***Annex 9***

***Draft Grants Financing Agreement***

The present agreement made between the Ministry of Education and Science of Georgia (hereinafter referred to as the “MES”), as represented by -------------------- on the one part, and the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the „Grant Recipient “), as represented by -------------------- on the other part, hereafter referred to as the “Parties”,

Whereas,

1. The Government of Georgia has signed Loan Agreement for financing the implementation of **Innovation, Inclusion and Quality Project (I2Q Project)** from the World Bank. The I2Q Project Management Unit (PMU) created within MES supports the implementation of the I2Q Project. The MES is implementing the Competitive Innovation Fund (CIF) project on the grounds of Loan Agreement No 8955-GE between Georgia and the International Bank for Reconstruction and Development (IBRD), dated, June 18, 2019, and Order --- of – 2022 of the Minister of the MES;
2. The Grant Recipient was awarded a grant under the Year 20\_\_ “Competitive Innovation Fund” grants competition, on the basis of the final evaluation report of the \_-- dated --- 20\_\_;
3. The Grant Recipient was found eligible as per the terms and conditions specified in the Operational Manual for CIF and shall implement under the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Grant’s Project (Project) attached to this agreement (*Attachment 1*);

Now, the parties hereto enter into the Grants Agreement (the ‘Agreement’) under the following terms:

**Article 1. Subject of the Agreement**

Subject of the Agreement is implementation of the Project by the Grant Recipient under the CIF.

**Article 2. Statements of the Parties**

2.1 By signature of the present Agreement, the Grant Recipient confirms that:

a) The MES is entitled to disclose the Grant Recipient’s details such as name, address, etc. and summary information on the project proposal, excluding trade secret or other sensitive data, and the Grant Recipient undertakes to identify as confidential, proprietary or commercially sensitive information submitted to MES;

b) shall keep, and shall make all reasonable efforts to cause its engaged parties/bodies to keep, accurate and systematic accounts and records in respect of this agreement in such form and detail as will clearly identify relevant time changes and costs;

c) shall permit, and shall cause its engaged parties/bodies to permit, the MES, Auditors, Bank and/or persons appointed by the Bank to inspect the Site and/or all accounts and records relating to the performance of the Agreement.

d) Ensure that project is carried out in accordance with WB Policy – Corrupt and Fraudulent Practices *(Attachment 2);*

e) The MES shall, if applicable, solicit from the Revenue Service or request the Grant Recipient itself to submit the tax-related information, inter alia including secret information (VAT declaration, profit tax calculation (monthly declaration), annual profit tax declaration, if applicable, etc.);

f) Ensure that no contract is signed with the third party that has been recorded on the WB debarred/suspended list.A list of debarred firms and individuals is available at the Bank’s external website*:* [www.worldbank.org/debarr](http://www.worldbank.org/debarr).

2.2 Statements and Guarantees of the Parties:

a) The Grant Recipient states and certifies that:

* by signing the present Agreement, it does not violate any legal or contractual obligations, rights of other entities, including but not limited to the Intellectual Property rights, and such other obligations which is predicted and/or predictable in future;
* it holds all permits/licenses, or shall obtain them, as required, and execute all mandatory procedures required under the national legislation of Georgia;

b) The MES states and certifies that, it shall not disclose such information, which has been preliminarily identified by the Grant Recipient as confidential content. The MES shall not be held responsible for disclosing any information, which was not identified as confidential by the Grant Recipient or in relation to which the MES was not requested to keep confidentiality.

**Article 3. Project Cost and Grant Amount**

3.1 Total Project value is GEL \_\_\_\_\_\_\_\_\_\_ („Total Project Budget “).

3.2 Grant co-financing shall correspond to the following ratio:

a) The MES finances up to \_\_\_\_% of the Project value, which amounts to GEL \_\_\_\_\_\_\_\_\_\_\_\_\_ maximum;

b) The Grant recipient finances up to \_\_\_\_% of the project value, which amounts to GEL \_\_\_\_\_\_. The Grant Recipient’s contribution shall not originate from another public grant financing source.

