective Programme from other donors and that were available at the end of year N;

- b) and the initial operational contribution to this Programme of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme or the Euratom Programme, the Union shall calculate an adjustment of the operational contribution for each respective Programme of year N by reducing Ukraine operational contribution by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union voted budget or from decommitments made available again.

If commitment appropriations stemming from external assigned revenue of year N that do not result from financial contributions to the respective Programme from other donors are cancelled, the operational contribution of Ukraine to this Programme shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of Ukraine's operational contribution applicable to the Horizon Europe Programme

1. For the calculation of the automatic correction applicable only under Horizon Europe Programme as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are Ukraine entities in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽¹⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽²⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to Ukraine's contribution to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.
- b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:
 - i. the total amount of the competitive grants apportioned to Ukraine or Ukraine legal entities as commitments made on budget appropriations of year N; and

⁽¹⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽²⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

ii. the amount of Ukraine adjusted operational contribution for year N multiplied by the ratio between:

A. the amount of competitive grants made on commitment appropriations of year N; and

B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of Ukraine's financial contribution to each Programme, payment of the adjustments made on Ukraine's operational contributions to each Programme, and payment of the automatic correction applicable to Ukraine's operational contribution to the Horizon Europe Programme

1. The Commission shall communicate to Ukraine, as soon as possible and at the latest when issuing the first call for funds of the financial year for each respective Programme referred to in Article 3(1) of this Agreement, the following information:

- a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of Ukraine, in the Horizon Europe Programme and in the Euratom Programme respectively, if relevant, the amount of external assigned appropriations that do not result from financial contribution from other donors on these budget lines;
- b. the amount of the participation fee referred to in Article 3(7) of this Agreement for each respective Programme;
- c. from year N+1 of implementation of the Horizon Europe Programme and of the Euratom Programme, the implementation of commitment appropriations corresponding to budgetary year N and the level of decommitment for each respective Programme;
- d. in relation to Horizon Europe Programme only and for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of Ukraine legal entities broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

In relation to each of the two Programmes, on the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, in April and in July of each financial year, a call for funds to Ukraine corresponding to Ukraine's contribution under each of the two Programmes referred to in Article 3(1) of this Agreement.

Each call for funds shall provide for the payment of six-twelfths of Ukraine's contribution due under the respective Programmes not later than 60 days after the call for funds is issued.

3. By derogation from paragraph 2, the financial contribution for 2021 shall be split in instalments to be divided over multiple calls for funds with the following payment schedule:

— 50 % of the financial contribution for 2021 to be paid in 2022;

— 50 % of the financial contribution for 2021 to be paid in 2023.

The corresponding amounts shall be included in the call for funds of the respective year.

3. The call for funds issued in April each year may also include adjustments of the financial contribution paid by Ukraine for the implementation, management and operation of the previous Framework Programme for Research and Innovation or the Research and Training Programme of Euratom in which Ukraine participated.

4. In relation to the Horizon Europe Programme, each year starting in 2023, the calls for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2 to the Horizon Europe Programme.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 to the Horizon Europe Programme by Ukraine or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from Ukraine.

5. Ukraine shall pay its financial contribution under this Agreement for each of the two Programmes in accordance with point (III) of this Annex. In the absence of payment by Ukraine by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution for either of the two Programmes shall give rise to the payment of default interest by Ukraine on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

ANNEX II

Non-exhaustive list of the equivalent programmes, projects and activities of Ukraine**Part 1**

Programmes of Ukraine which are open to participation of legal entities established in the European Union

The following programmes of Ukraine are open to participation of legal entities established in the European Union:

- Competitive calls by National Research Foundation of Ukraine
- Competitive selection of scientific and technical (experimental) developments under the state order, approved by order of the Ministry of Education and Science of Ukraine
- Competitive selection of scientific, scientific and technical works and projects financed by the external instrument of assistance of the European Union for fulfilment of obligations of Ukraine in the Framework program of the European Union on scientific researches and innovations "Horizon 2020"
- Competitive selection of the Ukrainian Startup Fund

Part 2

Programmes which Ukraine undertakes to progressively open to participation of legal entities established in the European Union

The following programmes of Ukraine will be progressively open to participation of legal entities established in the European Union

- Foundation of the President of Ukraine for support of education, science and sports

ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in Ukraine and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in Ukraine. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. Ukraine shall not prevent or raise any particular obstacle to the right of entrance in Ukraine and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(5) or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(5) or termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of Ukraine. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent Ukrainian authorities shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in Ukraine and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in Ukraine.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent Ukrainian authority designated by the Ukrainian government. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent Ukrainian authorities may participate in the on-the-spot checks and inspections.
5. Upon request by the Ukrainian authorities, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, the Ukrainian authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the Ukrainian authorities of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent Ukrainian authority any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of Ukrainian criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of Ukraine participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the Ukrainian competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, Ukraine shall designate a contact point.

12. Information exchanged between the European Commission or OLAF and the Ukrainian competent authorities shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The Ukrainian authorities shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in Ukraine. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the government of Ukraine. The government of Ukraine shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in Ukraine. Enforcement shall take place in accordance with Ukrainian law and rules of procedure.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in Ukraine in the same manner as European Commission decisions referred to in paragraph (1).

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of Ukraine shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in Ukraine and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in Ukraine. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

AGREEMENT

between the European Union, of the one part and the Republic of Moldova, of the other part, on the participation of the Republic of Moldova in the Union programme Horizon Europe – the Framework Programme for Research and Innovation

The European Commission (hereinafter referred to as ‘the Commission’), on behalf of the European Union, of the one part,

and

the Republic of Moldova,

of the other part,

hereinafter referred to as ‘the Parties’,

WHEREAS the Protocol I to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part ⁽¹⁾, on a Framework Agreement between the European Union and the Republic of Moldova on the general principles for the participation of the Republic of Moldova in Union programmes ⁽²⁾ stipulates that specific terms and conditions regarding the participation of the Republic of Moldova in each particular programme, in particular the financial contribution payable and the reporting and evaluation procedures, are to be determined in a Memorandum of Understanding between the European Commission and the competent authorities of the Republic of Moldova on the basis of the criteria established by the programmes concerned ⁽³⁾;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽⁴⁾ (hereinafter referred to it as ‘Horizon Europe Programme’);

CONSIDERING the European Union's efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda ‘Transforming our World: the 2030 Agenda for Sustainable Development’, and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between organizations in the field of research and innovation, including universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries are key partners in this endeavor;

EMPHASISING the role of the European Partnerships addressing some of Europe's most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union's priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries' involvement in those Partnerships;

⁽¹⁾ OJ L 260, 30.8.2014, p. 4.

⁽²⁾ OJ L 260, 30.8.2014, p. 619.

⁽³⁾ This Agreement constitutes and has the same legal effects as a Memorandum of Understanding stated under the Protocol I on a Framework Agreement between the European Union and the Republic of Moldova on the general principles for the participation of the Republic of Moldova in Union programmes.

⁽⁴⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1.).

SEEKING to establish mutually advantageous conditions in order to create decent jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

CONSIDERING that the common goals, values and strong links of the Parties in the field of research and innovation, established in the past through the Association Agreements to the subsequent Framework Programmes, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. The Republic of Moldova shall participate as an associated country in and contribute to all parts of the Horizon Europe Programme - the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Decision (EU) 2021/764 ⁽⁵⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.
2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁶⁾, and Decision (EU) 2021/820 ⁽⁷⁾, in their most up to date versions, shall apply to the participation of Moldovan legal entities in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme

1. The Republic of Moldova shall participate in the Horizon Europe Programme in accordance with the conditions laid down in the Protocol I to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, on a Framework Agreement between the European Union and the Republic of Moldova on the general principles for the participation of the Republic of Moldova in Union Programmes, and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of the Horizon Europe Programme, in their most up to date versions.
2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in the Republic of Moldova may participate in indirect actions of the Horizon Europe Programme under conditions equivalent to those applicable to legal entities established in the European Union, including respect for the European Union restrictive measures ⁽⁸⁾.
3. Before deciding on whether legal entities established in the Republic of Moldova are eligible to participate in an action related to European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:
 - a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes and projects of the Republic of Moldova equivalent to the Horizon Europe action concerned;

⁽⁵⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1.).

⁽⁶⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast) (OJ L 189, 28.5.2021, p. 61.).

⁽⁷⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

⁽⁸⁾ The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

- b) information whether the Republic of Moldova has in place a national investment screening mechanism and assurances that authorities of the Republic of Moldova will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside the Republic of Moldova of a Moldovan legal entity, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies the Republic of Moldova with the list of the relevant legal entities established in the Republic of Moldova following the signature of grant agreements with these entities; and
- c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in the Republic of Moldova shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. The Republic of Moldova will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.

4. Legal entities established in the Republic of Moldova may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to legal entities established in the European Union unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 2 and 3 of this Article.

5. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, the Republic of Moldova and Moldovan legal entities may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.

6. Representatives of the Republic of Moldova shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764, without voting rights and for points which concern the Republic of Moldova.

These committees shall meet without the presence of the representatives of the Republic of Moldova at the time of voting. The Republic of Moldova will be informed of the result.

Participation as referred to in this paragraph shall take the same form, including procedures for receipt of information and documentation, as that applicable to representatives from Member States of the European Union.

7. The Republic of Moldova rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to associated countries.

8. Representatives of the Republic of Moldova shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns the Republic of Moldova.

9. The Republic of Moldova may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽⁹⁾, in its most up to date version, and with the legal act establishing the ERIC.

10. Travel costs and subsistence expenses incurred by representatives and experts of the Republic of Moldova for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764, or in other meetings related to the implementation of the Horizon Europe Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

11. The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

⁽⁹⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

12. The Republic of Moldova shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in the Republic of Moldova or imported into the Republic of Moldova, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in the Republic of Moldova.

Article 3

Financial contribution

1. Participation of the Republic of Moldova or Moldovan legal entities in the Horizon Europe Programme shall be subject to the Republic of Moldova contributing financially to the Programme and the related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'Union budget').

2. The financial contribution shall take the form of the sum of:

a) an operational contribution; and

b) a participation fee.

3. The financial contribution shall take the form of an annual payment made in two instalments, and shall be due at the latest in May and July.

4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Horizon Europe Programme, including any appropriations corresponding to decommitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁽¹⁰⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased by external assigned revenue that does not result from financial contributions to the Horizon Europe Programme from other donors⁽¹¹⁾.

For external assigned revenue allocated to Horizon Europe Programme under Article 3 (1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis⁽¹²⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Draft Budget with regard to the Horizon Europe Programme.

5. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of the Republic of Moldova at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key are laid down in Annex I.

6. The initial operational contribution shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the European Union budget definitively adopted for the applicable year for financing the Horizon Europe Programme, increased in accordance with paragraph 4 of this Article.

7. The participation fee shall be 4 % of the annual initial operational contribution as calculated in accordance with paragraph 5 and 6 of this Article and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.

8. The initial operational contribution for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4 of this Article, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.

⁽¹⁰⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1.).

⁽¹¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽¹²⁾ OJ L 433 I, 22.12.2020, p. 23.

9. The European Union shall provide the Republic of Moldova with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme. That information shall be provided having due regard to the European Union's and the Republic of Moldova's confidentiality and data protection rules and shall be without prejudice to the information which the Republic of Moldova is entitled to receive under Annex III.

10. All contributions of the Republic of Moldova or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Automatic correction mechanism

1. An automatic correction mechanism of the initial operational contribution of the Republic of Moldova for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of the Republic of Moldova and Moldovan legal entities in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

The amount of the automatic correction shall be calculated based on the difference between:

- a) the initial amounts of the legal commitments for competitive grants actually entered into with the Republic of Moldova or Moldovan legal entities financed from commitment appropriations of the year N, increased in accordance with Article 3(4); and
- b) the corresponding operational contribution of the year N paid by the Republic of Moldova as adjusted pursuant Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

2. Where the amount referred to in paragraph 1, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution as adjusted pursuant to Article 3(8), the initial operational contribution of the Republic of Moldova for year N shall be corrected. The amount due by or to be received by the Republic of Moldova as an additional contribution or reduction of the Republic of Moldova's contribution under the automatic correction mechanism shall be the amount exceeding this 8 % threshold, the amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

3. Detailed rules on the automatic correction mechanism are laid down in Annex I.

Article 5

Reciprocity

1. Legal entities established in the European Union may participate in programmes and projects of the Republic of Moldova equivalent to the Horizon Europe Programme, in accordance with the national applicable legislation in the Republic of Moldova.

2. The non-exhaustive list of the equivalent programmes and projects of the Republic of Moldova is provided in Annex II.

3. Funding by the Republic of Moldova of legal entities established in the Union shall be subject to the national applicable legislation in the Republic of Moldova governing the operation of research and innovation programmes and projects. Where funding is not provided, legal entities established in the Union may participate with their own means.

Article 6

Open Science

The Parties shall mutually promote and encourage open science practices in their programmes and projects in accordance with the rules of the Horizon Europe Programme and the national applicable legislation in the Republic of Moldova.

*Article 7***Monitoring, Evaluation and Reporting**

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring, evaluation and reporting of the Horizon Europe Programme, the participation of the Republic of Moldova in that Programme shall be continuously monitored on a partnership basis involving the Commission and the Republic of Moldova.
2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

*Article 8***EU-Republic of Moldova Joint Research and Innovation Committee**

1. The EU-Republic of Moldova Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU-Moldova Joint Committee'). The tasks of the EU-Republic of Moldova Joint Committee shall include:
 - a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:
 - (i) the participation and performance of the legal entities of the Republic of Moldova in the Horizon Europe Programme;
 - (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes and projects of the other Party;
 - (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
 - b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
 - c) examining how to improve and develop cooperation;

discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest; and
 - d) exchanging information, inter alia, on new legislation, decisions or national research and innovation programmes that are relevant for the implementation of this Agreement.
2. The EU-Republic of Moldova Joint Committee, which shall be composed of representatives of the European Union and of the Republic of Moldova, shall adopt its Rules of Procedure.
3. The EU-Republic of Moldova Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.
4. The EU-Republic of Moldova Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by the National Authority designated by the Government of the Republic of Moldova.
5. The EU-Republic of Moldova Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities of the Republic of Moldova. The EU-Republic of Moldova Joint Committee may in particular conduct its tasks in writing whenever the need arises.

*Article 9***Final provisions**

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.

2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects, actions, activities or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.

3. This Agreement shall be applied provisionally in accordance with the respective internal procedures and legislation of both Parties. The provisional application shall begin on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.

4. Should the Republic of Moldova notify the Commission acting on behalf of the European Union that it will not complete its internal procedures necessary for the entry into force of this Agreement, this Agreement shall cease to apply provisionally on the date of receipt of this notification by the Commission, which shall constitute the cessation date for the purposes of this Agreement.

5. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by the Republic of Moldova under this Agreement.

In case of non-payment which may significantly jeopardise the implementation and management of the Horizon Europe Programme, the Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement shall be notified by the Commission to the Republic of Moldova a formal letter of notification and shall take effect 15 days following the receipt of this notification by the Republic of Moldova.

In case the application of this Agreement is suspended, legal entities established in the Republic of Moldova shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the legal entities established in the Republic of Moldova before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The European Union shall immediately notify the Republic of Moldova once the entire amount of the financial contribution due has been received by the European Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities of the Republic of Moldova shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

6. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it.

The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

7. Where this Agreement ceases to apply provisionally in accordance with paragraph 4 of this Article or is terminated in accordance with paragraph 6 of this Article, the Parties agree that:

- (a) projects, actions, activities or parts thereof in respect of which legal commitments have been entered into during the provisional application and/or after the entry into force of this Agreement, and before this Agreement ceases to apply or is terminated shall continue until their completions under the conditions laid down in this Agreement;

- (b) the annual financial contribution of the year N during which this Agreement ceases to apply provisionally or is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The participation fee paid for the year N shall not be adjusted or corrected; and
- (c) following the year during which this Agreement ceases to apply provisionally or is terminated, the initial operational contributions paid for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8) and shall be automatically corrected in accordance with Article 4 of this Agreement.

The Parties shall settle by common consent any other consequences of termination or cessation of provisional application of this Agreement.

8. This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

9. The Annexes to this Agreement shall form an integral part of this Agreement.

This Agreement shall be drawn up in two originals in English and in Romanian, each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Done at Brussels, this 27th day of October in the year 2021 in 2 original copies, in Romanian and in English.

*For the Commission,
on behalf of the European Union,
Mariya GABRIEL
Commissioner for Innovation,
Research, Culture, Education and Youth*

*For the Republic of Moldova,
Natalia GAVRILIȚA
Prime minister*

ANNEX I

Rules governing the financial contribution of the Republic of Moldova to the Horizon Europe Programme (2021-2027)**I. Calculation of the Republic of Moldova's financial contribution**

1. The financial contribution of the Republic of Moldova to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 3(4) of this Agreement.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:

— 2021: 0,5 %;

— 2022: 1 %;

— 2023: 1,5 %;

— 2024: 2 %;

— 2025: 2,5 %;

— 2026: 3 %;

— 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by the Republic of Moldova for its participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0,10.

4. In line with Article 3(8) of this Agreement, the first adjustment pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution of year N shall be adjusted upwards or downwards by the difference between:

a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:

- i. the amount of budgetary commitments made on commitment appropriations authorised for year N under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and
- ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to Horizon Europe Programme from other donors and that were available at the end of year N ⁽¹⁾. For external assigned revenue allocated to Horizon Europe under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽²⁾, the annual indicative amounts in the MFF programming shall be used for the purpose of calculating the adjusted contribution.

⁽¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽²⁾ OJ L 433 I, 22.12.2020, p. 23.

- b) and the initial operational contribution of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N, increased in accordance with Article 3(4) of this Agreement, have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme, the Union shall calculate an adjustment of the operational contribution of year N by reducing the Republic of Moldova operational contribution by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If the amounts stemming from external assigned revenue of year N (to include commitment appropriations, and, for amounts under Council Regulation (EU) 2020/2094, the annual indicative amounts in the MFF programming) that do not result from financial contributions to the Horizon Europe Programme from other donors are cancelled, the operational contribution of the Republic of Moldova shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of the Republic of Moldova's operational contribution

1. For the calculation of the automatic correction as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are Moldovan entities in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽³⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽⁴⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 3(4) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to the Republic of Moldova's contribution to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.
- b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:
 - i. the total amount of the competitive grants apportioned to the Republic of Moldova or Moldovan legal entities as commitments made on budget appropriations of year N; and

⁽³⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽⁴⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

ii. the amount of the Republic of Moldova adjusted operational contribution for year N multiplied by the ratio between:

- A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 3(4) of this Agreement; and
- B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of the Republic of Moldova's financial contribution, payment of the adjustments made on the Republic of Moldova's operational contribution, and payment of the automatic correction applicable to the Republic of Moldova's operational contribution

1. The Commission shall communicate to the Republic of Moldova, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:

- a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of the Republic of Moldova, in Horizon Europe Programme increased, if relevant, in accordance with Article 3(4) of this Agreement;
- b. the amount of the participation fee referred to in Article 3(7) of this Agreement;
- c. from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 3(4) of this Agreement and the level of decommitment;
- d. for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of Moldovan legal entities broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April and in June of each financial year, a call for funds to the Republic of Moldova corresponding to its contribution under this Agreement.

Each calls for funds shall provide for the payment of six-twelfths of the Republic of Moldova 's contribution not later than 30 days after the call for funds is issued.

For the first year of implementation of this Agreement, the Commission shall issue a single call for funds, within 60 days of the signature of this Agreement.

3. Each year starting in 2023, the calls for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by the Republic of Moldova for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which the Republic of Moldova participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by the Republic of Moldova or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from the Republic of Moldova.

4. The Republic of Moldova shall pay its financial contribution under this Agreement in accordance with point (III) of this Annex. In the absence of payment by the Republic of Moldova by the due date, the Commission shall send a formal letter of reminder. Any delay in the payment of the financial contribution shall give rise to the payment of default interest by the Republic of Moldova on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

ANNEX II

List of the equivalent programmes and projects of the Republic of Moldova

The following non-exhaustive list shall be regarded as programmes and projects equivalent to the Horizon Europe Programme in the Republic of Moldova:

- State Programmes;
 - Technology Transfer and Innovation Programmes;
 - Bilateral and Multilateral Programmes;
 - Post-Doctoral Programmes.
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ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in the Republic of Moldova and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in the Republic of Moldova. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. The Republic of Moldova shall not prevent or raise any particular obstacle to the right of entrance in the Republic of Moldova and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of the Republic of Moldova. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent Moldovan authorities shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in the Republic of Moldova and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in the Republic of Moldova.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent Moldovan authority designated by the Moldovan government. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent Moldovan authorities may participate in the on-the-spot checks and inspections.
5. Upon request by the Moldovan authorities, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, the Moldovan authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the Moldovan authorities of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent Moldovan authority any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of Moldovan criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of the Republic of Moldova participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the Moldovan competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, the Republic of Moldova shall designate a contact point.

12. Information exchanged between the European Commission or OLAF and Moldovan competent authorities shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The Moldovan authorities shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in the Republic of Moldova. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the Government of the Republic of Moldova. The Government of the Republic of Moldova shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in the Republic of Moldova. Enforcement shall take place in accordance with the Moldovan law and rules of procedure.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in the Republic of Moldova in the same manner as European Commission decisions referred to in paragraph (1).

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of the Republic of Moldova shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in the Republic of Moldova and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in the Republic of Moldova. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

INTERNATIONAL AGREEMENT

between the European Union, of the one part, and the Republic of Turkey, of the other part, on the participation of the Republic of Turkey in the Union programme Horizon Europe – the Framework Programme for Research and Innovation

The European Commission (hereinafter referred to as ‘the Commission’), on behalf of the European Union,

of the one part,

and

the Government of the Republic of Turkey (hereinafter referred to as ‘Turkey’), represented by the Ministry of Foreign Affairs, Directorate for EU Affairs,

of the other part,

hereinafter referred to as ‘the Parties’,

WHEREAS the Framework Agreement between the European Community and the Republic of Turkey on the general principles for the participation of the Republic of Turkey in Community Programmes ⁽¹⁾ signed in Brussels on 26 February, 2002 stipulates that the specific terms and conditions regarding the participation of Turkey in each particular programme, in particular the financial contribution payable, are to be determined by agreement between the Commission, and the competent authorities of Turkey;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽²⁾ (hereinafter referred to as ‘Horizon Europe Programme’);

CONSIDERING the European Union’s efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda ‘Transforming our World: the 2030 Agenda for Sustainable Development’, and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries are key partners in this endeavor;

EMPHASISING the role of the European Partnerships addressing some of Europe’s most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union’s priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries’ involvement in those Partnerships;

SEEKING to establish mutually advantageous conditions in order to create decent jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

RECOGNISING that reciprocal participation in each other’s research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

⁽¹⁾ OJ L 61, 2.3.2002, p. 29.

