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**PROTOCOL TO TITLE VI**

**FINANCIAL ASSISTANCE, AND ANTI-FRAUD AND  
CONTROL PROVISIONS**

# PROTOCOL IV TO THIS AGREEMENT

## PROTOCOL IV

### DEFINITIONS

“*Irregularity*” shall mean any infringement of a provision of EU law, this Agreement or ensuing agreements and contracts, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the EU or budgets managed by it, either by reducing or losing revenue accruing from own resources collected directly on behalf of the EU, or by an unjustified item of expenditure.

“*Fraud*” shall mean

(a) in respect to expenditure, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the EU or budgets managed by, or on behalf of, the EU
- non-disclosure of information in violation of a specific obligation, with the same effect,- the misapplication of such funds for purposes other than those for which they are originally granted

(b) in respect to revenue, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the EU or budgets managed by, or on behalf of, the EU
- non-disclosure of information in violation of a specific obligation, with the same effect
- misapplication of a legally obtained benefit, with the same effect

“*Active corruption*” is defined as the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the EU's financial interests.

“*Passive corruption*” is defined as the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such an advantage, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the EU's financial interests.

There is a “*conflict of interest*” in any situation that could cast doubt on the ability of staff to act in an impartial and objective manner for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a tenderer, applicant or beneficiary, or that could reasonably appear to do so in the eyes of an external third party.

“*Unduly paid*” shall mean paid in breach of the rules governing EU funds.

The “*European Anti-Fraud Office*” is the European Commission's specialised anti-fraud department. The Office has operational independence and is responsible for carrying out administrative investigations intended to combat fraud, corruption and any other illegal activity

adversely affecting the EU's financial interests, as provided for in Commission Decision of 28 April 1999 establishing the European Anti-Fraud Office, Council Regulation (EC) No 1073/99 of 25 May 1999 concerning investigations by the European Anti-Fraud Office and Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.