3.3 The MES shall disburse the Grant amount provided for by sub-paragraph “a” of Clause 3.2 as per project budget specified under *Attachment N3*, in two installments:

a) The first payment should not exceed 90% of the total amount of the grant;

b) second payment should cover all other eligible expenses that will be incurred under the Grant Agreement and approved by Auditor.

3.4 The Grant Recipient shall prior to each installment, submit a bank account statement showing that the Grant Recipient has deposited in the designated account its share of co-financing, if applicable. The amount deposited for the specific tranche should at least constitute the percentage stipulated by sub-paragraph “b” of Clause 3.2.

**Article 4. Terms of Use of Grant Funding**

4.1 The Grant Recipient shall use the Grant financing purposefully, solely for the purposes outlined in *Attachment N1.*

4.2 Eligible costs incurred under the Grant Financing include:

a) Costs incurred as per Approved Project Budget provided for in *Attachment N3* to the Grants Financing Agreement;

b) Costs incurred and paid during the project implementation period;

c) Costs recorded in the Grant Recipient’s accounting books in accordance with applicable accounting standards;

* 1. Ineligible costs incurred under the Grant Financing include:

1. Costs not provided for in the Approved Project Budget set forth in *Attachment N3* to the Grants Agreement;
2. Interest or debt owed to any party;
3. Expenditures and provisions for possible future losses or debts;
4. Items already financed through another framework, program or company/institution;
5. Entertainment and hospitality expenses, including: banquets, cultural programs; ceremonies and expenses connected with them, such as treating guests and lodging, and tips;
6. Alcoholic drinks and tobacco products
7. Currency exchange losses, fees and penalties;
8. Recruitment or relocation costs;
9. Pay interest payments, give out loans;
10. Fundraising;
11. Value-added taxes and customs taxes and fees;
12. Bank commissions and differences in currency exchanges;
13. Payment of interest or current debt to any party, including commitments made or undertaken during consideration of Project application, or upon approval of Project financing;
14. Costs of items or services that are already being financed by another program or entity;
15. Costs/participation in the costs of purchase, lease, sub-lease or adaptation of land, facilities and/or other real estate, including vehicles and movable assets and equipment not designated exclusively for Project related scientific and research activities;
16. Costs defined by the sources of funding under the Public Call;
17. Activities that require involuntary taking of land resulting in temporary or permanent relocation or loss of shelter, loss of assets or access to assets, loss of income sources or means of livelihood, or involving the involuntary restriction of access to legally designated parks and protected areas;
18. Any construction or rehabilitation activities;
19. Procurement of passenger/commercial vehicles;
20. Purchase/lease of property (real estate).

4.4 The Grant Recipient shall not make advance payments:

a) not more than 10% of the total project budget for goods

b) not more than 20% of the total project budget for works and services

4.5. The Grant Recipient shall make advance payment to the Contractor of the amounts stated in the sub paragraphs “a and b” against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Grant Recipient in amounts and currencies equal to the advance payment. Prior to the advance payment to the Contractor the Grant Recipient shall receive the official confirmation from the CIF Administration Unit on the form of the Advance Payment Guarantee.

4.6 The Grant Recipient shall not make any payment under the Project in cash. All costs incurred for project purposes shall be reimbursed from the designated bank account.

4.7 Should the Grant Recipient incur any ineligible costs in course of project implementation, the Grant Recipient shall deposit in the designated account the amount equal to ineligible cost within a 1-week period following receipt of the MES’s notification. The MES is entitled to suspend financing before deposition of the amount corresponding to the ineligible costs by the Grant Recipient.

4.8 While conducting procurement with grant funds, the Grant Recipient shall follow the rules stipulated by CIF Operational Manual.