⁽²⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

CONSIDERING that the common goals, values and strong links of the Parties in the field of research and innovation, established in the past through the Association Agreements to the subsequent Framework Programmes, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. Turkey shall participate as an associated country in and contribute to all parts of the Horizon Europe Programme - the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Decision (EU) 2021/764 ⁽³⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.
2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁴⁾, and Decision (EU) 2021/820 ⁽⁵⁾, in their most up to date versions, shall apply to the participation of Turkey legal entities in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme

1. Turkey shall participate in the Horizon Europe Programme in accordance with the conditions laid down in the Framework Agreement between the European Community and the Republic of Turkey on the general principles for the participation of the Republic of Turkey in Community Programmes, and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of the Horizon Europe Programme, in their most up to date versions.
2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in Turkey may participate in indirect actions of the Horizon Europe Programme under conditions equivalent to those applicable to legal entities established in the European Union, including respect for the European Union restrictive measures ⁽⁶⁾.
3. Before deciding on whether legal entities established in Turkey are eligible to participate in an action related to European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:
 - a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes, projects or parts thereof of Turkey equivalent to the Horizon Europe action concerned;
 - b) information whether Turkey has in place a national investment screening mechanism and assurances that authorities of Turkey will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside Turkey of a Turkish legal entity, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies Turkey with the list of the relevant legal entities established in Turkey following the signature of grant agreements with these entities; and
 - c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in Turkey shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. Turkey will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.

⁽³⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1.).

⁽⁴⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast) (OJ L 189, 28.5.2021, p. 61.).

⁽⁵⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

⁽⁶⁾ The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

4. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, Turkey and Turkish legal entities may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.

5. Representatives of Turkey shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764, without voting rights and for points which concern Turkey.

These committees shall meet without the presence of the representatives of Turkey at the time of voting. Turkey will be informed of the result.

Participation as referred to in this paragraph shall take the same form, including procedures for receipt of information and documentation, as that applicable to representatives from Member States of the European Union.

6. Turkey rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to associated countries.

7. Representatives of Turkey shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns Turkey.

8. Turkey may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽⁷⁾, in its most up to date version, and with the legal act establishing the ERIC.

9. Travel costs and subsistence expenses incurred by representatives and experts of Turkey for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764, or in other meetings related to the implementation of the Horizon Europe Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

10. The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

11. Turkey shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in Turkey or imported into Turkey, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in Turkey.

Article 3

Financial contribution

1. Participation of Turkey or Turkish legal entities in the Horizon Europe Programme shall be subject to Turkey contributing financially to the Programme and the related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'the Union budget').

2. The financial contribution shall take the form of the sum of:

a) an operational contribution; and

b) a participation fee.

3. The financial contribution shall take the form of an annual payment made in two instalments, and shall be due at the latest in June and August.

⁽⁷⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Horizon Europe Programme, including any appropriations corresponding to decommitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁸⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased by external assigned revenue that does not result from financial contributions to the Horizon Europe Programme from other donors ⁽⁹⁾.

For external assigned revenue allocated to Horizon Europe Programme under Article 3.1 of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽¹⁰⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Draft Budget with regard to the Horizon Europe Programme.

5. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of Turkey at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key are laid down in Annex I.

6. The initial operational contribution shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the European Union budget definitively adopted for the applicable year for financing the Horizon Europe Programme, increased in accordance with paragraph 4 of this Article.

7. The participation fee shall be 4 % of the annual initial operational contribution as calculated in accordance with paragraph 5 and 6 of this Article and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.

8. The initial operational contribution for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4 of this Article, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.

9. The European Union shall provide Turkey with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme. That information shall be provided having due regard to the European Union's and Turkey's confidentiality and data protection rules and shall be without prejudice to the information which Turkey is entitled to receive under Annex III.

10. All contributions of Turkey or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Automatic correction mechanism

1. An automatic correction mechanism of the initial operational contribution of Turkey for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of Turkey and Turkish legal entities in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

⁽⁸⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1.).

⁽⁹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽¹⁰⁾ OJ L 433 I, 22.12.2020, p. 23.

The amount of the automatic correction shall be calculated based on the difference between:

- a) the initial amounts of the legal commitments for competitive grants actually entered into with Turkey or Turkish legal entities financed from commitment appropriations of the year N, increased in accordance with Article 3(4);

and

- b) the corresponding operational contribution of the year N paid by Turkey as adjusted pursuant Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

2. Where the amount referred to in paragraph 1, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution as adjusted pursuant to Article 3(8), the initial operational contribution of Turkey for year N shall be corrected. The amount due by or to be received by Turkey as an additional contribution or reduction of Turkey's contribution under the automatic correction mechanism shall be the amount exceeding this 8 % threshold. The amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

3. Detailed rules on the automatic correction mechanism are laid down in Annex I.

Article 5

Reciprocity

1. Legal entities established in the European Union may participate in programmes, projects or parts thereof of Turkey equivalent to the Horizon Europe Programme, in accordance with Turkey's applicable regulations.
2. The non-exhaustive list of the equivalent programmes, projects or parts thereof of Turkey is provided in Annex II.
3. Funding by Turkey of legal entities established in the Union shall be subject to Turkey's applicable regulations governing the operation of research and innovation programmes, projects or parts thereof. Where funding is not provided, legal entities established in the Union may participate with their own means.

Article 6

Open Science

The Parties shall mutually promote and encourage open science practices in their programmes, projects or parts thereof in accordance with the rules of the Horizon Europe Programme and Turkey's applicable regulations.

Article 7

Monitoring, Evaluation and Reporting

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Horizon Europe Programme, the participation of Turkey in that Programme shall be continuously monitored on a partnership basis involving the Commission and Turkey.
2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

Article 8

EU-Turkey Joint Research and Innovation Committee

1. The EU-Turkey Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU-Turkey Joint Committee'). The tasks of the EU-Turkey Joint Committee shall include:

- a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:

- (i) the participation and performance of the legal entities of Turkey in the Horizon Europe Programme;

- (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes, projects or parts thereof of the other Party;
 - (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
- b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
- c) examining how to improve and develop cooperation;
- discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest; and
- d) exchanging information, inter alia, on new legislation, decisions or national research and innovation programmes that are relevant for the implementation of this Agreement.
2. The EU-Turkey Joint Committee, which shall be composed of representatives of the European Union and of Turkey, shall adopt its Rules of Procedure.
3. The EU-Turkey Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.
4. The EU-Turkey Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by the National Authority of Turkey.
5. The EU-Turkey Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities of Turkey. The EU-Turkey Joint Committee may in particular conduct its tasks in writing whenever the need arises.

Article 9

Final provisions

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects, actions, activities or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.
3. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by Turkey under this Agreement.

In case of non-payment which may significantly jeopardise the implementation and management of the Horizon Europe Programme, the Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement shall be notified by the Commission to Turkey by a formal letter of notification and shall take effect 15 days following the receipt of this notification by Turkey.

In case the application of this Agreement is suspended, legal entities established in Turkey shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the legal entities established in Turkey before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The European Union shall immediately notify Turkey once the entire amount of the financial contribution due has been received by the European Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities of Turkey shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

4. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it.

The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

5. Where this Agreement is terminated in accordance with paragraph 4 of this Article, the Parties agree that:

- (a) projects, actions, activities or parts thereof in respect of which legal commitments have been entered into after the entry into force of this Agreement, and before this Agreement is terminated shall continue until their completions under the conditions laid down in this Agreement;
- (b) the annual financial contribution of the year N during which this Agreement is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The participation fee paid for the year N shall not be adjusted or corrected;
- (c) following the year during which this Agreement is terminated, the initial operational contributions paid for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8) and shall be automatically corrected in accordance with Article 4 of this Agreement.

The Parties shall settle by common consent any other consequences of termination of this Agreement.

6. This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

7. The Annexes to this Agreement shall form an integral part of this Agreement.

This Agreement shall be drawn up in duplicate in English and Turkish, each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Done at Brussels, this 27th day of October in the year 2021 in 2 copies in English and 2 copies in Turkish.

*For the Commission,
on behalf of the European Union,
Mariya GABRIEL
Commissioner
for Innovation, Research, Culture,
Education and Youth*

*For the Government of the
Republic of Turkey,
Faruk KAYMAKCI,
Ambassador
Director for EU Affairs and
Deputy Minister of Foreign Affairs*

ANNEX I

Rules governing the financial contribution of the Republic of Turkey to the Horizon Europe Programme (2021-2027)**I. Calculation of Turkey's financial contribution**

1. The financial contribution of Turkey to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 3(4) of this Agreement.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:

- 2021: 0,5 %;
- 2022: 1 %;
- 2023: 1,5 %;
- 2024: 2 %;
- 2025: 2,5 %;
- 2026: 3 %;
- 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by Turkey for its participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0,07.

4. In line with Article 3(8) of this Agreement, the first adjustment pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution of year N shall be adjusted upwards or downwards by the difference between:

- a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:
 - i. the amount of budgetary commitments made on commitment appropriations authorised for year N under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and
 - ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to Horizon Europe Programme from other donors and that were available at the end of year N ⁽¹⁾. For external assigned revenue allocated to Horizon Europe under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽²⁾, the annual indicative amounts in the MFF programming shall be used for the purpose of calculating the adjusted contribution.

⁽¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽²⁾ OJ L 433 I, 22.12.2020, p. 23.

- b) and the initial operational contribution of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N, increased in accordance with Article 3(4) of this Agreement, have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme, the Union shall calculate an adjustment of the operational contribution of year N by reducing Turkey's operational contribution by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If the amounts stemming from external assigned revenue of year N (to include commitment appropriations, and, for amounts under Council Regulation (EU) 2020/2094, the annual indicative amounts in the MFF programming) that do not result from financial contributions to the Horizon Europe Programme from other donors are cancelled, the operational contribution of Turkey shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of Turkey's operational contribution

1. For the calculation of the automatic correction as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are Turkish entities in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽³⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽⁴⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 3(4) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to Turkey's contribution to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.
- b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:
 - i. the total amount of the competitive grants apportioned to Turkey or Turkish legal entities as commitments made on budget appropriations of year N; and

⁽³⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽⁴⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

ii. the amount of Turkey's adjusted operational contribution for year N multiplied by the ratio between:

- A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 3(4) of this Agreement; and
- B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of Turkey's financial contribution, payment of the adjustments made on Turkey's operational contribution, and payment of the automatic correction applicable to Turkey's operational contribution

1. The Commission shall communicate to Turkey, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:

- a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of Turkey, in Horizon Europe Programme increased, if relevant, in accordance with Article 3(4) of this Agreement;
- b. the amount of the participation fee referred to in Article 3(7) of this Agreement;
- c. from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 3(4) of this Agreement and the level of decommitment;
- d. for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of Turkish legal entities broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April and in June of each financial year, a call for funds to Turkey corresponding to its contribution under this Agreement.

Each call for funds shall provide for the payment of six-twelfths of Turkey's contribution not later than 60 days after the call for funds is issued.

For the first year of implementation of this Agreement, the Commission shall issue a single call for funds, within 60 days following the date on which this Agreement starts producing legal effects.

3. Each year starting in 2023, the calls for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by Turkey for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which Turkey participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by Turkey or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from Turkey.

4. Turkey shall pay its financial contribution under this Agreement in accordance with point (III) of this Annex. In the absence of payment by Turkey by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by Turkey on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

ANNEX II

Non-exhaustive list of the equivalent programmes, projects or parts thereof of Turkey

The following non-exhaustive list shall be regarded as Turkish programmes, projects or parts thereof, equivalent to Horizon Europe Programme:

- Academic R&D Supports (ARDEB - Academic Research Funding Programs Directorate);
 - Industrial R&D Supports (TEYDEB - Technology and Innovation Grant Programs Directorate);
 - Human Resources Management (BİDEB - Department of Science Fellowships and Grant Programs).
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ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in Turkey and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in Turkey. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. Turkey shall not prevent or raise any particular obstacle to the right of entrance in Turkey and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(3) or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(3) or termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of Turkey. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent Turkish authorities shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in Turkey and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in Turkey.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent Turkish authority designated by the Turkish government. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent Turkish authorities may participate in the on-the-spot checks and inspections.
5. Upon request by the Turkish authorities, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, the Turkish authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the Turkish authorities of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent Turkish authority any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of Turkish criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of Turkey participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the Turkish competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, the designated contact point for Turkey will be the Anti-Fraud Coordination Service (AFCOS) of Turkey.

12. Information exchanged between the European Commission or OLAF and the Turkish competent authorities shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The Turkish authorities shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in Turkey. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the government of Turkey. The government of Turkey shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in Turkey. Enforcement shall take place in accordance with the Turkish law and rules of procedure.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in Turkey in the same manner as European Commission decisions referred to in paragraph (1).

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of Turkey shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in Turkey and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in Turkey. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

AGREEMENT

between the European Union, of the one part, and the Republic of Armenia, of the other part, on the participation of the Republic of Armenia in the Union programme Horizon Europe – the Framework Programme for Research and Innovation

The European Commission (hereinafter referred to as 'the Commission'), on behalf of the European Union,

of the one part,

and

the Government of the Republic of Armenia (hereinafter referred to as 'Armenia'),

of the other part,

hereinafter referred to as 'the Parties',

WHEREAS the Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Armenia, of the other part, on a framework Agreement between the European Union and the Republic of Armenia on the general principles for the participation of Armenia in Union programmes ⁽¹⁾, stipulates that the specific terms and conditions regarding the participation of Armenia in each particular programme, in particular the financial contribution payable and reporting and evaluation procedures, are to be determined in a Memorandum of Understanding ⁽²⁾ between the European Commission and the competent authorities of Armenia on the basis of the criteria established by the programmes concerned;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽³⁾ (hereinafter referred to it as 'the Horizon Europe Programme');

CONSIDERING the European Union's efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda 'Transforming our World: the 2030 Agenda for Sustainable Development', and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries are key partners in this endeavor;

EMPHASISING the role of the European Partnerships addressing some of Europe's most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union's priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries' involvement in those Partnerships;

⁽¹⁾ OJ L 174, 13.6.2014, p. 3.

⁽²⁾ This Agreement constitutes and has the same legal effects as a Memorandum of Understanding stated under the Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Armenia, of the other part, on a framework Agreement between the European Union and the Republic of Armenia on the general principles for the participation of Armenia in Union Programmes.

⁽³⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1.).

SEEKING to establish mutually advantageous conditions in order to create decent jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

CONSIDERING that the common goals, values and strong links of the Parties in the field of research and innovation, established in the past through the Association Agreement to the Horizon 2020 Programme, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. Armenia shall participate as an associated country in and contribute to all parts of the Horizon Europe Programme - the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Decision (EU) 2021/764 ⁽⁴⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.
2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁵⁾, and Decision (EU) 2021/820 ⁽⁶⁾, in their most up to date versions, shall apply to the participation of Armenian legal entities in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme

1. Armenia shall participate in the Horizon Europe Programme in accordance with the conditions laid down in the Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Armenia, of the other part, on a framework Agreement between the European Union and the Republic of Armenia on the general principles for the participation of Armenia in Union Programmes, and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of the Horizon Europe Programme, in their most up to date versions.
2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in Armenia may participate in indirect actions of the Horizon Europe Programme under conditions equivalent to those applicable to legal entities established in the European Union, including respect for the European Union restrictive measures ⁽⁷⁾.
3. Before deciding on whether legal entities established in Armenia are eligible to participate in an action related to European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:
 - a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes of Armenia equivalent to the Horizon Europe action concerned;

⁽⁴⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1.).

⁽⁵⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast) (OJ L 189, 28.5.2021, p. 61.).

⁽⁶⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

⁽⁷⁾ The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

- b) information whether Armenia has in place a national investment screening mechanism and assurances that authorities of Armenia will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside Armenia of an Armenian legal entity, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies Armenia with the list of the relevant legal entities established in Armenia following the signature of grant agreements with these entities; and
- c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in Armenia shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. Armenia will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.

4. Legal entities established in Armenia may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to legal entities established in the European Union unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 2 and 3 of this Article.

5. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, Armenia and Armenian legal entities may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.

6. Representatives of Armenia shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764, without voting rights and for points which concern Armenia.

These committees shall meet without the presence of the representatives of Armenia at the time of voting. Armenia will be informed of the result.

Participation as referred to in this paragraph shall take the same form, including procedures for receipt of information and documentation, as that applicable to representatives from Member States of the European Union.

7. Armenia's rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to associated countries.

8. Representatives of Armenia shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns Armenia.

9. Armenia may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽⁸⁾, in its most up to date version, and with the legal act establishing the ERIC.

10. Travel costs and subsistence expenses incurred by representatives and experts of Armenia for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764, or in other meetings related to the implementation of the Horizon Europe Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

11. The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

⁽⁸⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

12. Armenia shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in Armenia or imported into Armenia, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in Armenia.

Article 3

Financial contribution

1. Participation of Armenia or Armenian legal entities in the Horizon Europe Programme shall be subject to Armenia contributing financially to the Programme and the related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'Union budget').

2. The financial contribution shall take the form of the sum of:

a) an operational contribution; and

b) a participation fee.

3. The financial contribution shall take the form of an annual payment made in two instalments, and shall be due at the latest in May and July.

4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Horizon Europe Programme, including any appropriations corresponding to decommitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁹⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased by external assigned revenue that does not result from financial contributions to the Horizon Europe Programme from other donors ⁽¹⁰⁾.

For external assigned revenue allocated to the Horizon Europe Programme under Article 3.1 of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽¹¹⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Draft Budget with regard to the Horizon Europe Programme.

5. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of Armenia at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key are laid down in Annex I.

6. The initial operational contribution shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the European Union budget definitively adopted for the applicable year for financing the Horizon Europe Programme, increased in accordance with paragraph 4 of this Article.

7. The participation fee shall be 4 % of the annual initial operational contribution as calculated in accordance with paragraph 5 and 6 of this Article and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.

8. The initial operational contribution for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4 of this Article, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.

⁽⁹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1.).

⁽¹⁰⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽¹¹⁾ OJ L 43 I, 22.12.2020, p. 23.

9. The European Union shall provide Armenia with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme. That information shall be provided having due regard to the European Union's and Armenia's confidentiality and data protection rules and shall be without prejudice to the information which Armenia is entitled to receive under Annex III.

10. All contributions of Armenia or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Automatic correction mechanism

1. An automatic correction mechanism of the initial operational contribution of Armenia for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of and Armenian legal entities in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

The amount of the automatic correction shall be calculated based on the difference between:

- a) the initial amounts of the legal commitments for competitive grants actually entered into with Armenia or Armenian legal entities financed from commitment appropriations of the year N, increased in accordance with Article 3(4); and
- b) the corresponding operational contribution of the year N paid by Armenia as adjusted pursuant Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

2. Where the amount referred to in paragraph 1, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution as adjusted pursuant to Article 3(8), the initial operational contribution of Armenia for year N shall be corrected. The amount due by or to be received by Armenia as an additional contribution or reduction of Armenia's contribution under the automatic correction mechanism shall be the amount exceeding this 8 % threshold, the amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

3. Detailed rules on the automatic correction mechanism are laid down in Annex I.

Article 5

Reciprocity

1. Legal entities established in the European Union may participate in programmes of Armenia equivalent to the Horizon Europe Programme, in accordance with Armenia's legislation.

2. The non-exhaustive list of the equivalent programmes of Armenia is provided in Annex II.

3. Funding by Armenia of legal entities established in the Union shall be subject to Armenia's legislation governing the operation of research and innovation programmes. Where funding is not provided, legal entities established in the Union may participate with their own means.

Article 6

Open Science

The Parties shall mutually promote and encourage open science practices in their programmes in accordance with the rules of the Horizon Europe Programme and Armenia's legislation.

Article 7

Monitoring, Evaluation and Reporting

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Horizon Europe Programme, the participation of Armenia in that Programme shall be continuously monitored on a partnership basis involving the Commission and Armenia.

2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

*Article 8***EU-Armenia Joint Research and Innovation Committee**

1. The EU-Armenia Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU-Armenia Joint Committee'). The tasks of the EU-Armenia Joint Committee shall include:

- a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:
 - (i) the participation and performance of the legal entities of Armenia in the Horizon Europe Programme;
 - (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes, measures, projects, actions or parts thereof of the other Party;
 - (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
- b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
- c) examining how to improve and develop cooperation;
- d) discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest; and
- e) exchanging information, inter alia, on new legislation, decisions or national research and innovation programmes that are relevant for the implementation of this Agreement.

2. The EU-Armenia Joint Committee, which shall be composed of representatives of the European Union and of Armenia, shall adopt its Rules of Procedure.

3. The EU-Armenia Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.

4. The EU-Armenia Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by the National Authority of Armenia.

5. The EU-Armenia Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities of Armenia. The EU-Armenia Joint Committee may in particular conduct its tasks in writing whenever the need arises.

*Article 9***Final provisions**

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.

2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects, actions, activities or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.

3. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by Armenia under this Agreement.

In case of non-payment, which may significantly jeopardise the implementation and management of the Horizon Europe Programme, the Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement shall be notified by the Commission to Armenia by a formal letter of notification which shall take effect 15 days following the receipt of this notification by Armenia.

In case the application of this Agreement is suspended, legal entities established in Armenia shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the legal entities established in Armenia before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The European Union shall immediately notify Armenia once the entire amount of the financial contribution due has been received by the European Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities of Armenia shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

4. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it. The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

5. Where this Agreement is terminated in accordance with paragraph 4 of this Article, the Parties agree that:

- (a) projects, actions, activities or parts thereof in respect of which legal commitments have been entered into after the entry into force of this Agreement, and before this Agreement is terminated shall continue until their completions under the conditions laid down in this Agreement;
- (b) the annual financial contribution of the year N during which this Agreement is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The participation fee paid for the year N shall not be adjusted or corrected, and
- (c) following the year during which this Agreement is terminated, the initial operational contributions paid for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8) and shall be automatically corrected in accordance with Article 4 of this Agreement.

The Parties shall settle by common consent any other consequences of termination of this Agreement.

6. This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

7. The Annexes to this Agreement shall form an integral part of this Agreement.

This Agreement shall be drawn up in duplicate in English and Armenian each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Done at Brussels, this 12th day of November in the year 2021 in 2 original copies, in Armenian and in English.

*For the Commission, on behalf of the
European Union,
Signe RATSO
Deputy Director General
Open Innovation and Chief Negotiator for
Horizon Europe Association
Directorate General Research and Innovation*

*For the Republic of Armenia,
Anna AGHADJANIAN
Ambassador Extraordinary and
Plenipotentiary of the Republic of Armenia to
the Kingdom of Belgium, Head of the Mission
of the Republic of Armenia to the
European Union*

ANNEX I

Rules governing the financial contribution of Armenia to the Horizon Europe Programme (2021-2027)**I. Calculation of Armenia's financial contribution**

1. The financial contribution of Armenia to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 3(4) of this Agreement.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:

— 2021: 0,5 %;

— 2022: 1 %;

— 2023: 1,5 %;

— 2024: 2 %;

— 2025: 2,5 %;

— 2026: 3 %;

— 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by Armenia for its participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0,05.