**Article 5. Project Implementation**

5.1 Project implementation period is \_\_\_ months. It shall start after signing the Agreement.

5.2 Regulations specified in the Operational Manual for CIF are applicable for the procedures of reporting, monitoring, and calculation of disbursements and balances, during the implementation of the project.

5.3 Any significant deviation from the Project such as delay in project completion within timeframes defined in the Project Proposal or whenever proposed milestones are not achieved, requires prior written consent from the MES. The Grant Recipient may request a no-cost extension (without increase of financing) of the project implementation period. The MES is entitled not to meet such request if it is not duly justified and evidenced to accommodate their appraisal.

5.4 At the end of the implementation period, the Grant Recipient shall refund any unspent balance or ineligible costs identified as a result of revisions/checks conducted by MES or the Auditors no longer than 30 days after receipt of notification requesting the amounts due to the MES.

5.5 In case there are breaches/deficiencies identified in the reports submitted by the Grant Recipient, the MES shall suspend financing until such deficiencies are corrected. Under such conditions, the Grant Recipient is required to rectify the breach stipulated in the notice sent by the MES within a two-week period after receipt of such notice. In case the default is not resolved within the specified timeline, the MES shall terminate the present Agreement in accordance with Article 6.

**Article 6. Duration and Termination of the Agreement**

6.1 The present Agreement is valid for the period of \_\_\_\_\_\_\_\_ years and shall remain in force till --- of the year -------.

6.2 The present Agreement shall be bilaterally terminated on the grounds of a valid reason justifiable by the parties, considering their mutual interests. Under such conditions, the eligible costs incurred under the Grants Agreement and approved by the MES, shall not be subject to reimbursement to the MES. The MES shall be reimbursed for those funds, which were unspent as of the date of bilateral termination of the Agreement.

6.3 After occurrence of the event specified in Article 6.2, the Grant Recipient shall furnish the MES with reports provisioned in the CIF Operational Manual, within the established timelines.

6.4 The MES may terminate the present Agreement unilaterally, upon its sole discretion, on the basis of preliminarily sent at least 14-day notice, in the following cases:

(a) Failure of the Grant Recipient to provide, promptly as needed, the resources required for project implementation, including failure to deposit the co-financing amounts set forth in the present Agreement within the deadlines;

(b) Failure of the Grant Recipient to use the financing as defined in the Approved Project Budget given in *Attachment N3*;

(c) Reallocation by the Grant Recipient of more than 15% of the Approved Project Budget for one or more budget categories without prior written consent of the MES;

(d) Significant failure of the Grant Recipient to carry out the project with due diligence and efficiency and in accordance with sound technical, economic, financial, managerial, environmental and social standards and practices, including in accordance with the provisions of the Anti-Corruption Guidelines, providing false information during any stage of the project Application, evaluation or implementation and in instances of gross misconduct or fraud;

(e) Failure of the Grant Recipient to maintain policies and procedures adequate to enable the MES to monitor and evaluate the progress of the project and the achievement of its objectives;

(f) Failure of the Grant Recipient to maintain a financial management system and prepare financial statements in accordance with consistently applied accounting standards, both in a manner adequate to reflect the operations, resources and expenditures related to the project;

(g) If through the fault or gross deviation of the Grant Recipient, the MES/WB were unable to audit the financial statements of the Grant Recipient through independent auditors acceptable to the MES, in accordance with consistently applied auditing standards, and promptly furnish the statements as so audited to the MES;

(h) Failure of the Grant Recipient to enable the MES and/or the WB to inspect the implementation of the project, its operation and any relevant records and documents and prepare and furnish to the MES and the WB all such information as the MES or the WB shall reasonably request relating to the implementation of the project;

(i) Failure of the Grant Recipient to inform the MES of any significant changes to the project (e.g. regarding project implementation, timelines, project budget, deliverables, project staff, etc.).