4. In line with Article 3(8) of this Agreement, the first adjustment pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution of year N shall be adjusted upwards or downwards by the difference between:

a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:

i. the amount of budgetary commitments made on commitment appropriations authorised for year N under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and

ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to the Horizon Europe Programme from other donors and that were available at the end of year N ⁽¹⁾. For external assigned revenue allocated to Horizon Europe under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽²⁾, the annual indicative amounts in the MFF programming shall be used for the purpose of calculating the adjusted contribution.

⁽¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽²⁾ OJ L 433 I, 22.12.2020, p. 23.

- b) and the initial operational contribution of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N, increased in accordance with Article 3(4) of this Agreement, have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme, the Union shall calculate an adjustment of the operational contribution of year N by reducing Armenia operational contribution by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If the amounts stemming from external assigned revenue of year N (to include commitment appropriations, and, for amounts under Council Regulation (EU) 2020/2094, the annual indicative amounts in the MFF programming) that do not result from financial contributions to the Horizon Europe Programme from other donors are cancelled, the operational contribution of Armenia shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of Armenia's operational contribution

1. For the calculation of the automatic correction as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are Armenian entities in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽³⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽⁴⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 3(4) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to Armenia's contribution to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.
- b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:
 - i. the total amount of the competitive grants apportioned to Armenia or Armenian legal entities as commitments made on budget appropriations of year N; and

⁽³⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽⁴⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

ii. the amount of Armenia adjusted operational contribution for year N multiplied by the ratio between:

- A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 3(4) of this Agreement; and
- B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of Armenia's financial contribution, payment of the adjustments made on Armenia's operational contribution, and payment of the automatic correction applicable to Armenia's operational contribution

1. The Commission shall communicate to Armenia, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:

- a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of Armenia, in the Horizon Europe Programme increased, if relevant, in accordance with Article 3(4) of this Agreement;
- b. the amount of the participation fee referred to in Article 3(7) of this Agreement;
- c. from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 3(4) of this Agreement and the level of decommitment;
- d. for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of Armenia legal entities broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April and in June of each financial year, a call for funds to Armenia corresponding to its contribution under this Agreement.

Each call for funds shall provide for the payment of six-twelfths of Armenia's contribution no later than 30 days after the call for funds is issued.

For the first year of implementation of this Agreement, the Commission shall issue a single call for funds, within 60 days of the signature of this Agreement.

3. Each year starting in 2023, the calls for fund shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by Armenia for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which Armenia participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by Armenia or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from Armenia.

4. Armenia shall pay its financial contribution under this Agreement in accordance with point (III) of this Annex. In the absence of payment by Armenia by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by Armenia on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

ANNEX II

Non-exhaustive list of the equivalent programmes of Armenia

The following non-exhaustive list shall be regarded as programmes equivalent to the Horizon Europe Programme in Armenia:

— [...]

ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in Armenia and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in Armenia. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. Armenia shall not prevent or raise any particular obstacle to the right of entrance in Armenia and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(5) or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(5) or termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of Armenia. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent Armenian authorities shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in Armenia and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in Armenia.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent Armenian authority designated by the Armenian government. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent Armenian authorities may participate in the on-the-spot checks and inspections.
5. Upon request by the Armenian authorities, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, the Armenian authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the Armenian authorities of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent Armenian authority any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of Armenian criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of Armenia participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the Armenian competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, Armenia shall designate a contact point.

12. Information exchanged between the European Commission or OLAF and the Armenian competent authorities shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The Armenian authorities shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in Armenia. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the government of Armenia.

The government of Armenia shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in Armenia. Enforcement shall take place in accordance with the Armenian law and rules of procedure.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in Armenia in the same manner as European Commission decisions referred to in paragraph (1).

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of Armenia shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of the Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in Armenia and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in Armenia. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

AGREEMENT**between the European Union and the Republic of Serbia on the participation of the Republic of Serbia in the Union programme Horizon Europe – the Framework Programme for Research and Innovation**

The European Commission (hereinafter referred to as ‘the Commission’), on behalf of the European Union,

of the one part,

and

the Government of the Republic of Serbia (hereinafter referred to as Serbia),

of the other part,

hereinafter referred to as ‘the Parties’,

WHEREAS the Framework Agreement between the European Community and Serbia on the general principles for the participation of Serbia in Community Programmes ⁽¹⁾ stipulates that the specific terms and conditions regarding the participation of Serbia in each particular programme, in particular the financial contribution payable, are to be determined by agreement, in the form of a Memorandum of Understanding ⁽²⁾, between the Commission, and the competent authorities of Serbia;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽³⁾ (hereinafter referred to it as ‘Horizon Europe Programme’);

CONSIDERING the European Union’s efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda ‘Transforming our World: the 2030 Agenda for Sustainable Development’, and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries are key partners in this endeavor;

⁽¹⁾ OJ L 192, 22.7.2005, p. 29.

⁽²⁾ This Agreement constitutes and has the same legal effects as the Memorandum of Understanding stated under the Framework Agreement between the European Community and Serbia on the general principles for the participation of Serbia in Community Programmes.

⁽³⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013, OJ L 170, 12.5.2021, p. 1.

EMPHASISING the role of the European Partnerships addressing some of Europe's most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union's priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries' involvement in those Partnerships;

CONSIDERING that research and innovation have proven instrumental in the Western Balkan region for cooperation and funding of joint research and innovation projects enabling mutual access to excellence, knowledge, innovation, network and research resources. It has provided valuable opportunities for human development, amplifying the chances of success in finding joint solutions to regional and global challenges;

SEEKING to establish mutually advantageous conditions in order to create jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

CONSIDERING that the common goals, values and strong links of the Parties in the field of research and innovation, established in the past through the Association Agreements to the subsequent Framework Programmes, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. Serbia shall participate as an associated country in and contribute to all parts of the Horizon Europe Programme - the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Decision (EU) 2021/764 ⁽⁴⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.

2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁵⁾, and Decision (EU) 2021/820 ⁽⁶⁾, in their most up to date versions, shall apply to the participation of Serbia legal entities in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme

1. Serbia shall participate in the Horizon Europe Programme in accordance with the conditions laid down in the Framework Agreement between the European Community and Serbia on the general principles for the participation of Serbia in Community Programmes, and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of the Horizon Europe Programme, in their most up to date versions.

⁽⁴⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1.).

⁽⁵⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast) (OJ L 189, 28.5.2021, p. 61.).

⁽⁶⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in Serbia may participate in indirect actions of the Horizon Europe Programme under conditions equivalent to those applicable to legal entities established in the European Union, including respect for the European Union restrictive measures ⁽⁷⁾.

3. Before deciding on whether legal entities established in Serbia are eligible to participate in an action related to European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:

- a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes or actions of Serbia equivalent to the Horizon Europe action concerned;
- b) information whether Serbia has in place a national investment screening mechanism and assurances that authorities of Serbia will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside Serbia of a Serbian legal entity, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies Serbia with the list of the relevant legal entities established in Serbia following the signature of grant agreements with these entities; and
- c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in Serbia shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. Serbia will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.

4. Legal entities established in Serbia may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to legal entities established in the European Union unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 2 and 3 of this Article.

5. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, Serbia and Serbian legal entities may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.

6. Representatives of Serbia shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764, without voting rights and for points which concern Serbia.

These committees shall meet without the presence of the representatives of Serbia at the time of voting. Serbia will be informed of the result.

Participation as referred to in this paragraph shall take the same form, including procedures for receipt of information and documentation, as that applicable to representatives from Member States of the European Union.

7. Serbia rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to associated countries.

⁽⁷⁾ The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

8. Representatives of Serbia shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns Serbia.

9. Serbia may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽⁸⁾, in its most up to date version, and with the legal act establishing the ERIC.

10. Travel costs and subsistence expenses incurred by representatives and experts of Serbia for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764, or in other meetings related to the implementation of the Horizon Europe Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

11. The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

12. Serbia shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in Serbia or imported into Serbia, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in Serbia.

Article 3

Financial contribution

1. Participation of Serbia or Serbian legal entities in the Horizon Europe Programme shall be subject to Serbia contributing financially to the Programme and the related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'Union budget').

2. The financial contribution shall take the form of the sum of:

a) an operational contribution; and

b) a participation fee.

3. The financial contribution shall take the form of an annual payment made in two instalments, and shall be due at the latest in May and July.

4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Horizon Europe Programme, including any appropriations corresponding to decommitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁹⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased by external assigned revenue that does not result from financial contributions to the Horizon Europe Programme from other donors ⁽¹⁰⁾.

For external assigned revenue allocated to the Horizon Europe Programme under Article 3.1 of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽¹¹⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Draft Budget with regard to the Horizon Europe Programme.

⁽⁸⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

⁽⁹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽¹⁰⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽¹¹⁾ OJ L 433 I, 22.12.2020, p. 23.

5. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of Serbia at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key are laid down in Annex I.

6. The initial operational contribution shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the European Union budget definitively adopted for the applicable year for financing the Horizon Europe Programme, increased in accordance with paragraph 4 of this Article.

7. The participation fee shall be 4 % of the annual initial operational contribution as calculated in accordance with paragraph 5 and 6 of this Article and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.

8. The initial operational contribution for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4 of this Article, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.

9. The European Union shall provide Serbia with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme. That information shall be provided having due regard to the European Union's and Serbia's confidentiality and data protection rules and shall be without prejudice to the information which Serbia is entitled to receive under Annex III.

10. All contributions of Serbia or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Automatic correction mechanism

1. An automatic correction mechanism of the initial operational contribution of Serbia for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of Serbia and Serbian legal entities in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

The amount of the automatic correction shall be calculated based on the difference between:

- a) the initial amounts of the legal commitments for competitive grants actually entered into with Serbia or Serbian legal entities financed from commitment appropriations of the year N, increased in accordance with Article 3(4); and
- b) the corresponding operational contribution of the year N paid by Serbia as adjusted pursuant Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

2. Where the amount referred to in paragraph 1, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution as adjusted pursuant to Article 3(8), the initial operational contribution of Serbia for year N shall be corrected. The amount due by or to be received by Serbia as an additional contribution or reduction of Serbia's contribution under the automatic correction mechanism shall be the amount exceeding this 8 % threshold. The amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

3. Detailed rules on the automatic correction mechanism are laid down in Annex I.

Article 5

Reciprocity

1. Legal entities established in the European Union may participate in programmes and actions of Serbia equivalent to the Horizon Europe Programme, in accordance with Serbia's legislation.
2. The non-exhaustive list of the equivalent programmes and actions of Serbia is provided in Annex II.
3. Funding by Serbia of legal entities established in the Union shall be subject to Serbia's legislation governing the operation of research and innovation programmes and actions. Where funding is not provided, legal entities established in the Union may participate with their own means.

Article 6

Open Science

The Parties shall mutually promote and encourage open science practices in their programmes and actions in accordance with the rules of the Horizon Europe Programme and Serbia's legislation.

Article 7

Monitoring, Evaluation and Reporting

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Horizon Europe Programme, the participation of Serbia in that Programme shall be continuously monitored on a partnership basis involving the Commission and Serbia.
2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

Article 8

EU-Serbia Joint Research and Innovation Committee

1. The EU-Serbia Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU-Serbia Joint Committee'). The tasks of the EU-Serbia Joint Committee shall include:
 - a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:
 - (i) the participation and performance of the legal entities of Serbia in the Horizon Europe Programme;
 - (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes and actions of the other Party;
 - (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
 - b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;

- c) examining how to improve and develop cooperation;
 - d) discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest; and
 - e) exchanging information, inter alia, on new legislation, decisions or national research and innovation programmes that are relevant for the implementation of this Agreement.
2. The EU-Serbia Joint Committee, which shall be composed of representatives of the European Union and of Serbia, shall adopt its Rules of Procedure.
3. The EU-Serbia Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.
4. The EU-Serbia Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by the National Authority of Serbia.
5. The EU-Serbia Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities of Serbia. The EU-Serbia Joint Committee may in particular conduct its tasks in writing whenever the need arises.

Article 9

Final provisions

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects, actions, activities, or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.
3. The European Union and Serbia may apply this Agreement provisionally in accordance with their respective internal procedures and legislation. The provisional application shall begin on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
4. Should Serbia notify the Commission acting on behalf of the European Union that it will not complete its internal procedures necessary for the entry into force of this Agreement, this Agreement shall cease to apply provisionally on the date of receipt of this notification by the Commission, which shall constitute the cessation date for the purposes of this Agreement.
5. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by Serbia under this Agreement.

In case of non-payment which may significantly jeopardise the implementation and management of the Horizon Europe Programme, the Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement shall be notified by the Commission to Serbia by a formal letter of notification and shall take effect 15 days following the receipt of this notification by Serbia.

In case the application of this Agreement is suspended, legal entities established in Serbia shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the legal entities established in Serbia before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The European Union shall immediately notify Serbia once the entire amount of the financial contribution due has been received by the European Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities of Serbia shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

6. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it. The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

7. Where this Agreement ceases to apply provisionally in accordance with paragraph 4 of this Article or is terminated in accordance with paragraph 6 of this Article, the Parties agree that:

- (a) projects, actions, activities, or parts thereof in respect of which legal commitments have been entered into during the provisional application and/or after the entry into force of this Agreement, and before this Agreement ceases to apply or is terminated shall continue until their completions under the conditions laid down in this Agreement;
- (b) the annual financial contribution of the year N during which this Agreement ceases to apply provisionally or is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The participation fee paid for the year N shall not be adjusted or corrected;
- (c) following the year during which this Agreement ceases to apply provisionally or is terminated, the initial operational contributions paid for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8) and shall be automatically corrected in accordance with Article 4 of this Agreement; and

The Parties shall settle by common consent any other consequences of termination or cessation of provisional application of this Agreement.

8. This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

9. The Annexes to this Agreement shall form an integral part of this Agreement.

This Agreement shall be drawn up in duplicate in English and Serbian, each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Done at Brussels, this 6th day of December and at Belgrade this 1st day of December in the year 2021.

*For the Commission, on behalf of the
European Union,
Mariya GABRIEL
Commissioner for Innovation, Research,
Culture, Education and Youth*

*For the Government of the Republic of Serbia,
Branko RUŽIĆ
First Deputy Prime Minister and
Minister of Education, Science and
Technological Development*

ANNEX I

Rules governing the financial contribution of Serbia to the Horizon Europe Programme (2021-2027)**I. Calculation of Serbia's financial contribution**

1. The financial contribution of Serbia to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 3(4) of this Agreement.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:

— 2021: 0,5 %;

— 2022: 1 %;

— 2023: 1,5 %;

— 2024: 2 %;

— 2025: 2,5 %;

— 2026: 3 %;

— 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by Serbia for its participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0,45.

4. In accordance with Article 3(8) of this Agreement, the first adjustment pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution of year N shall be adjusted upwards or downwards by the difference between:

a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:

- i. the amount of budgetary commitments made on commitment appropriations authorised for year N under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and
- ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to the Horizon Europe Programme from other donors and that were available at the end of year N ⁽¹⁾. For external assigned revenue allocated to Horizon Europe under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽²⁾, the annual indicative amounts in the MFF programming shall be used for the purpose of calculating the adjusted contribution.

⁽¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽²⁾ OJ L 433 I, 22.12.2020, p. 23.

- b) and the initial operational contribution of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N, increased in accordance with Article 3(4) of this Agreement, have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme, the Union shall calculate an adjustment of the operational contribution of year N by reducing Serbia's operational contribution by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If the amounts stemming from external assigned revenue of year N (to include commitment appropriations, and, for amounts under Council Regulation (EU) 2020/2094, the annual indicative amounts in the MFF programming) that do not result from financial contributions to the Horizon Europe Programme from other donors are cancelled, the operational contribution of Serbia shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of Serbia's operational contribution

1. For the calculation of the automatic correction as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are Serbian entities in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽³⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽⁴⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 3(4) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to Serbia's contribution to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.

⁽³⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽⁴⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:

i. the total amount of the competitive grants apportioned to Serbia or Serbian legal entities as commitments made on budget appropriations of year N; and

ii. the amount of Serbia's adjusted operational contribution for year N multiplied by the ratio between:

A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 3(4) of this Agreement; and

B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of Serbia's financial contribution, payment of the adjustments made on Serbia's operational contribution, and payment of the automatic correction applicable to Serbia's operational contribution

1. The Commission shall communicate to Serbia, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:

a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of Serbia, in Horizon Europe Programme increased, if relevant, in accordance with Article 3(4) of this Agreement;

b. the amount of the participation fee referred to in Article 3(7) of this Agreement;

c. from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 3(4) of this Agreement and the level of decommitment;

d. for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of Serbian legal entities broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April and in June of each financial year, a call for funds to Serbia corresponding to its contribution under this Agreement.

Each call for funds shall provide for the payment of six-twelfths of Serbia's contribution not later than 30 days after the call for funds is issued.

For the first year of implementation of this Agreement, the Commission shall issue a single call for funds, within 60 days following the date on which this Agreement starts producing legal effects.

3. Each year starting in 2023, the calls for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by Serbia for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which Serbia participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by Serbia or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from Serbia

4. Serbia shall pay its financial contribution under this Agreement in accordance with point III of this Annex. In the absence of payment by Serbia by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by Serbia on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

ANNEX II

Non-exhaustive list of the equivalent programmes and actions of Serbia

The following non-exhaustive list shall be regarded as Serbian programmes and actions equivalent to the Horizon Europe Programme:

R&D&I programs and actions published by the:

- Ministry of Education, Science and Technological Development;
 - Serbian Innovation Fund;
 - Science Fund of the Republic of Serbia;
 - Ministry of Economy;
 - Ministry of Agriculture, Forestry and Water management;
 - Ministry of Environmental Protection.
-

ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in Serbia and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in Serbia. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. Serbia shall not prevent or raise any particular obstacle to the right of entrance in Serbia and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of Serbia. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent Serbian authorities shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in Serbia and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in Serbia.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent Serbian authority designated by the Serbian government. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent Serbian authorities may participate in the on-the-spot checks and inspections.
5. Upon request by the Serbian authorities, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, the Serbian authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the Serbian authorities of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent Serbian authority any fact or suspicion relating to an irregularity, which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of Serbian criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of Serbia participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the Serbian competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, the designated contact point for Serbia will be the Anti-Fraud Coordination Service (AFCOS) of Serbia.

12. Information exchanged between the European Commission or OLAF and the Serbian competent authorities shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The Serbian authorities shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in Serbia. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the government of Serbia. The government of Serbia shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in Serbia. Enforcement shall take place in accordance with the Serbian law and rules of procedure.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in Serbia in the same manner as European Commission decisions referred to in paragraph (1).

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of Serbia shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in Serbia and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in Serbia. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

INTERNATIONAL AGREEMENT**between the European Union, of the one part, and Bosnia and Herzegovina, of the other, on the participation of Bosnia and Herzegovina in the Union programme Horizon Europe – the Framework Programme for Research and Innovation**

The European Commission (hereinafter referred to as 'the Commission'), on behalf of the European Union,

of the one part,

and

Bosnia and Herzegovina (hereinafter referred to as 'Bosnia and Herzegovina'),

of the other part,

hereinafter referred to as 'the Parties',

WHEREAS the Framework Agreement between the European Community and Bosnia and Herzegovina on the general principles for the participation of Bosnia and Herzegovina in Community Programmes ⁽¹⁾ stipulates that the specific terms and conditions regarding the participation of Bosnia and Herzegovina in each particular programme, in particular the financial contribution payable, are to be determined by agreement, in the form of a Memorandum of Understanding ⁽²⁾, between the Commission and Bosnia and Herzegovina;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽³⁾ (hereinafter referred to it as 'Horizon Europe Programme');

CONSIDERING the European Union's efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda 'Transforming our World: the 2030 Agenda for Sustainable Development', and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries are key partners in this endeavor;

EMPHASISING the role of the European Partnerships addressing some of Europe's most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union's priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries' involvement in those Partnerships;

CONSIDERING that research and innovation has proven instrumental in the Western Balkan region for cooperation and funding of joint research and innovation projects enabling mutual access to excellence, knowledge, innovation, network and research resources. It has provided valuable opportunities for human development, amplifying the chances of success in finding joint solutions to regional and global challenges;

⁽¹⁾ OJ L 192, 22.7.2005 p. 9.

⁽²⁾ This Agreement constitutes and has the same legal effects as the Memorandum of Understanding stated under the Framework Agreement between the European Community and Bosnia and Herzegovina on the general principles for the participation of Bosnia and Herzegovina in Community Programmes.

⁽³⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1.).

SEEKING to establish mutually advantageous conditions in order to create jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

CONSIDERING that the common goals, values and strong links of the Parties in the field of research and innovation, established in the past through the Association Agreements to the subsequent Framework Programmes, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. Bosnia and Herzegovina shall participate as an associated country in and contribute to all parts of the Horizon Europe Programme - the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Decision (EU) 2021/764 ⁽⁴⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.
2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁵⁾, and Decision (EU) 2021/820 ⁽⁶⁾, in their most up to date versions, shall apply to the participation of legal entities established in Bosnia and Herzegovina ⁽⁷⁾ in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme

1. Bosnia and Herzegovina shall participate in the Horizon Europe Programme in accordance with the conditions laid down in the Framework Agreement between the European Community and Bosnia and Herzegovina on the General Principles for the participation of Bosnia and Herzegovina in Community Programmes, and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of the Horizon Europe Programme, in their most up to date versions.
2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in Bosnia and Herzegovina may participate in indirect actions of the Horizon Europe Programme under conditions equivalent to those applicable to legal entities established in the European Union, including respect for the European Union restrictive measures ⁽⁸⁾.
3. Before deciding on whether legal entities established in Bosnia and Herzegovina are eligible to participate in an action related to European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:
 - a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes or projects of Bosnia and Herzegovina equivalent to the Horizon Europe action concerned;

⁽⁴⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1.).

⁽⁵⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast) (OJ L 189, 28.5.2021, p. 61.).

⁽⁶⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

⁽⁷⁾ Legal entities means any natural person or legal person in accordance with paragraph (16) of Article 2 of the Horizon Europe Programme. The term legal entities does not refer directly or indirectly to the two Entities of which Bosnia and Herzegovina consists: the Federation of Bosnia and Herzegovina and the Republika Srpska.

⁽⁸⁾ The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

- b) information whether Bosnia and Herzegovina has in place a national investment screening mechanism and assurances that authorities of Bosnia and Herzegovina will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside Bosnia and Herzegovina of a Bosnia and Herzegovina legal entity, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies Bosnia and Herzegovina with the list of the relevant legal entities established in Bosnia and Herzegovina following the signature of grant agreements with these entities; and
- c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in Bosnia and Herzegovina shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. Bosnia and Herzegovina will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.

4. Legal entities established in Bosnia and Herzegovina may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to legal entities established in the European Union unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 2 and 3 of this Article.

5. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, Bosnia and Herzegovina and the legal entities established in Bosnia and Herzegovina may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.

6. Representatives of Bosnia and Herzegovina shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764, without voting rights and for points which concern Bosnia and Herzegovina.

These committees shall meet without the presence of representatives of Bosnia and Herzegovina at the time of the voting.

Bosnia and Herzegovina will be informed of the result. Participation as referred to in this paragraph shall take the same form including procedures for receipt of information and documentation, as that applicable to representatives of Member States of the European Union.

7. Bosnia and Herzegovina rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to associated countries.

8. Representatives of Bosnia and Herzegovina shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns Bosnia and Herzegovina.

9. Bosnia and Herzegovina may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽⁹⁾, in its most up to date version, and with the legal act establishing the ERIC.

10. Travel costs and subsistence expenses incurred by representatives and experts of Bosnia and Herzegovina for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764, or in other meetings related to the implementation of the Horizon Europe Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

11. The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

⁽⁹⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

12. Bosnia and Herzegovina shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in Bosnia and Herzegovina or imported into Bosnia and Herzegovina, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in Bosnia and Herzegovina.

Article 3

Financial contribution

1. Participation of Bosnia and Herzegovina or legal entities established in Bosnia and Herzegovina in the Horizon Europe Programme shall be subject to Bosnia and Herzegovina contributing financially to the Programme and the related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'Union budget').

2. The financial contribution shall take the form of the sum of:

a) an operational contribution; and

b) a participation fee.

3. The financial contribution shall take the form of an annual payment made in two instalments, and shall be due at the latest in May and July.

4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Horizon Europe Programme, including any appropriations corresponding to decommitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁽¹⁰⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased by external assigned revenue that does not result from financial contributions to the Horizon Europe Programme from other donors⁽¹¹⁾.

For external assigned revenue allocated to the Horizon Europe Programme under Article 3.1 of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis⁽¹²⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Draft Budget with regard to the Horizon Europe Programme.

5. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of Bosnia and Herzegovina at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key are laid down in Annex I.

6. The initial operational contribution shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the European Union budget definitively adopted for the applicable year for financing the Horizon Europe Programme, increased in accordance with paragraph 4 of this Article.

7. The participation fee shall be 4 % of the annual initial operational contribution as calculated in accordance with paragraph 5 and 6 of this Article and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.

8. The initial operational contribution for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4 of this Article, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.

⁽¹⁰⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1.).

⁽¹¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽¹²⁾ OJ L 433 I, 22.12.2020, p. 23.

9. The European Union shall provide Bosnia and Herzegovina with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme. That information shall be provided having due regard to the European Union's and Bosnia and Herzegovina's confidentiality and data protection rules and shall be without prejudice to the information which Bosnia and Herzegovina is entitled to receive under Annex III.

10. All contributions of Bosnia and Herzegovina or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Automatic correction mechanism

1. An automatic correction mechanism of the initial operational contribution of Bosnia and Herzegovina for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of Bosnia and Herzegovina and the legal entities established in Bosnia and Herzegovina in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

The amount of the automatic correction shall be calculated based on the difference between:

- a) the initial amounts of the legal commitments for competitive grants actually entered into with Bosnia and Herzegovina or legal entities established in Bosnia and Herzegovina financed from commitment appropriations of the year N, increased in accordance with Article 3(4); and
- b) the corresponding operational contribution of the year N paid by Bosnia and Herzegovina as adjusted pursuant Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

2. Where the amount referred to in paragraph 1, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution as adjusted pursuant to Article 3(8), the initial operational contribution of Bosnia and Herzegovina for year N shall be corrected. The amount due by or to be received by Bosnia and Herzegovina as an additional contribution or reduction of Bosnia and Herzegovina's contribution under the automatic correction mechanism shall be the amount exceeding this 8 % threshold. The amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

3. Detailed rules on the automatic correction mechanism are laid down in Annex I.

Article 5

Reciprocity

1. Legal entities established in the European Union may participate in programmes or projects of Bosnia and Herzegovina equivalent to the Horizon Europe Programme, in accordance with the legislation of Bosnia Herzegovina.

2. The list of the equivalent programmes or projects Bosnia and Herzegovina open for participation of legal entities established in the European Union is provided in Annex II.

3. Funding by Bosnia and Herzegovina of legal entities established in the Union shall be subject to Bosnia and Herzegovina's legislation governing the operation of research and innovation programmes or projects. Where funding is not provided, legal entities established in the Union may participate with their own means.

Article 6

Open Science

The Parties shall mutually promote and encourage open science practices in their programmes or projects in accordance with the rules of the Horizon Europe Programme and Bosnia and Herzegovina's legislation.

*Article 7***Monitoring, Evaluation and Reporting**

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Horizon Europe Programme, the participation of Bosnia and Herzegovina in that Programme shall be continuously monitored on a partnership basis involving the Commission and Bosnia and Herzegovina.
2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

*Article 8***EU-Bosnia and Herzegovina Joint Research and Innovation Committee**

1. The EU-Bosnia and Herzegovina Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU-Bosnia and Herzegovina Joint Committee'). The tasks of the EU-Bosnia and Herzegovina Joint Committee shall include:
 - a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:
 - (i) the participation and performance of the legal entities established in Bosnia and Herzegovina in the Horizon Europe Programme;
 - (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes or projects of the other Party;
 - (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
 - b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
 - c) examining how to improve and develop cooperation; and
 - d) discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest;
 - e) exchanging information, inter alia, on new legislation, decisions or national research and innovation programmes that are relevant for the implementation of this Agreement.
2. The EU-Bosnia and Herzegovina Joint Committee, which shall be composed of representatives of the European Union and of Bosnia and Herzegovina, shall adopt its Rules of Procedure.
3. The EU-Bosnia and Herzegovina Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.
4. The EU-Bosnia and Herzegovina Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by Bosnia and Herzegovina.
5. The EU-Bosnia and Herzegovina Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities established in Bosnia and Herzegovina. The EU-Bosnia and Herzegovina Joint Committee may in particular conduct its tasks in writing whenever the need arises.

*Article 9***Final provisions**

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.

2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects, actions, activities or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.

3. The European Union and Bosnia and Herzegovina may apply this Agreement provisionally in accordance with their respective internal procedures and legislation. The provisional application shall begin on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.

4. Should Bosnia and Herzegovina notify the Commission acting on behalf of the European Union that it will not complete its internal procedures necessary for the entry into force of this Agreement, this Agreement shall cease to apply provisionally on the date of receipt of this notification by the Commission, which shall constitute the cessation date for the purposes of this Agreement.

5. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by Bosnia and Herzegovina under this Agreement.

In case of non-payment which may significantly jeopardise the implementation and management of the Horizon Europe Programme, the Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement shall be notified by the Commission to Bosnia and Herzegovina by a formal letter of notification and shall take effect 15 days following the receipt of this notification by Bosnia and Herzegovina.

In case the application of this Agreement is suspended, legal entities established in Bosnia and Herzegovina shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the legal entities established in Bosnia and Herzegovina before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The European Union shall immediately notify Bosnia and Herzegovina once the entire amount of the financial contribution due has been received by the European Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities established in Bosnia and Herzegovina shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

6. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it. The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

7. Where this Agreement ceases to apply provisionally in accordance with paragraph 4 of this Article or is terminated in accordance with paragraph 6 of this Article, the Parties agree that:

- (a) projects, actions, activities or parts thereof in respect of which legal commitments have been entered into during the provisional application and/or after the entry into force of this Agreement, and before this Agreement ceases to apply or is terminated shall continue until their completions under the conditions laid down in this Agreement;
- (b) the annual financial contribution of the year N during which this Agreement ceases to apply provisionally or is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The participation fee paid for the year N shall not be adjusted or corrected; and
- (c) following the year during which this Agreement ceases to apply provisionally or is terminated, the initial operational contributions paid for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8) and shall be automatically corrected in accordance with Article 4 of this Agreement.

The Parties shall settle by common consent any other consequences of termination or cessation of provisional application of this Agreement.

8. This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

9. The Annexes to this Agreement shall form an integral part of this Agreement.

This Agreement shall be drawn up in duplicate in English, Bosnian, Croatian and Serbian, texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Done at Brussels, this 6th day of December in the year 2021 and at Sarajevo on: 22nd December 2021.

*For the Commission, on behalf of the
European Union,
Mariya GABRIEL
Commissioner for Innovation, Research,
Culture, Education and Youth*

*For Bosnia and Herzegovina,
Ankica GUDELJEVIĆ
Minister of Civil Affairs,
Bosnia and Herzegovina*

ANNEX I

Rules governing the financial contribution of Bosnia and Herzegovina to the Horizon Europe Programme (2021-2027)**I. Calculation of the financial contribution of Bosnia and Herzegovina**

1. The financial contribution of Bosnia and Herzegovina to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 3(4) of this Agreement.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:

— 2021: 0,5 %;

— 2022: 1 %;

— 2023: 1,5 %;

— 2024: 2 %;

— 2025: 2,5 %;

— 2026: 3 %;

— 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by Bosnia and Herzegovina for its participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0,09.

4. In line with Article 3(8) of this Agreement, the first adjustment pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution of year N shall be adjusted upwards or downwards by the difference between:

a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:

i. the amount of budgetary commitments made on commitment appropriations authorised for year N under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and

ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to the Horizon Europe Programme from other donors and that were available at the end of year N ⁽¹⁾. For external assigned revenue allocated to Horizon Europe under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽²⁾, the annual indicative amounts in the MFF programming shall be used for the purpose of calculating the adjusted contribution.

⁽¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽²⁾ OJ L 433 I, 22.12.2020, p. 23.

- b) and the initial operational contribution of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N, increased in accordance with Article 3(4) of this Agreement, have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme, the Union shall calculate an adjustment of the operational contribution of year N by reducing the operational contribution Bosnia and Herzegovina by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If the amounts stemming from external assigned revenue of year N (to include commitment appropriations, and, for amounts under Council Regulation (EU) 2020/2094, the annual indicative amounts in the MFF programming) that do not result from financial contributions to the Horizon Europe Programme from other donors are cancelled, the operational contribution of Bosnia and Herzegovina shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of the operational contribution of Bosnia and Herzegovina

1. For the calculation of the automatic correction as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are legal entities established in Bosnia and Herzegovina in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽³⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽⁴⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 3(4) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to the contribution of Bosnia and Herzegovina to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.

⁽³⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽⁴⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:

i. the total amount of the competitive grants apportioned to Bosnia and Herzegovina or legal entities established in Bosnia and Herzegovina as commitments made on budget appropriations of year N; and

ii. the amount of the adjusted operational contribution of Bosnia and Herzegovina for year N multiplied by the ratio between:

A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 3(4) of this Agreement; and

B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of Bosnia and Herzegovina's financial contribution, payment of the adjustments made on Bosnia and Herzegovina's operational contribution, and payment of the automatic correction applicable to Bosnia and Herzegovina's operational contribution

1. The Commission shall communicate to Bosnia and Herzegovina, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:

a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of Bosnia and Herzegovina, in Horizon Europe Programme increased, if relevant, in accordance with Article 3(4) of this Agreement;

b. the amount of the participation fee referred to in Article 3(7) of this Agreement;

c. from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 3(4) of this Agreement and the level of decommitment;

d. for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of Bosnia and Herzegovina legal entities broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April and in June of each financial year, a call for funds to Bosnia and Herzegovina corresponding to its contribution under this Agreement.

Each call for funds shall provide for the payment of six-twelfths of the contribution of Bosnia and Herzegovina not later than 45 days after the call for funds is issued.

For the first year of implementation of this Agreement, the Commission shall issue a single call for funds, within 90 days following the date on which this Agreement starts producing legal effects.

3. Each year starting in 2023, the calls for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by Bosnia and Herzegovina for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which Bosnia and Herzegovina participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by Bosnia and Herzegovina or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from Bosnia and Herzegovina

4. Bosnia and Herzegovina shall pay its financial contribution under this Agreement in accordance with point III of this Annex. In the absence of payment by Bosnia and Herzegovina by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by Bosnia and Herzegovina on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

*ANNEX II***Non-exhaustive list of the equivalent programmes or projects Bosnia and Herzegovina**

The following non-exhaustive list shall be regarded as programmes, projects, actions and activities equivalent to the Horizon Europe Programme in Bosnia and Herzegovina:

[...]

ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in Bosnia and Herzegovina and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in Bosnia and Herzegovina. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. Bosnia and Herzegovina shall not prevent or raise any particular obstacle to the right of entrance in Bosnia and Herzegovina and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of Bosnia and Herzegovina. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent authorities of Bosnia and Herzegovina shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in Bosnia and Herzegovina and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in Bosnia and Herzegovina.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent authority of Bosnia and Herzegovina designated by the Council of Ministers of Bosnia and Herzegovina. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent authorities of Bosnia and Herzegovina may participate in the on-the-spot checks and inspections.
5. Upon request by the authorities of Bosnia and Herzegovina, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, authorities the Bosnia and Herzegovina, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the authorities Bosnia and Herzegovina of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent authority of Bosnia and Herzegovina any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of criminal law of Bosnia and Herzegovina, the European Commission may impose administrative measures and penalties on legal or natural persons of Bosnia and Herzegovina participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and competent authorities of Bosnia and Herzegovina shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, Bosnia and Herzegovina shall designate a contact point.

12. Information exchanged between the European Commission or OLAF and competent authorities of Bosnia and Herzegovina shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The authorities of Bosnia and Herzegovina shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in Bosnia and Herzegovina. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the Council of Ministers of Bosnia and Herzegovina. The Council of Ministers of Bosnia and Herzegovina shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in Bosnia and Herzegovina. Enforcement shall take place in accordance with the law and rules of procedure of Bosnia and Herzegovina.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in Bosnia and Herzegovina in the same manner as European Commission decisions referred to in paragraph (1).

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of Bosnia and Herzegovina shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in Bosnia and Herzegovina and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in Bosnia and Herzegovina. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

INTERNATIONAL AGREEMENT**between the European Union, of the one part, and Kosovo *, of the other part, on the participation of Kosovo in the Union programme Horizon Europe – the Framework Programme for Research and Innovation**

The European Commission (hereinafter referred to as 'the Commission'), on behalf of the European Union,

of the one part,

and

the Government of Kosovo (hereinafter referred to as 'Kosovo'),

of the other part,

hereinafter referred to as 'the Parties',

WHEREAS the Framework Agreement between the European Union and Kosovo on the general principles for the participation of Kosovo in Union programmes ⁽¹⁾ stipulates that the specific terms and conditions regarding the participation of Kosovo in each particular programme, in particular the financial contribution payable, are to be determined by agreement between the Commission, and the competent authorities of Kosovo;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽²⁾ (hereinafter referred to it as 'Horizon Europe Programme');

CONSIDERING the European Union's efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda 'Transforming our World: the 2030 Agenda for Sustainable Development', and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that Associated Countries are key partners in this endeavour;

EMPHASISING the role of the European Partnerships addressing some of Europe's most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union's priorities in the area of research and innovation that require critical mass and long-term vision and the importance of Associated Countries' involvement in those Partnerships;

CONSIDERING that research and innovation have proven instrumental in the Western Balkan region for cooperation and funding of joint research and innovation projects enabling mutual access to excellence, knowledge, innovation, network and research resources. It has provided valuable opportunities for human development, amplifying the chances of success in finding joint solutions to regional and global challenges;

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

⁽¹⁾ Framework Agreement between the European Union and Kosovo* on the general principles for the participation of Kosovo in Union programmes (OJ L 195, 27.7.2017, p. 3).

⁽²⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

SEEKING to establish mutually advantageous conditions in order to create jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

CONSIDERING that the common goals, values and strong links of the Parties in the field of research and innovation, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. Kosovo shall participate as an Associated Country in and contribute to all parts of the Horizon Europe Programme - the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Decision (EU) 2021/764 ⁽³⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.
2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁴⁾, and Decision (EU) 2021/820 ⁽⁵⁾, in their most up to date versions, shall apply to the participation of Kosovo legal entities in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme

1. Kosovo shall participate in the Horizon Europe Programme in accordance with the conditions laid down in the Framework Agreement between the European Union and Kosovo on the general principles for the participation of Kosovo in Union programmes, and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of the Horizon Europe Programme, in their most up to date versions.
2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in Kosovo may participate in indirect actions of the Horizon Europe Programme under conditions equivalent to those applicable to legal entities established in the European Union, including respect for the European Union restrictive measures ⁽⁶⁾.
3. Before deciding on whether legal entities established in Kosovo are eligible to participate in an action related to European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:
 - a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes, projects, actions, or parts thereof of Kosovo equivalent to the Horizon Europe action concerned;

⁽³⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1.).

⁽⁴⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast) (OJ L 189, 28.5.2021, p. 61.).

⁽⁵⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

⁽⁶⁾ The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

- b) information whether Kosovo has in place an investment screening mechanism and assurances that authorities of Kosovo will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside Kosovo of a Kosovo legal entity, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies Kosovo with the list of the relevant legal entities established in Kosovo following the signature of grant agreements with these entities; and
- c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in Kosovo shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. Kosovo will share an up-to-date list of subjects of export restrictions on annual basis, during the action and for four years after the end of the action.

4. Legal entities established in Kosovo may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to legal entities established in the European Union unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 2 and 3 of this Article.

5. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, Kosovo and Kosovo legal entities may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.

6. Representatives of Kosovo shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764, without voting rights and for points which concern Kosovo.

These committees shall meet without the presence of the representatives of Kosovo at the time of voting.

Kosovo will be informed of the result.

Participation as referred to in this paragraph shall take the same form, including procedures for receipt of information and documentation, as that applicable to representatives from Member States of the European Union.

7. Kosovo rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to Associated Countries.

8. Representatives of Kosovo shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns Kosovo.

9. Kosovo may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽⁷⁾, in its most up to date version, and with the legal act establishing the ERIC.

10. Travel costs and subsistence expenses incurred by representatives and experts of Kosovo for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764, or in other meetings related to the implementation of the Horizon Europe Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

11. The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

⁽⁷⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

12. Kosovo shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in Kosovo or imported into Kosovo, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in Kosovo.

Article 3

Financial contribution

1. Participation of Kosovo or Kosovo legal entities in the Horizon Europe Programme shall be subject to Kosovo contributing financially to the Programme and the related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'Union budget').

2. The financial contribution shall take the form of the sum of:

a) an operational contribution; and

b) a participation fee.

3. The financial contribution shall take the form of an annual payment made in two instalments, and shall be due at the latest in May and July.

4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Horizon Europe Programme, including any appropriations corresponding to decommitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁸⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased by external assigned revenue that does not result from financial contributions to the Horizon Europe Programme from other donors ⁽⁹⁾.

For external assigned revenue allocated to Horizon Europe Programme under Article 3.1 of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽¹⁰⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Draft Budget with regard to the Horizon Europe Programme.

5. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of Kosovo at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key are laid down in Annex I.

6. The initial operational contribution shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the European Union budget definitively adopted for the applicable year for financing the Horizon Europe Programme, increased in accordance with paragraph 4 of this Article.

7. The participation fee shall be 4 % of the annual initial operational contribution as calculated in accordance with paragraph 5 and 6 of this Article and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.

8. The initial operational contribution for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4 of this Article, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.

⁽⁸⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽⁹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽¹⁰⁾ OJ L 433 I, 22.12.2020, p. 23.

9. The European Union shall provide Kosovo with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme. That information shall be provided having due regard to the European Union's and Kosovo's confidentiality and data protection rules and shall be without prejudice to the information which Kosovo is entitled to receive under Annex III.

10. All contributions of Kosovo or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Automatic correction mechanism

1. An automatic correction mechanism of the initial operational contribution of Kosovo for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of Kosovo and Kosovo legal entities in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

The amount of the automatic correction shall be calculated based on the difference between:

- a) the initial amounts of the legal commitments for competitive grants actually entered into with Kosovo or Kosovo legal entities financed from commitment appropriations of the year N, increased in accordance with Article 3(4); and
- b) the corresponding operational contribution of the year N paid by Kosovo as adjusted pursuant Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

2. Where the amount referred to in paragraph 1, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution as adjusted pursuant to Article 3(8), the initial operational contribution of Kosovo for year N shall be corrected. The amount due by or to be received by Kosovo as an additional contribution or reduction of Kosovo's contribution under the automatic correction mechanism shall be the amount exceeding this 8 % threshold. The amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

3. Detailed rules on the automatic correction mechanism are laid down in Annex I.

Article 5

Reciprocity

1. Legal entities established in the European Union may participate in programmes, projects, actions or parts thereof of Kosovo equivalent to the Horizon Europe Programme, in accordance with Kosovo's laws and regulations.

2. The non-exhaustive list of the equivalent programmes, projects, actions or parts thereof of Kosovo is provided in Annex II.

3. Funding by Kosovo of legal entities established in the Union shall be subject to Kosovo's legislation governing the operation of research and innovation programmes, projects, actions or parts thereof. Where funding is not provided, legal entities established in the Union may participate with their own means.

Article 6

Open Science

The Parties shall mutually promote and encourage open science practices in their programmes, and projects, actions or parts thereof in accordance with the rules of the Horizon Europe Programme and Kosovo's laws and regulations.

*Article 7***Monitoring, Evaluation and Reporting**

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Horizon Europe Programme, the participation of Kosovo in that Programme shall be continuously monitored on a partnership basis involving the Commission and Kosovo.
2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

*Article 8***EU-Kosovo Joint Research and Innovation Committee**

1. The EU-Kosovo Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU-Kosovo Joint Committee'). The tasks of the EU-Kosovo Joint Committee shall include:
 - a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:
 - (i) the participation and performance of the legal entities of Kosovo in the Horizon Europe Programme;
 - (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes, projects, actions or parts thereof of the other Party;
 - (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
 - b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
 - c) examining how to improve and develop cooperation;
 - d) discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest; and
 - e) exchanging information, inter alia, on new legislation, decisions or research and innovation programmes that are relevant for the implementation of this Agreement.
2. The EU-Kosovo Joint Committee, which shall be composed of representatives of the European Union and of Kosovo, shall adopt its Rules of Procedure.
3. The EU-Kosovo Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.
4. The EU-Kosovo Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by Kosovo.
5. The EU-Kosovo Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities of Kosovo. The EU-Kosovo Joint Committee may in particular conduct its tasks in writing whenever the need arises.

*Article 9***Final provisions**

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects or actions or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.
3. The European Union and Kosovo may apply this Agreement provisionally in accordance with their respective internal procedures and legislation. The provisional application shall begin on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
4. Should Kosovo notify the Commission acting on behalf of the European Union that it will not complete its internal procedures necessary for the entry into force of this Agreement, this Agreement shall cease to apply provisionally on the date of receipt of this notification by the Commission, which shall constitute the cessation date for the purposes of this Agreement.
5. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by Kosovo under this Agreement.

In case of non-payment which may significantly jeopardise the implementation and management of the Horizon Europe Programme, the Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement shall be notified by the Commission to Kosovo by a formal letter of notification which shall take effect 15 days following the receipt of this notification by Kosovo.