6.5 In case of termination of the Agreement due to the breach of any terms provisioned by paragraph 6.4 of this article, the Grant Recipient shall refund all of the amount disbursed by the MES under the grant financing no later than within a one-month period following termination of the Agreement. The same rule is applied in case if the Agreement is on a unilateral basis terminated at the discretion of the Grant Recipient. Should the Grant Recipient infringe the one-month term set forth in the present article, it will be liable for a penalty to the sum of 0.02 % of the total outstanding amount for each overdue day. Total sum of the penalty should not exceed 20% of the total outstanding amount.

**Article 7. Governing Legislation and Dispute Resolution**

7.1 The present Agreement is governed by Georgian law. The Grant Recipient shall follow the national legislation in force in application of grant financing, inter alia including accounting procedures and meeting tax liabilities.

7.2 Any dispute between the parties, which is not resolved amicably, through discussions, will be subject to settlement by the Court of Georgia.

**Article 8. Final provisions**

8.1 Herewith enclosed are: Attachment №1 „Project description”, Attachment N2 “Bank’s Policy: Corrupt and Fraudulent Practices; Attachment №3 „Approved Project Budget “.

8.2 The named attachments form integral part of the present Agreement.

8.3 Any variations and/or amendments to the present Agreement may be introduced solely in written form by mutual agreement between the parties, and the aforesaid shall form integral part of the Agreement.

8.4 In case if any obligations undertaken by the parties are cancelled or declared null and void, it will in no way infringe on authenticity of such other remaining obligations. The parties shall substitute such cancelled or null and void obligations with other obligations maximally similar in content (of substantially identical outcome).

8.5 Any notices or communication under the present Agreement shall be performed in writing or electronically, through such other means of communication which enable receipt and confirmation of such receipt by the addressee (by means of emails or grants portal of the MES, if any). Notification in written form shall be deemed accepted in the event that it is delivered by courier service to the party’s undermentioned address (or such other address specified in the notice sent in accordance with the present paragraph) at the date of its hand over.

a) If the notice is sent to the Grant Recipient: <indicate details>

b) If the notice is sent to the MES: <indicate details>

8.6 The present Agreement is drawn up in 3 (three) equally valid copies. One copy to be handed in to the Grant Recipient, and two copies to be reserved by the MES.

8.7 The present Agreement is made in English and Georgian languages. In case of discrepancy, Georgian version shall prevail.

8.8 The Agreement takes effect on the date of its execution thereafter by both parties.

Attachment 2. Bank’s Policy – Corrupt and Fraudulent Practices

**THE WORLD BANK Procurement Regulations for IPF Borrowers**

**PROCUREMENT IN INVESTMENT PROJECT FINANCING Goods, Works, Non-Consulting and Consulting Services, July 2016, Revised November 2017 and August 2018.**

1. **Purpose**
   1. The Bank’s Anti-Corruption Guidelines and this annex apply with respect to procurement under Bank Investment Project Financing operations.
2. **Requirements**
3. The Bank requires that Borrowers (including beneficiaries of Bank financing); bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption.
4. To this end, the Bank:
5. Defines, for the purposes of this provision, the terms set forth below as follows:
6. “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
7. “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
8. “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
9. “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
10. “obstructive practice” is:
11. deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
12. acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under paragraph 2.2 e. below.
13. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
14. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
15. Pursuant to the Bank’s Anti- Corruption Guidelines and in accordance with the Bank’s prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;[[1]](#footnote-1) (ii) to be a nominated[[2]](#footnote-2) sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
16. Requires that a clause be included in bidding/request for proposals documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants/proposers),, consultants, contractors, and suppliers, and their sub-contractors, sub-consultants, service providers, suppliers, agents personnel, permit the Bank to inspect[[3]](#footnote-3) all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the Bank.

1. For the avoidance of doubt, a sanctioned party’s ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract. [↑](#footnote-ref-1)
2. A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower. [↑](#footnote-ref-2)
3. Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information. [↑](#footnote-ref-3)