In case the application of this Agreement is suspended, legal entities established in Kosovo shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the legal entities established in Kosovo before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The European Union shall immediately notify Kosovo once the entire amount of the financial contribution due has been received by the European Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities of Kosovo shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

6. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it. The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

7. Where this Agreement ceases to apply provisionally in accordance with paragraph 4 of this Article or is terminated in accordance with paragraph 6 of this Article, the Parties agree that:

- (a) projects and actions or parts thereof in respect of which legal commitments have been entered into during the provisional application and/or after the entry into force of this Agreement, and before this Agreement ceases to apply or is terminated shall continue until their completions under the conditions laid down in this Agreement;

- (b) the annual financial contribution of the year N during which this Agreement ceases to apply provisionally or is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The participation fee paid for the year N shall not be adjusted or corrected;
- (c) following the year during which this Agreement ceases to apply provisionally or is terminated, the initial operational contributions paid for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8) and shall be automatically corrected in accordance with Article 4 of this Agreement.

The Parties shall settle by common consent any other consequences of termination or cessation of provisional application of this Agreement.

8. This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

9. The Annexes to this Agreement shall form an integral part of this Agreement.

This Agreement shall be drawn up in duplicate in English.

Done at Brussels, this 7th day of December, and at Pristina, this 23rd day of November in the year 2021.

*For the European Commission,
on behalf of the European Union,*

Mariya GABRIEL,
*Commissioner for Innovation,
Research, Culture, Education and Youth*

*For Kosovo,
Arbërie NAGAVCI,
Minister of Education, Science, Technology and
Innovation*

ANNEX I

Rules governing the financial contribution of Kosovo to the Horizon Europe Programme (2021-2027)

I. Calculation of Kosovo's financial contribution

1. The financial contribution of Kosovo to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 3(4) of this Agreement.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:

- 2021: 0,5 %;
- 2022: 1 %;
- 2023: 1,5 %;
- 2024: 2 %;
- 2025: 2,5 %;
- 2026: 3 %;
- 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by Kosovo for its participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0,09.

4. In line with Article 3(8) of this Agreement, the first adjustment pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution of year N shall be adjusted upwards or downwards by the difference between:

- a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:
 - i. the amount of budgetary commitments made on commitment appropriations authorised for year N under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and
 - ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to Horizon Europe Programme from other donors and that were available at the end of year N ⁽¹⁾. For external assigned revenue allocated to Horizon Europe under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽²⁾, the annual indicative amounts in the MFF programming shall be used for the purpose of calculating the adjusted contribution.

⁽¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 27.).

⁽²⁾ OJ L 433 I, 22.12.2020, p. 23.

- b) and the initial operational contribution of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N, increased in accordance with Article 3(4) of this Agreement, have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme, the Union shall calculate an adjustment of the operational contribution of year N by reducing Kosovo's operational contribution by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If the amounts stemming from external assigned revenue of year N (to include commitment appropriations, and, for amounts under Council Regulation (EU) 2020/2094, the annual indicative amounts in the MFF programming) that do not result from financial contributions to the Horizon Europe Programme from other donors are cancelled, the operational contribution of Kosovo shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of Kosovo's operational contribution

1. For the calculation of the automatic correction as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are entities from Kosovo in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽³⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽⁴⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 3(4) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to Kosovo's contribution to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.
- b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:
 - i. the total amount of the competitive grants apportioned to Kosovo or legal entities from Kosovo as commitments made on budget appropriations of year N; and

⁽³⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽⁴⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

ii. the amount of Kosovo's adjusted operational contribution for year N multiplied by the ratio between:

- A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 3(4) of this Agreement; and
- B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of Kosovo's financial contribution, payment of the adjustments made on Kosovo's operational contribution, and payment of the automatic correction applicable to Kosovo's operational contribution

1. The Commission shall communicate to Kosovo, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:

- a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of Kosovo, in Horizon Europe Programme increased, if relevant, in accordance with Article 3(4) of this Agreement;
- b. the amount of the participation fee referred to in Article 3(7) of this Agreement;
- c. from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 3(4) of this Agreement and the level of decommitment;
- d. for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of legal entities from Kosovo broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April and in June of each financial year, a call for funds to Kosovo corresponding to its contribution under this Agreement.

Each call for funds shall provide for the payment of six-twelfths of Kosovo's contribution not later than 30 days after the call for funds is issued.

For the first year of implementation of this Agreement, the Commission shall issue a single call for funds, within 60 days following the date on which this Agreement starts producing legal effects.

3. Each year starting in 2023, the call for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by Kosovo for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which Kosovo participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by Kosovo or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from Kosovo.

4. Kosovo shall pay its financial contribution under this Agreement in accordance with point (III) of this Annex. In the absence of payment by Kosovo by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by Kosovo on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

ANNEX II

Non-exhaustive list of the equivalent programmes, projects and actions or parts thereof of Kosovo

The following non-exhaustive list shall be regarded as programmes, projects, actions and activities of Kosovo equivalent to Horizon Europe Programme:

1. Short-term mobility grants

Regulated by MESTI Administrative Instruction No. 28/2016 ⁽¹⁾

The scheme supports short stays of Kosovo researchers in academic and research institutions outside Kosovo, as well as participation of Kosovo researchers in international conferences taking place outside Kosovo.

2. Small research grant scheme

Regulated by MESTI Administrative Instruction No. 26/2016 ⁽²⁾

The scheme provides funding to Kosovo research entities for small research projects with duration from 6-12 months and the total value of the grant is up to 10 000 EUR. The scheme requires involvement of international experts in the capacity of advisors.

3. Financial support for scientific publications

Regulated by MESTI Administrative Instruction No. 27/2016 ⁽³⁾

The scheme provides funding for publishing of scientific monographs of up to 3 000 EUR. It is currently open to legal entities and natural persons active in Kosovo.

4. Financial support for publications in journals with impact factor

Regulated by MESTI Administrative Instruction No. 1/2017 ⁽⁴⁾

The scheme provides funding for publishing of papers produced from research conducted in Kosovo in journals indexed in Web of Science and Scopus. It covers up to 80 % of the publishing cost.

⁽¹⁾ <https://masht.rks-gov.net/uploads/2017/01/28-ua-masht-nr-28-per-grandet-afatshkurta-te-mobiliteteve-rotated.pdf>

⁽²⁾ <https://masht.rks-gov.net/uploads/2017/01/ua-per-aplikim-ne-projektet-e-vogla-shkencore-rotated-1.pdf>

⁽³⁾ <https://masht.rks-gov.net/uploads/2016/12/rotated-1.pdf>

⁽⁴⁾ <https://masht.rks-gov.net/uploads/2017/08/1-2017-ua-per-publikime-dhe-botime-shkencore-rotated.pdf>

ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in Kosovo and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in Kosovo. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. Kosovo shall not prevent or raise any particular obstacle to the right of entrance in Kosovo and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of Kosovo. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent authorities from Kosovo shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in Kosovo and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in Kosovo.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent authority from Kosovo designated by the Kosovo government. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent authorities from Kosovo may participate in the on-the-spot checks and inspections.
5. Upon request by the authorities from Kosovo, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, the Kosovo authorities, acting in accordance with Kosovo rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under Kosovo law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the Kosovo authorities of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent authority from Kosovo any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of Kosovo criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of Kosovo participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the competent authorities from Kosovo shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, Kosovo shall designate a contact point.

12. Information exchanged between the European Commission or OLAF and the competent authorities from Kosovo shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The Kosovo authorities shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in Kosovo. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the Kosovo authority designated for this purpose by the government of Kosovo. The government of Kosovo shall make known its designated authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in Kosovo. Enforcement shall take place in accordance with the Kosovo law and rules of procedure.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in Kosovo in the same manner as European Commission decisions referred to in paragraph (1).

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of Kosovo shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in Kosovo and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in Kosovo. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

INTERNATIONAL AGREEMENT**between the European Union, of the one part, and Montenegro, of the other part, on the participation of Montenegro in the Union programme Horizon Europe – the Framework Programme for Research and Innovation**

The European Commission (hereinafter referred to as ‘the Commission’), on behalf of the European Union,
of the one part,

and

the Government of Montenegro (hereinafter referred to as ‘Montenegro’),

of the other part,

hereinafter referred to as ‘the Parties’,

WHEREAS the Protocol 8 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, on the general principles for the participation of Montenegro in Community programmes ⁽¹⁾ stipulates that the specific terms and conditions regarding the participation of Montenegro in each particular programme, in particular the financial contribution payable, will be determined by agreement, in the form of a Memorandum of Understanding ⁽²⁾ between the Commission, acting on behalf of the Community and Montenegro;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽³⁾ (hereinafter referred to it as ‘Horizon Europe Programme’);

CONSIDERING the European Union’s efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda ‘Transforming our World: the 2030 Agenda for Sustainable Development’, and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries are key partners in this endeavor;

EMPHASISING the role of the European Partnerships addressing some of Europe’s most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union’s priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries’ involvement in those Partnerships;

CONSIDERING that research and innovation have proven instrumental in the Western Balkan region for cooperation and funding of joint research and innovation projects enabling mutual access to excellence, knowledge, innovation, network and research resources. It has provided valuable opportunities for human development, amplifying the chances of success in finding joint solutions to regional and global challenges;

⁽¹⁾ OJ L 108, 29.4.2010, p. 1.

⁽²⁾ This Agreement constitutes and has the same legal effects as the Memorandum of Understanding stated under the Protocol 8 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, on the general principles for the participation of Montenegro in Union programmes.

⁽³⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013, OJ L 170, 12.5.2021, p. 1.

SEEKING to establish mutually advantageous conditions in order to create decent jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

CONSIDERING that the common goals, values and strong links of the Parties in the field of research and innovation, established in the past through the Association Agreements to the subsequent Framework Programmes, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. Montenegro shall participate as an associated country in and contribute to all parts of the Horizon Europe Programme - the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Decision (EU) 2021/764 ⁽⁴⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.
2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁵⁾, and Decision (EU) 2021/820 ⁽⁶⁾, in their most up to date versions, shall apply to the participation of Montenegro legal entities in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme

1. Montenegro shall participate in the Horizon Europe Programme in accordance with the conditions laid down in the Protocol 8 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, on the general principles for the participation of Montenegro in Community programmes, and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of the Horizon Europe Programme, in their most up to date versions.
2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in Montenegro may participate in indirect actions of the Horizon Europe Programme under conditions equivalent to those applicable to legal entities established in the European Union, including respect for the European Union restrictive measures ⁽⁷⁾.
3. Before deciding on whether legal entities established in Montenegro are eligible to participate in an action related to European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:
 - a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes, projects, actions, activities or parts thereof of Montenegro equivalent to the Horizon Europe action concerned;

⁽⁴⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1).

⁽⁵⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast) (OJ L 189, 28.5.2021, p. 61.).

⁽⁶⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

⁽⁷⁾ The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

- b) information whether Montenegro has in place a national investment screening mechanism and assurances that authorities of Montenegro will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside Montenegro of a Montenegrin legal entity, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies Montenegro with the list of the relevant legal entities established in Montenegro following the signature of grant agreements with these entities; and
- c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in Montenegro shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. Montenegro will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.

4. Legal entities established in Montenegro may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to legal entities established in the European Union unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 2 and 3 of this Article.

5. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, Montenegro and Montenegrin legal entities may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.

6. Representatives of Montenegro shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764, without voting rights and for points which concern Montenegro.

These committees shall meet without the presence of representatives of Montenegro at the time of the voting. Montenegro will be informed of the result.

Participation as referred to in this paragraph shall take the same form including procedures for receipt of information and documentation, as that applicable to representatives of Member States of the European Union.

7. Montenegro rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to associated countries.

8. Representatives of Montenegro shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns Montenegro.

9. Montenegro may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽⁸⁾, in its most up to date version, and with the legal act establishing the ERIC.

10. Travel costs and subsistence expenses incurred by representatives and experts of Montenegro for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764, or in other meetings related to the implementation of the Horizon Europe Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

11. The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

⁽⁸⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

12. Montenegro shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in Montenegro or imported into Montenegro, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in Montenegro.

Article 3

Financial contribution

1. Participation of Montenegro or Montenegrin legal entities in the Horizon Europe Programme shall be subject to Montenegro contributing financially to the Programme and the related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'Union budget').

2. The financial contribution shall take the form of the sum of:

a) an operational contribution; and

b) a participation fee.

3. The financial contribution shall take the form of an annual payment made in two instalments, and shall be due at the latest in May and July.

4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Horizon Europe Programme, including any appropriations corresponding to decommitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁹⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased by external assigned revenue that does not result from financial contributions to the Horizon Europe Programme from other donors ⁽¹⁰⁾.

For external assigned revenue allocated to the Horizon Europe Programme under Article 3.1 of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽¹¹⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Draft Budget with regard to the Horizon Europe Programme.

5. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of Montenegro at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key are laid down in Annex I.

6. The initial operational contribution shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the European Union budget definitively adopted for the applicable year for financing the Horizon Europe Programme, increased in accordance with paragraph 4 of this Article.

7. The participation fee shall be 4 % of the annual initial operational contribution as calculated in accordance with paragraph 5 and 6 of this Article and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.

8. The initial operational contribution for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4 of this Article, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.

⁽⁹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1.).

⁽¹⁰⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽¹¹⁾ OJ L 433 I, 22.12.2020, p. 23.

9. The European Union shall provide Montenegro with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme.

That information shall be provided having due regard to the European Union's and Montenegro's confidentiality and data protection rules and shall be without prejudice to the information which Montenegro is entitled to receive under Annex III.

10. All contributions of Montenegro or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Automatic correction mechanism

1. An automatic correction mechanism of the initial operational contribution of Montenegro for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of Montenegro and Montenegrin legal entities in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

The amount of the automatic correction shall be calculated based on the difference between:

- a) the initial amounts of the legal commitments for competitive grants actually entered into with Montenegro or Montenegrin legal entities financed from commitment appropriations of the year N, increased in accordance with Article 3(4); and
- b) the corresponding operational contribution of the year N paid by Montenegro as adjusted pursuant Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

2. Where the amount referred to in paragraph 1, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution as adjusted pursuant to Article 3(8), the initial operational contribution of Montenegro for year N shall be corrected. The amount due by or to be received by Montenegro as an additional contribution or reduction of Montenegro's contribution under the automatic correction mechanism shall be the amount exceeding this 8 % threshold. The amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

3. Detailed rules on the automatic correction mechanism are laid down in Annex I.

Article 5

Reciprocity

1. Legal entities established in the European Union may participate in programmes, projects, actions, activities or parts thereof of Montenegro equivalent to the Horizon Europe Programme, in accordance with Montenegro's laws and regulations.

2. The non-exhaustive list of the equivalent programmes, projects, actions, activities or parts thereof of Montenegro is provided in Annex II.

3. Funding by Montenegro of legal entities established in the Union shall be subject to Montenegro's laws and regulations governing the operation of research and innovation programmes, projects, actions, activities or parts thereof. Where funding is not provided, legal entities established in the Union may participate with their own means.

Article 6

Open Science

The Parties shall mutually promote and encourage open science practices in their programmes, projects, actions, activities or parts thereof in accordance with the rules of the Horizon Europe Programme and Montenegro's laws and regulations.

*Article 7***Monitoring, Evaluation and Reporting**

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Horizon Europe Programme, the participation of Montenegro in that Programme shall be continuously monitored on a partnership basis involving the Commission and Montenegro.
2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

*Article 8***EU-Montenegro Joint Research and Innovation Committee**

1. The EU-Montenegro Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU-Montenegro Joint Committee'). The tasks of the EU-Montenegro Joint Committee shall include:
 - a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:
 - (i) the participation and performance of the legal entities of Montenegro in the Horizon Europe Programme;
 - (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes, projects, actions, activities or parts thereof of the other Party;
 - (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
 - b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
 - c) examining how to improve and develop cooperation;
 - d) discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest; and
 - e) exchanging information, inter alia, on new legislation, decisions or national research and innovation programmes that are relevant for the implementation of this Agreement.
2. The EU-Montenegro Joint Committee, which shall be composed of representatives of the European Union and of Montenegro, shall adopt its Rules of Procedure.
3. The EU-Montenegro Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.
4. The EU-Montenegro Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by the National Authority of Montenegro in charge of Science and Research.
5. The EU-Montenegro Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities of Montenegro. The EU-Montenegro Joint Committee may in particular conduct its tasks in writing whenever the need arises.

*Article 9***Final provisions**

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects, actions, activities or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.
3. The European Union and Montenegro may apply this Agreement provisionally in accordance with their respective internal procedures and legislation. The provisional application shall begin on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
4. Should Montenegro notify the Commission acting on behalf of the European Union that it will not complete its internal procedures necessary for the entry into force of this Agreement, this Agreement shall cease to apply provisionally on the date of receipt of this notification by the Commission, which shall constitute the cessation date for the purposes of this Agreement.
5. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by Montenegro under this Agreement.

In case of non-payment which may significantly jeopardise the implementation and management of the Horizon Europe Programme, the Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement shall be notified by the Commission to Montenegro by a formal letter of notification and shall take effect 15 days following the receipt of this notification by Montenegro.

In case the application of this Agreement is suspended, legal entities established in Montenegro shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the legal entities established in Montenegro before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The European Union shall immediately notify Montenegro once the entire amount of the financial contribution due has been received by the European Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities of Montenegro shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

6. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it. The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.
7. Where this Agreement ceases to apply provisionally in accordance with paragraph 4 of this Article or is terminated in accordance with paragraph 6 of this Article, the Parties agree that:
 - (a) projects, actions, activities or parts thereof in respect of which legal commitments have been entered into during the provisional application and/or after the entry into force of this Agreement, and before this Agreement ceases to apply or is terminated shall continue until their completions under the conditions laid down in this Agreement;

- (b) the annual financial contribution of the year N during which this Agreement ceases to apply provisionally or is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The participation fee paid for the year N shall not be adjusted or corrected; and
- (c) following the year during which this Agreement ceases to apply provisionally or is terminated, the initial operational contributions paid for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8) and shall be automatically corrected in accordance with Article 4 of this Agreement.

The Parties shall settle by common consent any other consequences of termination or cessation of provisional application of this Agreement.

This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

8. The Annexes to this Agreement shall form an integral part of this Agreement.

This Agreement shall be drawn up in duplicate in English and Montenegrin, each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Done at Brussels, this 6th day of December, and at Podgorica, this 3rd day of December in the year 2021.

*For the Commission,
on behalf of the European Union,
Mariya GABRIEL
Commissioner for Innovation,
Research, Culture, Education and Youth*

*For the Government
of Montenegro,
Vesna BRATIĆ
Minister of Education, Science,
Culture and Sports*

ANNEX I

Rules governing the financial contribution of Montenegro to the Horizon Europe Programme (2021-2027)**I. Calculation of Montenegro's financial contribution**

1. The financial contribution of Montenegro to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 3(4) of this Agreement.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:

— 2021: 0,5 %;

— 2022: 1 %;

— 2023: 1,5 %;

— 2024: 2 %;

— 2025: 2,5 %;

— 2026: 3 %;

— 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by Montenegro for its participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0,18.

4. In line with Article 3(8) of this Agreement, the first adjustment pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution of year N shall be adjusted upwards or downwards by the difference between:

a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:

i. the amount of budgetary commitments made on commitment appropriations authorised for year N under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and

ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to the Horizon Europe Programme from other donors and that were available at the end of year N ⁽¹⁾. For external assigned revenue allocated to Horizon Europe under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽²⁾, the annual indicative amounts in the MFF programming shall be used for the purpose of calculating the adjusted contribution.

⁽¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽²⁾ OJ L 433 I, 22.12.2020, p. 23.

- b) and the initial operational contribution of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N, increased in accordance with Article 3(4) of this Agreement, have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme, the Union shall calculate an adjustment of the operational contribution of year N by reducing Montenegro's operational contribution by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If the amounts stemming from external assigned revenue of year N (to include commitment appropriations, and, for amounts under Council Regulation (EU) 2020/2094, the annual indicative amounts in the MFF programming) that do not result from financial contributions to the Horizon Europe Programme from other donors are cancelled, the operational contribution of Montenegro shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of Montenegro's operational contribution

1. For the calculation of the automatic correction as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are Montenegrin entities in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽³⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽⁴⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 3(4) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to Montenegro's contribution to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.
- b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:
 - i. the total amount of the competitive grants apportioned to Montenegro or Montenegrin legal entities as commitments made on budget appropriations of year N; and

⁽³⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽⁴⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

ii. the amount of Montenegro's adjusted operational contribution for year N multiplied by the ratio between:

- A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 3(4) of this Agreement; and
- B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of Montenegro's financial contribution, payment of the adjustments made on Montenegro's operational contribution, and payment of the automatic correction applicable to Montenegro's operational contribution

1. The Commission shall communicate to Montenegro, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:
 - a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of Montenegro, in Horizon Europe Programme increased, if relevant, in accordance with Article 3(4) of this Agreement;
 - b. the amount of the participation fee referred to in Article 3(7) of this Agreement;
 - c. from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 3(4) of this Agreement and the level of decommitment;
 - d. for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of Montenegrin legal entities broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April and in June of each financial year, a call for funds to Montenegro corresponding to its contribution under this Agreement.

Each call for funds shall provide for the payment of six-twelfths of Montenegro's contribution not later than 30 days after the call for funds is issued.

For the first year of implementation of this Agreement, the Commission shall issue a single call for funds, within 60 days following the date on which this Agreement starts producing legal effects.

3. Each year starting in 2023, the calls for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by Montenegro for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which Montenegro participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by Montenegro or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from Montenegro.

4. Montenegro shall pay its financial contribution under this Agreement in accordance with part III of this Annex. In the absence of payment by Montenegro by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by Montenegro on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

ANNEX II

Non-exhaustive list of the equivalent programmes, projects, actions, activities or parts thereof of Montenegro

The following non-exhaustive list shall be regarded as Montenegrin programmes, projects, actions and activities equivalent to the Horizon Europe Programme:

- Centres of Excellence Programme;
 - Grants for financing scientific research projects;
 - Collaborative programme for innovation 2019-2024;
 - Pre-acceleration programme for start-ups.
-

ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in Montenegro and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in Montenegro. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. Montenegro shall not prevent or raise any particular obstacle to the right of entrance in Montenegro and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of Montenegro. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent authorities of Montenegro shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in Montenegro and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in Montenegro.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent Montenegrin authority designated by the Montenegrin government. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent Montenegrin authorities may participate in the on-the-spot checks and inspections.
5. Upon request by the Montenegrin authorities, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, the Montenegrin authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the Montenegrin authorities of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent Montenegrin authority any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of Montenegro's criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of Montenegro participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the Montenegrin competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, Montenegro shall designate a contact point.

12. Information exchanged between the European Commission or OLAF and the Montenegrin competent authorities shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The Montenegrin authorities shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in Montenegro. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the government of Montenegro. The government of Montenegro shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in Montenegro. Enforcement shall take place in accordance with the Montenegro's law and rules of procedure.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in Montenegro in the same manner as European Commission decisions referred to in paragraph (1).

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of Montenegro shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in Montenegro and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in Montenegro. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

INTERNATIONAL AGREEMENT

between the European Union, of the one part, and the Republic of North Macedonia, of the other part, on the participation of North Macedonia in the Union programme Horizon Europe – the Framework Programme for Research and Innovation

The European Commission (hereinafter referred to as 'the Commission'), on behalf of the European Union,

of the one part,

and

the Government of the Republic of North Macedonia (hereinafter referred to as 'North Macedonia'),

of the other part,

hereinafter referred to as 'the Parties',

WHEREAS the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Former Yugoslav Republic of Macedonia, of the other part, on a Framework Agreement between the European Community and the Former Yugoslav Republic of Macedonia on the general principles for the participation of the Former Yugoslav Republic of Macedonia in Community programmes ⁽¹⁾ stipulates that the specific terms and conditions regarding the participation of North Macedonia in each particular programme, in particular the financial contribution payable, are to be determined by agreement in the form of a Memorandum of Understanding ⁽²⁾, between the Commission, and the competent authorities of North Macedonia;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽³⁾ (hereinafter referred to it as 'Horizon Europe Programme');

CONSIDERING the European Union's efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda 'Transforming our World: the 2030 Agenda for Sustainable Development', and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries are key partners in this endeavor;

⁽¹⁾ OJ L 192, 22.7.2005, p. 23.

⁽²⁾ This Agreement constitutes and has the same legal effects as the Memorandum of Understanding stated under the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Former Yugoslav Republic of Macedonia, of the other part, on a Framework Agreement between the European Community and the Former Yugoslav Republic of Macedonia on the general principles for the participation of the Former Yugoslav Republic of Macedonia in Community programmes.

⁽³⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

EMPHASISING the role of the European Partnerships addressing some of Europe's most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union's priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries' involvement in those Partnerships;

CONSIDERING that research and innovation have proven instrumental in the Western Balkan region for cooperation and funding of joint research and innovation projects enabling mutual access to excellence, knowledge, innovation, network and research resources. It has provided valuable opportunities for human development, amplifying the chances of success in finding joint solutions to regional and global challenges.

SEEKING to establish mutually advantageous conditions in order to create decent jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

CONSIDERING that the common goals, values and strong links of the Parties in the field of research and innovation, established in the past through the Association Agreements to the subsequent Framework Programmes, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. North Macedonia shall participate as an associated country in and contribute to all parts of the Horizon Europe Programme - the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Decision (EU) 2021/764 ⁽⁴⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.

2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁵⁾, and Decision (EU) 2021/820 ⁽⁶⁾, in their most up to date versions, shall apply to the participation legal entities of North Macedonia in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme

1. North Macedonia shall participate in the Horizon Europe Programme in accordance with the conditions laid down in the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Former Yugoslav Republic of Macedonia, of the other part, on a Framework Agreement between the European Community and the Former Yugoslav Republic of Macedonia on the general principles for the participation of the Former Yugoslav Republic of Macedonia in Community programmes, and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of the Horizon Europe Programme, in their most up to date versions.

⁽⁴⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1).

⁽⁵⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast) (OJ L 189, 28.5.2021, p. 61.).

⁽⁶⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in North Macedonia may participate in indirect actions of the Horizon Europe Programme under conditions equivalent to those applicable to legal entities established in the European Union, including respect for the European Union restrictive measures (7).

3. Before deciding on whether legal entities established in North Macedonia are eligible to participate in an action related to European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:

- a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes, measures, projects, instruments or parts thereof of North Macedonia equivalent to the Horizon Europe action concerned;
- b) information whether North Macedonia has in place a national investment screening mechanism and assurances that authorities of North Macedonia will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside North Macedonia of a legal entity established in North Macedonia, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies North Macedonia with the list of the relevant legal entities established in North Macedonia following the signature of grant agreements with these entities; and
- c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in North Macedonia shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. North Macedonia will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.

4. Legal entities established in North Macedonia may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to legal entities established in the European Union unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 2 and 3 of this Article.

5. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, North Macedonia and legal entities of North Macedonia may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.

6. Representatives of North Macedonia shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764, without voting rights and for points which concern North Macedonia.

These committees shall meet without the presence of representatives of North Macedonia at the time of the voting. North Macedonia will be informed of the result.

Participation as referred to in this paragraph shall take the same form including procedures for receipt of information and documentation, as that applicable to representatives of Members States of the European Union.

7. North Macedonia rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to associated countries.

(7) The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

8. Representatives of North Macedonia shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns North Macedonia.
9. North Macedonia may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽⁸⁾, in its most up to date version, and with the legal act establishing the ERIC.
10. Travel costs and subsistence expenses incurred by representatives and experts of North Macedonia for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764, or in other meetings related to the implementation of the Horizon Europe Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.
11. The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.
12. North Macedonia shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in North Macedonia or imported into North Macedonia, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in North Macedonia.

Article 3

Financial contribution

1. Participation of North Macedonia or legal entities of North Macedonia in the Horizon Europe Programme shall be subject to North Macedonia contributing financially to the Programme and the related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'Union budget').
2. The financial contribution shall take the form of the sum of:
 - a) an operational contribution; and
 - b) a participation fee.
3. The financial contribution shall take the form of an annual payment made in one instalment, and shall be due at the latest in May.
4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Horizon Europe Programme, including any appropriations corresponding to commitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁹⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased by external assigned revenue that does not result from financial contributions to the Horizon Europe Programme from other donors ⁽¹⁰⁾.

For external assigned revenue allocated to Horizon Europe Programme under Article 3.1 of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽¹¹⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Draft Budget with regard to the Horizon Europe Programme.

⁽⁸⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

⁽⁹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽¹⁰⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23).

⁽¹¹⁾ OJ L 433 I, 22.12.2020, p. 23.

5. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of North Macedonia at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key are laid down in Annex I.

6. The initial operational contribution shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the European Union budget definitively adopted for the applicable year for financing the Horizon Europe Programme, increased in accordance with paragraph 4 of this Article.

7. The participation fee shall be 4 % of the annual initial operational contribution as calculated in accordance with paragraph 5 and 6 of this Article and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.

8. The initial operational contribution for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4 of this Article, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.

9. The European Union shall provide North Macedonia with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme. That information shall be provided having due regard to the European Union's and North Macedonia confidentiality and data protection rules and shall be without prejudice to the information which North Macedonia is entitled to receive under Annex III.

10. All contributions of North Macedonia or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Automatic correction mechanism

1. An automatic correction mechanism of the initial operational contribution of North Macedonia for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of North Macedonia and legal entities of North Macedonia in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

The amount of the automatic correction shall be calculated based on the difference between:

- a) the initial amounts of the legal commitments for competitive grants actually entered into with North Macedonia or legal entities of North Macedonia financed from commitment appropriations of the year N, increased in accordance with Article 3(4); and
- b) the corresponding operational contribution of the year N paid by North Macedonia as adjusted pursuant Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

2. Where the amount referred to in paragraph 1, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution as adjusted pursuant to Article 3(8), the initial operational contribution of North Macedonia for year N shall be corrected. The amount due by or to be received by North Macedonia as an additional contribution or reduction of the contribution of North Macedonia under the automatic correction mechanism shall be the amount exceeding this 8 % threshold. The amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

3. Detailed rules on the automatic correction mechanism are laid down in Annex I.

Article 5

Reciprocity

1. Legal entities established in the European Union may participate in programmes, measures, projects, instruments or parts thereof of North Macedonia equivalent to the Horizon Europe Programme, in accordance with the internal legislative regulations of North Macedonia.

2. The non-exhaustive list of the equivalent programmes, measures, projects, instruments or parts thereof of North Macedonia is provided in Annex II.

3. Funding of legal entities established in the Union by North Macedonia shall be subject to the legislation of North Macedonia governing the operation of research and innovation programmes, measures, projects, instruments or parts thereof. Where funding is not provided, legal entities established in the Union may participate with their own means.

Article 6

Open Science

The Parties shall mutually promote and encourage open science practices in their programmes, measures, projects and instruments in accordance with the rules of the Horizon Europe Programme and the internal legislative regulations of North Macedonia.

Article 7

Monitoring, Evaluation and Reporting

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Horizon Europe Programme, the participation of North Macedonia in that Programme shall be continuously monitored on a partnership basis involving the Commission and North Macedonia.

2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

Article 8

EU- North Macedonia Joint Research and Innovation Committee

1. The EU-North Macedonia Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU-North Macedonia Joint Committee'). The tasks of the EU-North Macedonia Joint Committee shall include:

a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:

- (i) the participation and performance of the legal entities of North Macedonia in the Horizon Europe Programme;
- (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes, measures, projects, instruments or parts thereof of the other Party;

- (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
- b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
 - c) examining how to improve and develop cooperation;
 - d) discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest; and
 - e) exchanging information, inter alia, on new legislation, decisions or national research and innovation programmes that are relevant for the implementation of this Agreement.
2. The EU-North Macedonia Joint Committee, which shall be composed of representatives of the European Union and of North Macedonia, shall adopt its Rules of Procedure.
3. The EU-North Macedonia Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.
4. The EU-North Macedonia Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by the responsible National Authority of North Macedonia.
5. The EU-North Macedonia Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities of North Macedonia. The EU-North Macedonia Joint Committee may in particular conduct its tasks in writing whenever the need arises.

Article 9

Final provisions

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects, actions, activities or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.
3. The European Union and North Macedonia may apply this Agreement provisionally in accordance with their respective internal procedures and legislation. The provisional application shall begin on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
4. Should North Macedonia notify the Commission acting on behalf of the European Union that it will not complete its internal procedures necessary for the entry into force of this Agreement, this Agreement shall cease to apply provisionally on the date of receipt of this notification by the Commission, which shall constitute the cessation date for the purposes of this Agreement.

5. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by North Macedonia under this Agreement.

In case of non-payment which may significantly jeopardise the implementation and management of the Horizon Europe Programme, the Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement shall be notified by the Commission to North Macedonia by a formal letter of notification which shall take effect 15 days following the receipt of this notification by North Macedonia.

In case the application of this Agreement is suspended, legal entities established in North Macedonia shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the legal entities established in North Macedonia before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The European Union shall immediately notify North Macedonia once the entire amount of the financial contribution due has been received by the European Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities of North Macedonia shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

6. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it. The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

7. Where this Agreement ceases to apply provisionally in accordance with paragraph 4 of this Article or is terminated in accordance with paragraph 6 of this Article, the Parties agree that:

- (a) projects, actions, activities or parts thereof in respect of which legal commitments have been entered into during the provisional application and/or after the entry into force of this Agreement, and before this Agreement ceases to apply or is terminated shall continue until their completions under the conditions laid down in this Agreement;
- (b) the annual financial contribution of the year N during which this Agreement ceases to apply provisionally or is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The participation fee paid for the year N shall not be adjusted or corrected;
- (c) following the year during which this Agreement ceases to apply provisionally or is terminated, the initial operational contributions paid for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8) and shall be automatically corrected in accordance with Article 4 of this Agreement.

The Parties shall settle by common consent any other consequences of termination or cessation of provisional application of this Agreement.

8. This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

9. The Annexes to this Agreement shall form an integral part of this Agreement.

This Agreement shall be drawn up in duplicate in English and Macedonian, each text being equally authentic. In case of divergence of the interpretation, the English text shall prevail.

Done at Brussels, this 6th day of December and at Skopje, this 30th day of November in the year 2021.

*For the Commission, on behalf of the European
Union,*

Mariya GABRIEL

*Commissioner for Innovation, Research, Culture,
Education and Youth*

For the Government of North Macedonia,

Mila CAROVSKA

Minister of Education and Science

ANNEX I

Rules governing the financial contribution of North Macedonia to the Horizon Europe Programme (2021-2027)**I. Calculation of North Macedonia's financial contribution**

1. The financial contribution of North Macedonia to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 3(4) of this Agreement.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:

— 2021: 0,5 %;

— 2022: 1 %;

— 2023: 1,5 %;

— 2024: 2 %;

— 2025: 2,5 %;

— 2026: 3 %;

— 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by North Macedonia for its participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0.2.

4. In line with Article 3(8) of this Agreement, the first adjustment pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution of year N shall be adjusted upwards or downwards by the difference between:

a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:

i. the amount of budgetary commitments made on commitment appropriations authorised for year N under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and

ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to Horizon Europe Programme from other donors and that were available at the end of year N ⁽¹⁾. For external assigned revenue allocated to Horizon Europe under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽²⁾, the annual indicative amounts in the MFF programming shall be used for the purpose of calculating the adjusted contribution.

⁽¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽²⁾ OJ L 433 I, 22.12.2020, p. 23.

- b) and the initial operational contribution of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N, increased in accordance with Article 3(4) of this Agreement, have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme, the Union shall calculate an adjustment of the operational contribution of year N by reducing North Macedonia's operational contribution by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If the amounts stemming from external assigned revenue of year N (to include commitment appropriations, and, for amounts under Council Regulation (EU) 2020/2094, the annual indicative amounts in the MFF programming) that do not result from financial contributions to the Horizon Europe Programme from other donors are cancelled, the operational contribution of North Macedonia shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of operational contribution of North Macedonia

1. For the calculation of the automatic correction as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are entities established in North Macedonia in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽³⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽⁴⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 3(4) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to contribution of North Macedonia to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.

⁽³⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽⁴⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:

i. the total amount of the competitive grants apportioned to North Macedonia or legal entities established in North Macedonia/ legal entities of North Macedonia as commitments made on budget appropriations of year N; and

ii. the amount of adjusted operational contribution of North Macedonia for year N multiplied by the ratio between:

A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 3(4) of this Agreement; and

B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of financial contribution of North Macedonia, payment of the adjustments made on operational contribution of North Macedonia, and payment of the automatic correction applicable to operational contribution of North Macedonia

1. The Commission shall communicate to North Macedonia, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:

a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of North Macedonia, in Horizon Europe Programme increased, if relevant, in accordance with Article 3(4) of this Agreement;

b. the amount of the participation fee referred to in Article 3(7) of this Agreement;

c. from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 3(4) of this Agreement and the level of decommitment;

d. for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of legal entities of North Macedonia broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April of each financial year, a call for funds to North Macedonia corresponding to its contribution under this Agreement.

Each call for funds shall provide for the payment of the contribution of North Macedonia not later than 30 days after the call for funds is issued.

For the first year of implementation of this Agreement, the Commission shall issue a single call for funds, within 60 days following the date on which this Agreement starts producing legal effects.

3. Each year starting in 2023, the call for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by North Macedonia for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which North Macedonia participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by North Macedonia or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from North Macedonia

4. North Macedonia shall pay its financial contribution under this Agreement in accordance with point (III) of this Annex. In the absence of payment by North Macedonia by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by North Macedonia on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

ANNEX II

Non-exhaustive list of the equivalent programmes, measures, projects, instruments or parts thereof of North Macedonia

The following non-exhaustive list shall be regarded as North Macedonia's programmes, measures, projects, instruments or parts thereof equivalent to Horizon Europe Programme:

- *Programme for Scientific and Research Activities (Ministry of Education and Science)*
 - Allocation of funds for financing scientific research projects of the Scientific Institutions (Universities, Research institutes)
 - *Fund for Innovation and Technology Development (FITD)*
 - Co-financed Grants for Commercialization of Innovation
 - Grants for enhancement of academia-industry collaboration Co-financed Grants for establishment, operations and investment of business-technology accelerators
 - *Competitiveness, Innovation and Entrepreneurship Programme (Ministry of Economy)*
 - Development and support of the internationalization of MSMEs (Support and development of micro, small and medium enterprises)
 - Support for increasing the competitiveness of business entities from processing industry (Implementation of industrial policy)
 - Co-financing of part of the costs for cooperation of projects between processing industry companies and academic and research institutions, which refer to the realization of projects and the establishment of partnerships for collaboration on smart specialization, digital transformation and greening of processing industry (Implementation of industrial policy)
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ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in North Macedonia and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in North Macedonia. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. North Macedonia shall not prevent or raise any particular obstacle to the right of entrance in North Macedonia and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of North Macedonia. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent authorities of North Macedonia shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in North Macedonia and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in North Macedonia.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent authority of North Macedonia designated by the Government of North Macedonia. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent authorities of North Macedonia may participate in the on-the-spot checks and inspections.
5. Upon request by the authorities of North Macedonia, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, the authorities of North Macedonia, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the authorities of North Macedonia of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent authority of North Macedonia any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of the criminal law legislation of North Macedonia, the European Commission may impose administrative measures and penalties on legal or natural persons of North Macedonia participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the competent authorities of North Macedonia shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, North Macedonia shall designate a contact point.

12. Information exchanged between the European Commission or OLAF and the competent authorities of North Macedonia shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The authorities of North Macedonia shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in North Macedonia. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the Government of North Macedonia. The government of North Macedonia shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in North Macedonia. Enforcement shall take place in accordance with the law and rules of procedure of North Macedonia.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in North Macedonia in the same manner as European Commission decisions referred to in paragraph (1).

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of North Macedonia shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in North Macedonia and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in North Macedonia. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

AGREEMENT

between the European Union, of the one part, and Israel, of the other part, on the participation of Israel in the Union programme Horizon Europe – the Framework Programme for Research and Innovation

The European Commission (hereinafter referred to as ‘the Commission’), on behalf of the European Union,

of the one part,

and

the Government of the State of Israel (hereinafter referred to as ‘Israel’),

of the other part,

hereinafter referred to as ‘the Parties’,

WHEREAS the Protocol ⁽¹⁾ to the Euro-Mediterranean Agreement ⁽²⁾ between the European Communities and their Member States, of the one part, and the State of Israel, of the other part on a Framework Agreement between the European Community and the State of Israel on the general principles governing the State of Israel's participation in Community Programmes, hereinafter referred to as the ‘Protocol to the Euro-Mediterranean Agreement’, establishes the general principles for the participation of Israel in Union programmes, leaving the Commission and the competent authorities of Israel to determine the specific terms and conditions, including financial contributions, with regard to such participation in each particular programme ⁽³⁾;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽⁴⁾ (hereinafter referred to it as ‘Horizon Europe Programme’);

CONSIDERING the European Union's efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda ‘Transforming our World: the 2030 Agenda for Sustainable Development’, and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries are key partners in this endeavor;

EMPHASISING the role of the European Partnerships addressing some of Europe's most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union's priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries' involvement in those Partnerships;

SEEKING to establish mutually advantageous conditions in order to create decent jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

⁽¹⁾ OJ L 129, 17.5.2008, p. 40.

⁽²⁾ OJ L 147/3, 21.6.2000, p. 3.

⁽³⁾ This Agreement constitutes and has the same legal effects as a Memorandum of Understanding stated under the Protocol to the Euro-Mediterranean Agreement on the general principles governing the State of Israel's participation in Community Programmes.

⁽⁴⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

CONSIDERING that the common goals, values and strong links of the Parties in the field of research and innovation, established in the past through the Association Agreements to the subsequent Framework Programmes, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. Israel shall participate as an associated country in and contribute to all parts of the Horizon Europe Programme – the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Decision (EU) 2021/764 ⁽⁵⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.
2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁶⁾, and Decision (EU) 2021/820 ⁽⁷⁾, in their most up to date versions, shall apply to the participation of Israeli legal entities in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme

1. Israel shall participate in the Horizon Europe Programme in accordance with the conditions laid down in the Protocol to the Euro-Mediterranean Agreement, and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of the Horizon Europe Programme, in their most up to date versions.
2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in Israel may participate in indirect actions of the Horizon Europe Programme under terms and conditions equivalent to those applicable to legal entities established in the European Union, including respect for the European Union restrictive measures ⁽⁸⁾.
3. Before deciding on whether legal entities established in Israel are eligible to participate in an action related to European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:
 - a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes, projects or parts thereof of Israel equivalent to the Horizon Europe action concerned;
 - b) information whether Israel has in place a national investment screening mechanism and assurances that authorities of Israel will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside Israel of an Israeli legal entity, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies Israel with the list of the relevant legal entities established in Israel following the signature of grant agreements with these entities; and

⁽⁵⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1).

⁽⁶⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast) (OJ L 189, 28.5.2021, p. 61.).

⁽⁷⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

⁽⁸⁾ The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in Israel shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. Israel will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.

4. Legal entities established in Israel may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to legal entities established in the European Union unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 2 and 3 of this Article.

5. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, Israel and Israeli legal entities may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.

6. Representatives of Israel shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764, without voting rights and for points which concern Israel.

These committees shall meet without the presence of the representatives of Israel at the time of voting. Israel will be informed of the result.

Participation as referred to in this paragraph shall take the same form, including procedures for receipt of information and documentation, as that applicable to representatives from Member States of the European Union.

7. Israel's rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to associated countries.

8. Representatives of Israel shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns Israel.

9. Israel may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽⁹⁾, in its most up to date version, and with the legal act establishing the ERIC.

10. Travel costs and subsistence expenses incurred by representatives and experts of Israel for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764, or in other meetings related to the implementation of the Horizon Europe Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

11. The Parties shall make every effort, within the framework of the existing provisions, including in accordance with laws and procedures concerning legal entry and stay in Israel or the European Union, as applicable, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

Article 3

Financial contribution

1. Participation of Israel or Israeli legal entities in the Horizon Europe Programme shall be subject to Israel contributing financially to the Programme and the related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'Union budget').

⁽⁹⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

2. The financial contribution shall take the form of the sum of:
 - a) an operational contribution; and
 - b) a participation fee.
 3. The financial contribution shall take the form of an annual payment made in one instalment, and shall be due at the latest in May.
 4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Horizon Europe Programme, including any appropriations corresponding to decommitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹⁰⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased by external assigned revenue that does not result from financial contributions to the Horizon Europe Programme from other donors ⁽¹¹⁾.
- For external assigned revenue allocated to Horizon Europe Programme under Article 3.1 of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽¹²⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Draft Budget for the Horizon Europe Programme.
5. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of Israel at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key are laid down in Annex I.
 6. The initial operational contribution shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the European Union budget definitively adopted for the applicable year for financing the Horizon Europe Programme, increased in accordance with paragraph 4 of this Article.
 7. The participation fee shall be 4 % of the annual initial operational contribution as calculated in accordance with paragraph 5 and 6 of this Article and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.
 8. The initial operational contribution for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4 of this Article, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.
 9. The European Union shall provide Israel with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme. That information shall be provided having due regard to the European Union's and Israel's confidentiality and data protection rules and shall be without prejudice to the information which Israel is entitled to receive under Annex III.

10. All contributions of Israel or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

⁽¹⁰⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽¹¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23).

⁽¹²⁾ OJ L 433 I, 22.12.2020, p. 23.

*Article 4***Automatic correction mechanism**

1. An automatic correction mechanism of the initial operational contribution of Israel for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of Israel and Israeli legal entities in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

The amount of the automatic correction shall be calculated based on the difference between:

a) the initial amounts of the legal commitments for competitive grants actually entered into with Israel or Israeli legal entities financed from commitment appropriations of the year N, increased in accordance with Article 3(4);

and

b) the corresponding operational contribution of the year N paid by Israel as adjusted pursuant Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

2. Where the amount referred to in paragraph 1, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution as adjusted pursuant to Article 3(8), the initial operational contribution of Israel for year N shall be corrected. The amount due by or to be received by Israel as an additional contribution or reduction of Israel's contribution under the automatic correction mechanism shall be the amount exceeding this 8 % threshold. The amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

3. Detailed rules on the automatic correction mechanism are laid down in Annex I.

*Article 5***Reciprocity**

1. Legal entities established in the European Union may participate in programmes, projects or parts thereof of Israel equivalent to the Horizon Europe Programme, in accordance with Israeli laws, regulations, government directives, procedures, rules, programs, benefit plans and mechanisms, including those governing the operation of such programmes, projects or parts thereof.

2. The list of the equivalent programmes, projects or parts thereof of Israel open for participation of legal entities established in the European Union is provided in Part I Annex II. Israel shall take required measures to progressively open its programmes, projects or parts thereof identified in Part II of Annex II to participation of legal entities established in the European Union.

3. Funding by Israel of legal entities established in the European Union shall be subject to Israel's laws, regulations, government directives, procedures, rules, programs, benefit plans and mechanisms including those governing the operation of research and innovation programmes, projects or parts thereof. Where funding is not provided, legal entities established in the European Union may participate with their own means.

*Article 6***Open Science**

The Parties shall mutually promote and encourage open science practices in their relevant programmes, projects or parts thereof in accordance with the rules of the Horizon Europe Programme and Israeli laws, regulations, government directives, procedures, rules, programs, benefit plans and mechanisms, including those governing the operation of such programmes, projects or parts thereof.

*Article 7***Monitoring, Evaluation and Reporting**

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Horizon Europe Programme, the participation of Israel in that Programme shall be continuously monitored on a partnership basis involving the Commission and Israel.

2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

Article 8

EU-Israel Joint Research and Innovation Committee

1. The EU-Israel Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU-Israel Joint Committee'). The tasks of the EU-Israel Joint Committee shall include:

- a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:
 - (i) the participation and performance of the legal entities of Israel in the Horizon Europe Programme;
 - (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes, projects or parts thereof of the other Party;
 - (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
- b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
- c) examining how to improve and develop cooperation;
- d) discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest; and
- e) exchanging information, inter alia, on new legislation, decisions or national research and innovation programmes that are relevant for the implementation of this Agreement.

2. The EU-Israel Joint Committee, which shall be composed of representatives of the European Union and of Israel, shall adopt its Rules of Procedure.

3. The EU-Israel Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.

4. The EU-Israel Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by the National Technological Innovation Authority of the State of Israel.

5. The EU-Israel Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities of Israel. The EU-Israel Joint Committee may in particular conduct its tasks in writing whenever the need arises.

Article 9

Final provisions

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.

2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects, actions, activities or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.

3. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by Israel under this agreement.

In case of non-payment which may significantly jeopardise the implementation and management of the Horizon Europe Programme, the Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement shall be notified by the Commission to Israel by a formal letter of notification which shall take effect 15 days following the receipt of this notification by Israel.

In case the application of this Agreement is suspended, legal entities established in Israel shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the legal entities established in Israel before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The European Union shall immediately notify Israel once the entire amount of the financial contribution due has been received by the European Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities of Israel shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

4. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it. The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

5. Where this Agreement is terminated in accordance with paragraph 4 of this Article, the Parties agree that:

- (a) projects, actions, activities or parts thereof in respect of which legal commitments have been entered into after the entry into force of this Agreement and before this Agreement is terminated, shall continue until their completions under the conditions laid down in this Agreement;
- (b) the annual financial contribution of the year N during which this Agreement is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The participation fee paid for the year N shall not be adjusted or corrected; and
- (c) following the year during which this Agreement is terminated, the initial operational contributions paid for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8) and shall be automatically corrected in accordance with Article 4 of this Agreement.

The Parties shall settle by common consent any other consequences arising from the termination of this Agreement.

6. This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

7. The Annexes to this Agreement shall form an integral part of this Agreement.

8. In accordance with EU policy, this agreement shall not apply to the geographic areas that came under the administration of the State of Israel after 5 June 1967. This position should not be construed as prejudicing Israel's principled position on this matter. Accordingly, the Parties agree that the application of this agreement is without prejudice to the status of those areas.

This Agreement shall be drawn up in duplicate in English and Hebrew, each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Done at Brussels, this 6th day of December in the year 2021 which corresponds to the 2nd day of Tevet in the year 5782 in the Hebrew calendar.

*For the European Commission,
on behalf of the European Union*

Mariya GABRIEL

*Commissioner for Innovation, Research,
Culture, Education and Youth*

*For the Government
of the State of Israel*

Haim REGEV

*Ambassador of the State of Israel
to the EU and NATO*

ANNEX I

Rules governing the financial contribution of Israel to the Horizon Europe Programme (2021-2027)**I. Calculation of Israel's financial contribution**

1. The financial contribution of Israel to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 3(4) of this Agreement.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:

— 2021: 0,5 %;

— 2022: 1 %;

— 2023: 1,5 %;

— 2024: 2 %;

— 2025: 2,5 %;

— 2026: 3 %;

— 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by Israel for its participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0,93.

4. In line with Article 3(8) of this Agreement, the first adjustment pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution of year N shall be adjusted upwards or downwards by the difference between:

a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:

i. the amount of budgetary commitments made on commitment appropriations authorised for year N under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and

ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to Horizon Europe Programme from other donors and that were available at the end of year N ⁽¹⁾. For external assigned revenue allocated to Horizon Europe under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽²⁾, the annual indicative amounts in the MFF programming shall be used for the purpose of calculating the adjusted contribution.

⁽¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽²⁾ OJ L 433 I, 22.12.2020, p. 23.

- b) and the initial operational contribution of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N, increased in accordance with Article 3(4) of this Agreement, have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme, the Union shall calculate an adjustment of the operational contribution of year N by reducing Israel's operational contribution by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If the amounts stemming from external assigned revenue of year N (to include commitment appropriations, and, for amounts under Council Regulation (EU) 2020/2094, the annual indicative amounts in the MFF programming) that do not result from financial contributions to the Horizon Europe Programme from other donors are cancelled, the operational contribution of Israel shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of Israel's operational contribution

1. For the calculation of the automatic correction as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are Israeli entities in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽³⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽⁴⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 3(4) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to Israel's contribution to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.
- b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:
 - i. the total amount of the competitive grants apportioned to Israel or Israeli legal entities as commitments made on budget appropriations of year N; and

⁽³⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽⁴⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

ii. the amount of Israel's adjusted operational contribution for year N multiplied by the ratio between:

- A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 3(4) of this Agreement; and
- B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of Israel's financial contribution, payment of the adjustments made on Israel's operational contribution, and payment of the automatic correction applicable to Israel's operational contribution

1. The Commission shall communicate to Israel, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:

- a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of Israel, in Horizon Europe Programme increased, if relevant, in accordance with Article 3(4) of this Agreement;
- b. the amount of the participation fee referred to in Article 3(7) of this Agreement;
- c. from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 3(4) of this Agreement and the level of decommitment;
- d. for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of Israeli legal entities broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April of each financial year, a call for funds to Israel corresponding to its contribution under this Agreement.

Each call for funds shall provide for the payment of Israel's contribution not later than 30 days after the call for funds is issued.

For the first year of implementation of this Agreement, the Commission shall issue a single call for funds, within 60 days of the signature of this Agreement.

3. Each year starting in 2023, the call for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by Israel for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which Israel participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by Israel or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from Israel.

4. Israel shall pay its financial contribution under this Agreement in accordance with point (III) of this Annex. In the absence of payment by Israel by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by Israel on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

ANNEX II

List of the equivalent programmes, projects or parts thereof of Israel**I. List of Israeli programmes, projects or parts thereof, equivalent to Horizon Europe Programme open for participation of legal entities established in the European Union ⁽¹⁾:**

- Personal Research Grants provided by the ISF (Israel Science Foundation);
- Industrial R&D programmes of the National Technological Innovation Authority of the state of Israel (the "IIA");
 - Generic technologies R&D consortium (Track 5a of the IIA);
 - Transfer of Knowledge from Academia to Industry (Track 5d of the IIA);
 - Collaborative R&D – IIA procedure for implementation of international agreements in industrial R&D:
 - R&D cooperation with Multinational Companies;
 - Bilateral Programmes of parallel support
- Israel National Quantum Initiative program:
 - Direct Academic Research Fund (supported under the ISF Personal Research Grants);
 - Quantum Sensing consortia (supported under Track 5a of the IIA);
 - Quantum Communication consortia (supported under Track 5a of the IIA).

II. List of programmes, projects or parts thereof which Israel shall take required measures to progressively open to participation of legal entities established in the European Union ⁽¹⁾:

- Calls for proposals for R&D in the Space sector (supported under Track 2 of the IIA);
- Scientific research in Space technologies (of the Ministry of Innovation, Science and Technology);
- Data based on UltraSat a Wide field Ultraviolet Transient Astronomy Satellite (of the Israel Space agency in collaboration with Weizmann Institute for Research, DESY from Germany and NASA).

⁽¹⁾ It is clarified that participation of European entities in such Israeli programmes, projects or parts thereof, is subject to Article 5 of the Agreement.

ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in Israel and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in Israel. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. Israel shall not prevent or raise any particular obstacle to the right of entrance in Israel and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(5) or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(5), or the termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of Israel. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent Israeli authorities shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in Israel and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in Israel.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent Israeli authority designated by the Israeli government. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent Israeli authorities may participate in the on-the-spot checks and inspections.
5. Upon request by the Israeli authorities, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.
7. Where the person, entity or another third party resists an on-the-spot check or inspection, the Israeli authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.
8. The European Commission or OLAF shall inform the Israeli authorities of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent Israeli authority any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.
9. Without prejudice to application of Israeli criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of Israel participating in the implementation of a programme or activity in accordance with European Union legislation.
10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the Israeli competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.
11. In order to facilitate effective cooperation and exchange of information with OLAF, Israel shall designate a contact point.
12. Information exchanged between the European Commission or OLAF and the Israeli competent authorities shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.
13. The Israeli authorities shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in Israel. If so requested by the Commission, the authority designated by the Government of the State of Israel shall commence proceedings for the enforcement of the decision on behalf of the Commission. In this case, the decision of the Commission shall be submitted to the Israeli Court, without other formality than verification of the authenticity of the decision, by the authority designated for this purpose by the Government of the State of Israel, which shall inform the Commission thereof. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in Israel. Enforcement shall take place in accordance with the Israeli law and rules of procedure.
2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in Israel in accordance with the Israeli law and rules of procedure.
3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of Israel shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in Israel and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in Israel. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

INTERNATIONAL AGREEMENT**between the European Union, of the one part, and Georgia, of the other part, on the participation of Georgia in the Union programme Horizon Europe – the Framework Programme for Research and Innovation**

The European Commission (hereinafter referred to as 'the Commission'), on behalf of the European Union,

of the one part,

and

Georgia (hereinafter referred to as 'Georgia'),

of the other part,

hereinafter referred to as 'the Parties',

WHEREAS the Protocol III to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part ⁽¹⁾, on a framework agreement between the European Union and Georgia on the general principles for the participation of Georgia in Union programmes (hereinafter referred to as 'Protocol III') stipulates the specific terms and conditions regarding the participation of Georgia in each specific programme, in particular the financial contribution payable, as well as reporting and evaluation procedures, shall be determined by agreement between the European Commission and the competent authorities of Georgia on the basis of the criteria established by the programmes concerned;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽²⁾ (hereinafter referred to it as 'Horizon Europe Programme');

CONSIDERING the European Union's efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda 'Transforming our World: the 2030 Agenda for Sustainable Development', and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries are key partners in this endeavor;

EMPHASISING the role of the European Partnerships addressing some of Europe's most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union's priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries' involvement in those Partnerships;

⁽¹⁾ OJ L 261, 30.8.2014, p. 4.

⁽²⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1.).

SEEKING to establish mutually advantageous conditions in order to create decent jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

CONSIDERING that the common goals, values and strong links of the Parties in the field of research and innovation, established in the past through the Association Agreement to Horizon 2020, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. Georgia shall participate as an associated country in and contribute to all parts of the Horizon Europe Programme - the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Decision (EU) 2021/764 ⁽³⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.
2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁴⁾, and Decision (EU) 2021/820 ⁽⁵⁾, in their most up to date versions, shall apply to the participation of Georgian legal entities in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme

1. Georgia shall participate in the Horizon Europe Programme in accordance with the conditions laid down in the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, as well as Protocol III to the Association Agreement on a framework agreement between the European Union and Georgia on the general principles for the participation of Georgia in Union programmes and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of the Horizon Europe Programme, in their most up to date versions.
2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in Georgia may participate in indirect actions of the Horizon Europe Programme under conditions equivalent to those applicable to legal entities established in the European Union, including respect for the European Union restrictive measures ⁽⁶⁾.
3. Before deciding on whether legal entities established in Georgia are eligible to participate in an action related to European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:
 - a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes and projects of Georgia equivalent to the Horizon Europe action concerned;

⁽³⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1.).

⁽⁴⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast) (OJ L 189, 28.5.2021, p. 61.).

⁽⁵⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

⁽⁶⁾ The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

- b) information whether Georgia has in place a national investment screening mechanism and assurances that authorities of Georgia will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside Georgia of a Georgian legal entity, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies Georgia with the list of the relevant legal entities established in Georgia following the signature of grant agreements with these entities; and
- c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in Georgia shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. Georgia will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.

4. Legal entities established in Georgia may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to legal entities established in the European Union unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 2 and 3 of this Article.

5. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, Georgia and Georgian legal entities may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.

6. Representatives of Georgia shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764, without voting rights and for points which concern Georgia.

These committees shall meet without the presence of the representatives of Georgia at the time of voting. Georgia will be informed of the result.

Participation as referred to in this paragraph shall take the same form, including procedures for receipt of information and documentation, as that applicable to representatives from Member States of the European Union.

7. Georgia's rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to associated countries.

8. Representatives of Georgia shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns Georgia.

9. Georgia may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽⁷⁾, in its most up to date version, and with the legal act establishing the ERIC.

10. Travel costs and subsistence expenses incurred by representatives and experts of Georgia for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764, or in other meetings related to the implementation of the Horizon Europe Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

11. The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

⁽⁷⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

12. Georgia shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in Georgia or imported into Georgia, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in Georgia.

Article 3

Financial contribution

1. Participation of Georgia or Georgian legal entities in the Horizon Europe Programme shall be subject to Georgia contributing financially to the Programme and the related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'Union budget').

2. The financial contribution shall take the form of the sum of:

a) an operational contribution; and

b) a participation fee.

3. The financial contribution shall take the form of an annual payment made in one instalment, and shall be due at the latest in May.

4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Horizon Europe Programme, including any appropriations corresponding to decommitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁸⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased by external assigned revenue that does not result from financial contributions to the Horizon Europe Programme from other donors ⁽⁹⁾.

For external assigned revenue allocated to Horizon Europe Programme under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽¹⁰⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Draft Budget with regard to the Horizon Europe Programme.

5. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of Georgia at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. Adjustments to this contribution key are laid down in Annex I.

6. The initial operational contribution shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the European Union budget definitively adopted for the applicable year for financing the Horizon Europe Programme, increased in accordance with paragraph 4 of this Article.

7. The participation fee shall be 4 % of the annual initial operational contribution as calculated in accordance with paragraph 5 and 6 of this Article and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.

8. The initial operational contribution for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4 of this Article, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.

⁽⁸⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1.).

⁽⁹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽¹⁰⁾ OJ L 433 I, 22.12.2020, p. 23.

9. The European Union shall provide Georgia with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme. That information shall be provided having due regard to the European Union's and Georgia's confidentiality and data protection rules and shall be without prejudice to the information which Georgia is entitled to receive under Annex III.

10. All contributions of Georgia or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Automatic correction mechanism

1. An automatic correction mechanism of the initial operational contribution of Georgia for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of Georgia and Georgian legal entities in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

The amount of the automatic correction shall be calculated based on the difference between:

- a) the initial amounts of the legal commitments for competitive grants actually entered into with Georgia or Georgian legal entities financed from commitment appropriations of the year N, increased in accordance with Article 3(4); and
 - b) the corresponding operational contribution of the year N paid by Georgia as adjusted pursuant Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).
2. Where the amount referred to in paragraph 1, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution as adjusted pursuant to Article 3(8), the initial operational contribution of Georgia for year N shall be corrected. The amount due by or to be received by Georgia as an additional contribution or reduction of Georgia's contribution under the automatic correction mechanism shall be the amount exceeding this 8 % threshold. The amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

3. Detailed rules on the automatic correction mechanism are laid down in Annex I.

Article 5

Reciprocity

- 1. Legal entities established in the European Union may participate in programmes and projects of Georgia equivalent to the Horizon Europe Programme, in accordance with legislation of Georgia.
- 2. The non-exhaustive list of the equivalent programmes and projects of Georgia is provided in Annex II.
- 3. Funding by Georgia of legal entities established in the Union shall be subject to Georgia's legislation governing the operation of research and innovation programmes and projects. Where funding is not provided, legal entities established in the Union may participate with their own means.

Article 6

Open Science

The Parties shall mutually promote and encourage open science practices in their programmes and projects in accordance with the rules of the Horizon Europe Programme and legislation of Georgia.

*Article 7***Monitoring, Evaluation and Reporting**

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Horizon Europe Programme, the participation of Georgia in that Programme shall be continuously monitored on a partnership basis involving the Commission and Georgia.
2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

*Article 8***EU-Georgia Joint Research and Innovation Committee**

1. The EU-Georgia Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU-Georgia Joint Committee'). The tasks of the EU-Georgia Joint Committee shall include:
 - a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:
 - (i) the participation and performance of the legal entities of Georgia in the Horizon Europe Programme;
 - (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes and projects of the other Party;
 - (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
 - b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
 - c) examining how to improve and develop cooperation;
 - d) discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest; and
 - e) exchanging information, inter alia, on new legislation, decisions or national research and innovation programmes that are relevant for the implementation of this Agreement.
2. The EU-Georgia Joint Committee, which shall be composed of representatives of the European Union and of Georgia, shall adopt its Rules of Procedure.
3. The EU-Georgia Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.
4. The EU-Georgia Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by the Government of Georgia.
5. The EU-Georgia Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities of Georgia. The EU-Georgia Joint Committee may in particular conduct its tasks in writing whenever the need arises.

*Article 9***Final provisions**

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects, actions, activities or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.
3. The European Union and Georgia may apply this Agreement provisionally in accordance with their respective internal procedures and legislation. The provisional application shall begin on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
4. Should Georgia notify the Commission acting on behalf of the European Union that it will not complete its internal procedures necessary for the entry into force of this Agreement, this Agreement shall cease to apply provisionally on the date of receipt of this notification by the Commission, which shall constitute the cessation date for the purposes of this Agreement.
5. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by Georgia under this Agreement.

In case of non-payment which may significantly jeopardise the implementation and management of the Horizon Europe Programme, the Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement shall be notified by the Commission to Georgia by a formal letter of notification which shall take effect 15 days following the receipt of this notification by Georgia.

In case the application of this Agreement is suspended, legal entities established in Georgia shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the legal entities established in Georgia before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The European Union shall immediately notify Georgia once the entire amount of the financial contribution due has been received by the European Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities of Georgia shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

6. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it. The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

7. Where this Agreement ceases to apply provisionally in accordance with paragraph 4 of this Article or is terminated in accordance with paragraph 6 of this Article, the Parties agree that:

- (a) projects, actions, activities or parts thereof in respect of which legal commitments have been entered into during the provisional application and/or after the entry into force of this Agreement, and before this Agreement ceases to apply or is terminated shall continue until their completions under the conditions laid down in this Agreement;

- (b) the annual financial contribution of the year N during which this Agreement ceases to apply provisionally or is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The participation fee paid for the year N shall not be adjusted or corrected; and
- (c) following the year during which this Agreement ceases to apply provisionally or is terminated, the initial operational contributions paid for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8) and shall be automatically corrected in accordance with Article 4 of this Agreement.

The Parties shall settle by common consent any other consequences of termination or cessation of provisional application of this Agreement.

8. This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

9. The Annexes to this Agreement shall form an integral part of this Agreement.

This Agreement shall be drawn up in duplicate in English and Georgian, each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Done at Brussels, this 7th day of December in the year 2021 in 2 original copies, in English and in Georgian.

*For the Commission,
on behalf of the European Union,
Mariya GABRIEL
Commissioner for Innovation,
Research, Culture, Education and Youth*

*For Georgia,
Dr. Mikheil CHKHENKELI
Minister
For Education and Science*

ANNEX I

Rules governing the financial contribution of Georgia to the Horizon Europe Programme (2021-2027)**I. Calculation of Georgia's financial contribution**

1. The financial contribution of Georgia to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 3(4) of this Agreement.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:

— 2021: 0,5 %;

— 2022: 1 %;

— 2023: 1,5 %;

— 2024: 2 %;

— 2025: 2,5 %;

— 2026: 3 %;

— 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by Georgia for its participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0,12.

4. In line with Article 3(8) of this Agreement, the first adjustment pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution of year N shall be adjusted upwards or downwards by the difference between:

a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:

- i. the amount of budgetary commitments made on commitment appropriations authorised for year N under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and
- ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to Horizon Europe Programme from other donors and that were available at the end of year N ⁽¹⁾. For external assigned revenue allocated to Horizon Europe under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽²⁾, the annual indicative amounts in the MFF programming shall be used for the purpose of calculating the adjusted contribution.

⁽¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽²⁾ OJ L 433 I, 22.12.2020, p. 23.

- b) and the initial operational contribution of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N, increased in accordance with Article 3(4) of this Agreement, have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme, the Union shall calculate an adjustment of the operational contribution of year N by reducing Georgia operational contribution by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If the amounts stemming from external assigned revenue of year N (to include commitment appropriations, and, for amounts under Council Regulation (EU) 2020/2094, the annual indicative amounts in the MFF programming) that do not result from financial contributions to the Horizon Europe Programme from other donors are cancelled, the operational contribution of Georgia shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of Georgia's operational contribution

1. For the calculation of the automatic correction as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are Georgian entities in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽³⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽⁴⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 3(4) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to Georgia's contribution to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.
- b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:
 - i. the total amount of the competitive grants apportioned to Georgia or Georgian legal entities as commitments made on budget appropriations of year N; and

⁽³⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽⁴⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

ii. the amount of Georgia adjusted operational contribution for year N multiplied by the ratio between:

- A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 3(4) of this Agreement; and
- B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of Georgia's financial contribution, payment of the adjustments made on Georgia's operational contribution, and payment of the automatic correction applicable to Georgia's operational contribution

1. The Commission shall communicate to Georgia, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:

- a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of Georgia, in Horizon Europe Programme increased, if relevant, in accordance with Article 3(4) of this Agreement;
- b. the amount of the participation fee referred to in Article 3(7) of this Agreement;
- c. from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 3(4) of this Agreement and the level of decommitment;
- d. for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of Georgian legal entities broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April of each financial year, a call for funds to Georgia corresponding to its contribution under this Agreement.

Each call for funds shall provide for the payment of Georgia's contribution not later than 30 days after the call for funds is issued.

For the first year of implementation of this Agreement, the Commission shall issue a single call for funds, within 60 days of the signature of this Agreement.

3. Each year starting in 2023, the call for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by Georgia for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which Georgia participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by Georgia or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from Georgia.

4. Georgia shall pay its financial contribution under this Agreement in accordance with point (III) of this Annex. In the absence of payment by Georgia by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by Georgia on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

ANNEX II

Non-exhaustive list of the equivalent programmes and projects of Georgia

The following non-exhaustive list shall be regarded as programmes and projects equivalent to Horizon Europe Programme in Georgia:

- Fundamental Research Programme (FR) – administered by Shota Rustaveli National Science Foundation of Georgia;
 - Applied Research Programme (AR) – administered by Shota Rustaveli National Science Foundation of Georgia;
 - Research with participation of compatriots residing abroad (DI) – administered by Shota Rustaveli National Science Foundation of Georgia.
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ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in Georgia and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in Georgia. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. Georgia shall not prevent or raise any particular obstacle to the right of entrance in Georgia and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(5), the cessation of provisional application or termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of Georgia. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent Georgian authorities shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in Georgia and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in Georgia.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent Georgian authority designated by the Georgian government. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent Georgian authorities may participate in the on-the-spot checks and inspections.
5. Upon request by the Georgian authorities, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, the Georgian authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the Georgian authorities of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent Georgian authority any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of Georgian criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of Georgia participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the Georgian competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, Georgia shall designate a contact point.

12. Information exchanged between the European Commission or OLAF and Georgian competent authorities shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The Georgian authorities shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in Georgia. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the government of Georgia. The government of Georgia shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in Georgia. Enforcement shall take place in accordance with the Georgian law and rules of procedure.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in Georgia in the same manner as European Commission decisions referred to in paragraph (1).

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of Georgia shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in Georgia and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in Georgia. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

INTERNATIONAL AGREEMENT

between the European Union, of the one part, and the Council of Ministers of the Republic of Albania, of the other part, on the participation of the Republic of Albania in the Union programme Horizon Europe – the Framework Programme for Research and Innovation

The European Commission (hereinafter referred to as 'the Commission'), on behalf of the European Union,

of the one part,

and

the Council of Ministers of Albania (hereinafter referred to as 'Albania'),

of the other part,

hereinafter referred to as 'the Parties',

WHEREAS the Framework Agreement between the European Community and the Republic of Albania on the general principles for the participation of Republic of Albania in Community programmes ⁽¹⁾ stipulates that the specific terms and conditions regarding the participation of Albania in each particular programme, in particular the financial contribution payable, will be determined by agreement, in the form of a Memorandum of Understanding, between the Commission, acting on behalf of the Community, and the Government of Albania ⁽²⁾;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation was established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽³⁾ (hereinafter referred to it as 'Horizon Europe Programme');

CONSIDERING the European Union's efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations Agenda 'Transforming our World: the 2030 Agenda for Sustainable Development', and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between universities and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries are key partners in this endeavor;

EMPHASISING the role of the European Partnerships addressing some of Europe's most pressing challenges through concerted research and innovation initiatives contributing significantly to those European Union's priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries' involvement in those Partnerships;

CONSIDERING that research and innovation have proven instrumental in the Western Balkan region for cooperation and funding of joint research and innovation projects enabling mutual access to excellence, knowledge, innovation, network and research resources. It has provided valuable opportunities for human development, amplifying the chances of success in finding joint solutions to regional and global challenges;

⁽¹⁾ OJ L 192, 22.7.2005, p. 2.

⁽²⁾ This Agreement constitutes and has the same legal effects as a Memorandum of Understanding stated under the Framework Agreement between the European Community and the Republic of Albania on the general principles for the participation of the Republic of Albania in Community programmes.

⁽³⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

SEEKING to establish mutually advantageous conditions in order to create decent jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security;

CONSIDERING that the common goals, values and strong links of the Parties in the field of research and innovation, established in the past through the Association Agreements to the subsequent Framework Programmes, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the association

1. Albania shall participate as an associated country in and contribute to all parts of the Horizon Europe Programme - the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 and implemented through the specific programme established by Decision (EU) 2021/764 ⁽⁴⁾, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.

2. Regulation (EU) 2021/819 of the European Parliament and of the Council ⁽⁵⁾, and Decision (EU) 2021/820 ⁽⁶⁾, in their most up to date versions, shall apply to the participation of Albania legal entities in Knowledge and Innovation Communities.

Article 2

Terms and conditions of participation in the Horizon Europe Programme

1. Albania shall participate in the Horizon Europe Programme in accordance with the conditions laid down in the Framework Agreement between the European Community and the Republic of Albania on the general principles for the participation of the Republic of Albania in Community programmes, and under the terms and conditions set forth in this Agreement, in the legal acts referred to in Article 1 of this Agreement, as well as in any other rules pertaining to the implementation of the Horizon Europe Programme, in their most up to date versions.

2. Unless otherwise provided for in the terms and conditions referred to in paragraph 1 of this Article, including in implementation of Article 22(5) of Regulation (EU) 2021/695, legal entities established in Albania may participate in indirect actions of the Horizon Europe Programme under conditions equivalent to those applicable to legal entities established in the European Union, including respect for the European Union restrictive measures ⁽⁷⁾.

3. Before deciding on whether legal entities established in Albania are eligible to participate in an action related to European Union's strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:

a) information whether reciprocal access has been or will be granted to legal entities established in the European Union to existing and planned programmes and projects of Albania equivalent to the Horizon Europe action concerned;

⁽⁴⁾ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1.).

⁽⁵⁾ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast) (OJ L 189, 28.5.2021, p. 61.).

⁽⁶⁾ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ L 189, 28.5.2021, p. 91.).

⁽⁷⁾ The EU restrictive measures are adopted pursuant to Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the European Union.

- b) information whether Albania has in place a national investment screening mechanism and assurances that authorities of Albania will report on and consult the Commission on any possible cases where in application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside Albania of a Albanian legal entity, which has received Horizon Europe funding in actions related to European Union's strategic assets, interests, autonomy or security, provided that the Commission supplies Albania with the list of the relevant legal entities established in Albania following the signature of grant agreements with these entities; and
- c) assurances that none of the results, technologies, services and products developed under the concerned actions by entities established in Albania shall be subject to restrictions on their export to EU Member States during the action and for four years after the end of the action. Albania will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.

4. Legal entities established in Albania may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to legal entities established in the European Union unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 2 and 3 of this Article.

5. Where the European Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, Albania and Albanian legal entities may participate in the legal structures created under those provisions, in conformity with the European Union legal acts that have been or will be adopted for the establishment of those legal structures.

6. Representatives of Albania shall have the right to participate as observers in the committee referred to in Article 14 of Decision (EU) 2021/764, without voting rights and for points which concern Albania.

These committees shall meet without the presence of representatives of Albania at the time of the voting. Albania will be informed of the result. Participation as referred to in this paragraph shall take the same form including procedures for receipt of information and documentation, as that applicable to representatives of Members States of the European Union.

7. Albania rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to associated countries.

8. Representatives of Albania shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the European Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns Albania.

9. Albania may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No 723/2009 ⁽⁸⁾, in its most up to date version, and with the legal act establishing the ERIC.

10. Travel costs and subsistence expenses incurred by representatives and experts of Albania for the purposes of taking part as observers in the work of the committee referred to in Article 14 of Decision (EU) 2021/764, or in other meetings related to the implementation of the Horizon Europe Programme, shall be reimbursed by the European Union on the same basis as and in accordance with the procedures in force for representatives of the Member States of the European Union.

11. The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of scientists participating in the activities covered by this Agreement and to facilitate cross-border movement of goods and services intended for use in such activities.

⁽⁸⁾ Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.).

12. Albania shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in Albania or imported into Albania, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Agreement, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in Albania.

Article 3

Financial contribution

1. Participation of Albania or Albanian legal entities in the Horizon Europe Programme shall be subject to Albania contributing financially to the Programme and the related management, execution and operation costs under the general budget of the European Union (hereinafter referred to as the 'Union budget').

2. The financial contribution shall take the form of the sum of:

a) an operational contribution; and

b) a participation fee.

3. The financial contribution shall take the form of an annual payment made in two instalments, and shall be due at the latest in June and September.

4. The operational contribution shall cover operational and support expenditure of the Programme and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for the Horizon Europe Programme, including any appropriations corresponding to decommitments made available again as referred to in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁹⁾, in its most up to date version (hereinafter referred to as 'the Financial Regulation'), and increased by external assigned revenue that does not result from financial contributions to the Horizon Europe Programme from other donors ⁽¹⁰⁾.

For external assigned revenue allocated to Horizon Europe Programme under Article 3.1 of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽¹¹⁾, this increase shall correspond to annual appropriations indicated in the documents accompanying the Draft Budget with regard to the Horizon Europe Programme.

5. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of Albania at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key are laid down in Annex I.

6. The initial operational contribution shall be calculated applying the contribution key, as adjusted, to the initial commitment appropriations entered in the European Union budget definitively adopted for the applicable year for financing the Horizon Europe Programme, increased in accordance with paragraph 4 of this Article.

7. The participation fee shall be 4 % of the annual initial operational contribution as calculated in accordance with paragraph 5 and 6 of this Article and shall be phased in as set out in Annex I. The participation fee shall not be subject to retrospective adjustments or corrections.

8. The initial operational contribution for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year N, increased in accordance with paragraph 4 of this Article, their implementation through legal commitments and their de-commitments. The detailed provisions for the implementation of this Article are set out in Annex I.

⁽⁹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1.).

⁽¹⁰⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽¹¹⁾ OJ L 433 I, 22.12.2020, p. 23.

9. The European Union shall provide Albania with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the European Union budgetary and discharge authorities concerning the Horizon Europe Programme. That information shall be provided having due regard to the European Union's and Albania's confidentiality and data protection rules and shall be without prejudice to the information which Albania is entitled to receive under Annex III.

10. All contributions of Albania or payments from the European Union, and the calculation of amounts due or to be received shall be made in euro.

Article 4

Automatic correction mechanism

1. An automatic correction mechanism of the initial operational contribution of Albania for year N, as adjusted in accordance with Article 3(8), shall apply and shall be calculated in year N+2. It shall be based on the performance of Albania and Albanian legal entities in the parts of the Horizon Europe Programme which are implemented through competitive grants financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

The amount of the automatic correction shall be calculated based on the difference between:

- a) the initial amounts of the legal commitments for competitive grants actually entered into with Albania or Albanian legal entities financed from commitment appropriations of the year N, increased in accordance with Article 3(4); and
- b) the corresponding operational contribution of the year N paid by Albania as adjusted pursuant Article 3(8), excluding non-intervention costs financed from commitment appropriations from the year N, increased in accordance with Article 3(4).

2. Where the amount referred to in paragraph 1, whether that amount is positive or negative, exceeds 8 % of the corresponding initial operational contribution as adjusted pursuant to Article 3(8), the initial operational contribution of Albania for year N shall be corrected. The amount due by or to be received by Albania as an additional contribution or reduction of Albania's contribution under the automatic correction mechanism shall be the amount exceeding this 8 % threshold. The amount below this threshold of 8 % will not be taken into account in calculating the additional contribution due or compensated.

3. Detailed rules on the automatic correction mechanism are laid down in Annex I.

Article 5

Reciprocity

1. Legal entities established in the European Union may participate in programmes and projects of Albania equivalent to the Horizon Europe Programme, in accordance with Albania's legislation.

2. The non-exhaustive list of the equivalent programmes and projects of Albania is provided in Annex II.

3. Funding by Albania of legal entities established in the Union shall be subject to Albania's legislation governing the operation of research and innovation programmes and/or projects. Where funding is not provided, legal entities established in the Union may participate with their own means.

Article 6

Open Science

The Parties shall mutually promote and encourage open science practices in their programmes and projects in accordance with the rules of the Horizon Europe Programme and Albania's legislation.

Article 7

Monitoring, Evaluation and Reporting

1. Without prejudice to the responsibilities of the Commission, the European Anti-Fraud Office (OLAF) and the Court of Auditors of the European Union in relation to monitoring and evaluation of the Horizon Europe Programme, the participation of Albania in that Programme shall be continuously monitored on a partnership basis involving the Commission and Albania.

2. The rules concerning sound financial management, including the financial control, recovery and other antifraud measures in relation to European Union funding under this Agreement are laid down in Annex III.

*Article 8***EU-Albania Joint Research and Innovation Committee**

1. The EU-Albania Joint Research and Innovation Committee is hereby established (hereinafter referred to as 'EU-Albania Joint Committee'). The tasks of the EU-Albania Joint Committee shall include:

- a) assessing, evaluating and reviewing the implementation of this Agreement, in particular:
 - (i) the participation and performance of the legal entities of Albania in the Horizon Europe Programme;
 - (ii) the level of (mutual) openness to the legal entities established in each Party to participate in programmes and projects of the other Party;
 - (iii) the implementation of the financial contribution mechanism and the automatic correction mechanism in accordance with Article 3 and 4;
 - (iv) information exchange and examining any possible questions on the exploitation of results, including intellectual property rights;
- b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
- c) examining how to improve and develop cooperation;
- d) discussing jointly the future orientations and priorities of policies related to research and innovation and research planning of common interest; and
- e) exchanging information, inter alia, on new legislation, decisions or national research and innovation programmes that are relevant for the implementation of this Agreement.

2. The EU-Albania Joint Committee, which shall be composed of representatives of the European Union and of Albania, shall adopt its Rules of Procedure.

3. The EU-Albania Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.

4. The EU-Albania Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the European Union and by the Ministry responsible for Science of Albania.

5. The EU-Albania Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the legal entities of Albania. The EU-Albania Joint Committee may in particular conduct its tasks in writing whenever the need arises.

*Article 9***Final provisions**

1. This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.

2. This Agreement shall apply from 1 January 2021. It shall remain in force for as long as is necessary for all the projects, actions, activities or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the European Union and all the financial obligations stemming from the implementation of this Agreement between the Parties to be completed.

3. The application of this Agreement may be suspended by the European Union in case of partial or full non-payment of the financial contribution due by Albania under this agreement.

In case of non-payment which may significantly jeopardise the implementation and management of the Horizon Europe Programme, the Commission shall send a formal letter of reminder. Where no payment is made within 20 working days after the formal letter of reminder, suspension of the application of this Agreement shall be notified by the Commission to Albania by a formal letter of notification and shall take effect 15 days following the receipt of this notification by Albania.

In case the application of this Agreement is suspended, legal entities established in Albania shall not be eligible to participate in award procedures not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the legal entities established in Albania before the suspension took effect. This Agreement shall continue to apply to such legal commitments.

The European Union shall immediately notify Albania once the entire amount of the financial contribution due has been received by the European Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, legal entities of Albania shall be again eligible in award procedures launched after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

4. Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it. The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

5. Where this Agreement is terminated in accordance with paragraph 4, the Parties agree that:

- (a) projects, actions, activities or parts thereof in respect of which legal commitments have been entered into after the entry into force of this Agreement, and before this Agreement is terminated shall continue until their completions under the conditions laid down in this Agreement;
- (b) the annual financial contribution of the year N during which this Agreement is terminated shall be paid entirely in accordance with Article 3. The operational contribution of the year N shall be adjusted in accordance with Article 3(8) and corrected in accordance with Article 4 of this Agreement. The participation fee paid for the year N shall not be adjusted or corrected;
- (c) following the year during which this Agreement is terminated, the initial operational contributions paid for the years during which this Agreement applied shall be adjusted in accordance with Article 3(8) and shall be automatically corrected in accordance with Article 4 of this Agreement.

The Parties shall settle by common consent any other consequences of termination of this Agreement.

6. This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement.

7. The Annexes to this Agreement shall form an integral part of this Agreement.

This Agreement shall be drawn up in duplicate in English and Albanian, each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Done at Brussels, this first day of February in the year 2022, and at Tirana, on February 9th, 2022.

*For the Commission,
on behalf of European Union,*

Mariya GABRIEL
*Commissioner for Innovation,
Research, Culture, Education and Youth*

For the Council of Ministers of Albania,

Evis KUSHI
Minister of Education and Sports

ANNEX I

**Rules governing the financial contribution of Albania to the Horizon Europe Programme
(2021-2027)**

I. Calculation of Albania's financial contribution

1. The financial contribution of Albania to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 3(4) of this Agreement.

2. The participation fee referred to in Article 3(7) of this Agreement shall be phased in as follows:

- 2021: 0,5 %;
- 2022: 1 %;
- 2023: 1,5 %;
- 2024: 2 %;
- 2025: 2,5 %;
- 2026: 3 %;
- 2027: 4 %.

3. In accordance with Article 3(5) of this Agreement, the initial operational contribution to be paid by Albania for its participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0,1.

4. In line with Article 3(8) of this Agreement, the first adjustment pertaining to the budget implementation of year N shall be made in year N+1 when the initial operational contribution of year N shall be adjusted upwards or downwards by the difference between:

- a) an adjusted contribution calculated by applying the contribution key adjusted of year N to the sum of:
 - i. the amount of budgetary commitments made on commitment appropriations authorised for year N under the European Union voted budget and on commitment appropriations corresponding to decommitments made available again; and
 - ii. any commitment appropriations based on external assigned revenue that do not result from financial contributions to Horizon Europe Programme from other donors and that were available at the end of year N ⁽¹⁾. For external assigned revenue allocated to Horizon Europe under Article 3(1) of Council Regulation (EU) 2020/2094 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ⁽²⁾, the annual indicative amounts in the MFF programming shall be used for the purpose of calculating the adjusted contribution.

⁽¹⁾ This includes notably the resources from the European Union Recovery Instrument established by Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23.).

⁽²⁾ OJ L 433 I, 22.12.2020, p. 23.

- b) and the initial operational contribution of year N.

Starting in year N+2, and each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N, increased in accordance with Article 3(4) of this Agreement, have been paid or decommitted, and at the latest 3 years after the end of the Horizon Europe Programme, the Union shall calculate an adjustment of the operational contribution of year N by reducing Albania's operational contribution by the amount obtained by applying the contribution key adjusted of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If the amounts stemming from external assigned revenue of year N (to include commitment appropriations, and, for amounts under Council Regulation (EU) 2020/2094, the annual indicative amounts in the MFF programming) that do not result from financial contributions to the Horizon Europe Programme from other donors are cancelled, the operational contribution of Albania shall be reduced by the amount obtained by applying the contribution key adjusted of year N to the amount cancelled.

II. Automatic correction of Albania's operational contribution

1. For the calculation of the automatic correction as referred to in Article 4 of this Agreement, the following modalities shall apply:

- a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
- b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are Albanian entities in accordance with the indicative budget breakdown of the grant agreement;
- c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- d) 'non-intervention costs' means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions ⁽³⁾;
- e) amounts allocated to international organisations as legal entities being the final beneficiary ⁽⁴⁾ shall be considered as non-intervention costs.

2. The mechanism shall be applied as follows:

- a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 3(4) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 3(8) of this Agreement have been applied to Albania's contribution to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.
- b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:
 - i. the total amount of the competitive grants apportioned to Albania or Albanian legal entities as commitments made on budget appropriations of year N; and

⁽³⁾ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

⁽⁴⁾ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

ii. the amount of Albania's adjusted operational contribution for year N multiplied by the ratio between:

- A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 3(4) of this Agreement; and
- B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of Albania's financial contribution, payment of the adjustments made on Albania's operational contribution, and payment of the automatic correction applicable to Albania's operational contribution

1. The Commission shall communicate to Albania, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:

- a. the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of Albania, in Horizon Europe Programme increased, if relevant, in accordance with Article 3(4) of this Agreement;
- b. the amount of the participation fee referred to in Article 3(7) of this Agreement;
- c. from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 3(4) of this Agreement and the level of decommitment;
- d. for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of Albanian legal entities broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

2. The Commission shall issue, at the latest in April and in June of each financial year, a call for funds to Albania corresponding to its contribution under this Agreement.

Each call for funds shall provide for the payment of six-twelfths of Albania's contribution not later than 45 days after the call for funds is issued.

For the first year of implementation of this Agreement, the Commission shall issue a single call for funds, within 60 days following the date on which this Agreement starts producing legal effects.

3. Each year starting in 2023, the calls for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by Albania for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which Albania participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by Albania or from the adjustments made in accordance with Article 3(8) of this Agreement will be due to or from Albania

4. Albania shall pay its financial contribution under this Agreement in accordance with point (III) of this Annex. In the absence of payment by Albania by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by Albania on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

*ANNEX II***Non-exhaustive list of the equivalent programmes and projects of Albania**

The following non-exhaustive list shall be regarded as Albanian programmes and projects equivalent to the Horizon Europe Programme:

- National Research and Development Programme.

ANNEX III

Sound Financial Management

Protection of financial interests and recovery

*Article 1***Reviews and audits**

1. The European Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in Albania and receiving European Union funding, as well as any third party involved in the implementation of Union funds residing or established in Albania. Such review and audits may be carried out by the agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission.
2. The agents of the institutions and bodies of the European Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (both in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. Albania shall not prevent or raise any particular obstacle to the right of entrance in Albania and to the access to the premises of the agents and other persons referred to in paragraph 2 on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of this Agreement pursuant to its Article 9(3) or its termination, on the terms laid down in the applicable acts of one or more European Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the European Union budget entered into by the European Union before the date on which the suspension of application of this Agreement pursuant to its Article 9(3) or termination of this Agreement takes effect.

*Article 2***Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union**

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of Albania. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent Albanian authorities shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in Albania and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in Albania.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent Albanian authority designated by the Council of Ministers of Albania. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent Albanian authorities may participate in the on-the-spot checks and inspections.
5. Upon request by the Albanian authorities, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.

6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.

7. Where the person, entity or another third party resists an on-the-spot check or inspection, the Albanian authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. This assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.

8. The European Commission or OLAF shall inform the Albanian authorities of the result of such checks and inspections. In particular, the European Commission or OLAF shall report as soon as possible to the competent Albanian authority any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of Albanian criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of Albania participating in the implementation of a programme or activity in accordance with European Union legislation.

10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the Albanian competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.

11. In order to facilitate effective cooperation and exchange of information with OLAF, Albania shall designate a contact point.

12. Information exchanged between the European Commission or OLAF and the Albanian competent authorities shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

13. The Albanian authorities shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the European Union in accordance with the applicable legislation.

Article 3

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from the Horizon Europe Programme shall be enforceable in Albania. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the Council of Ministers of Albania. The Council of Ministers of Albania shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 4, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in Albania. Enforcement shall take place in accordance with the Albanian law and rules of procedure.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in Albania in the same manner as European Commission decisions referred to in paragraph 1.

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of Albania shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

*Article 4***Communication and exchange of information**

The European Union institutions and bodies involved in the implementation of Horizon Europe Programme, or in controls over that programme, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in or legal entity established in Albania and receiving Union funds, as well as any third party involved in the implementation of Union funds residing or established in Albania. Such persons, entities and parties may submit directly to the European Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the European Union legislation applicable to the Union programme and of the contracts or agreements concluded to implement that programme.

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