

**TEMPLATE<sup>1</sup> OF THE GRANT AGREEMENT IN THE HOMING PROGRAMME under  
Measure 4.4 SG OP  
for beneficiaries of state aid**

Agreement number: .....

Grant assignment agreement for the project entitled: [...] under the **HOMING** Programme, which is a grant project of the Foundation for Polish Science (under the name HOMING/POWROTY), financed from the funds of the European Regional Development Fund under Operational Programme Smart Growth (SG OP), Priority Axis IV: Increase of the research and development potential, Measure 4.4: Increasing the human potential in the R&D sector., HOMING/POWROTY programme,

concluded on [...]

(hereinafter referred to as the "**Agreement**"),

by and between:

**The Foundation for Polish Science** with its seat in Warsaw, at ul. Krasickiego 20/22, 02-611 Warsaw, entered into the Registry of Associations, other social and professional organisations, foundations and independent public healthcare facilities of the National Court Register (KRS), maintained by District Court for the Capital City Warsaw, 13<sup>th</sup> Business Division of the National Court Register, under No. KRS 0000109744, represented by:

1. [ ]

2. [ ]

hereinafter referred to as the "**Foundation**",

and

....., **PhD.**

born on..... in....., residing in.....,

holder of identity card number:....., PESEL number.....,

hereinafter referred to as the "**Project Manager**",

and

[ ] (Enterprise),

with its seat in [ ] at ul. [ ], entered into the [ ] Registry under No. [ ], Taxation Identification

Number (NIP) [ ],

represented by:

[ ] - [ ]

hereinafter referred to as the "**Enterprise**",

jointly referred to as the "**Grantee**" (the Project Manager and the Enterprise)

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<sup>1</sup> Pursuant to Competition Documentation (Section I – Introduction) the template of the grant agreement may be subject to slight modifications.

hereinafter jointly referred to as: "**Parties**" and each of them separately as "**Party**".

### § 1 General terms and conditions and statements of the Parties

1. The total cost of the realisation of the "....." Project, hereinafter referred to as the "Project", specified in the Application for Project funding, submitted to the Foundation under competition N<sup>o</sup>. .... in the HOMING Programme amounts to PLN ..... (say: PLN..... ), including the eligible costs in the amount of PLN..... (say: ..... ). Subject to the terms and conditions specified herein, the Foundation shall grant the Enterprise financial means in the total amount not exceeding PLN..... (say: PLN..... ) for the realisation of the Project.
2. The Parties agree that, in the event of any doubts regarding the valid version of the Application, the version in possession of the Foundation shall prevail.
3. The Project Manager and the Enterprise shall realise the Project in compliance with the provisions of the Agreement, the Application for Project funding, Competition Documentation No. ... (hereinafter referred to as the "Competition Documentation"), national and European Union legislation and the principles of EU policies, including provisions on fair competition, public procurement, permissibility of granting state aid, environmental protection and equal opportunities.
4. The Enterprise is obliged to respect the research autonomy of the Project Manager pursuant to the approved research project being the subject of the Application and it shall provide appropriate conditions for conducting research works pursuant to the scope presented in the Application and access to research equipment.
5. The Foundation shall not claim any rights to research results obtained as a result of the works conducted under the Project in return for granting funds for the realisation of the Project.
6. The Foundation shall not bear any responsibility to third parties for damages resulting from the realisation of the Project.
7. The Enterprise and the Project Manager hereby declare that as of the date of conclusion of the Agreement, they fulfil all of the conditions specified in the Competition Documentation as required to be met by the Grantee in order to receive funding. The Enterprise and the Project Manager hereby commit themselves to fulfil the conditions specified hereinabove for the whole duration of the Project.
8. The Project Manager hereby represents that they shall be involved in the realisation of the Project on an at least .....-time basis and that they shall not terminate the employment relationship with the Enterprise on their own initiative. They shall attempt to maintain the work time necessary for the realisation of the Project, provide doctoral students participating in the project with appropriate supervision and ensure mentoring by the other mentor for the whole duration of the Project. At the same time, the Enterprise represents that the Project Manager enjoys sufficiently good repute as an employee and that it shall employ the Project Manager pursuant to an employment contract on an at least 60%-time basis for the whole duration of the Project.
9. The Enterprise and the Project Manager are obliged to incur all eligible expenditures in compliance with the fair competition principle and equal treatment of bidders in tender procedures

in the Project, pursuant to the Act - Public Procurement Law – if applicable - or with the fair competition principle specified in the Guidelines on the eligibility of expenditures under the European Regional Development Fund, European Social Fund and Cohesion Fund for the years 2014-2020 and the Guidelines on the eligibility of expenditures under the Smart Growth Operational Programme 2014-2020 and in the Cost Eligibility Guide under Measure 4.4 of the Smart Growth Operational Programme for beneficiaries of state aid. When incurring the eligible costs, the Project Manager and the Enterprise are obliged to comply with the principles of efficiency, openness and transparency and make every effort to avoid any conflict of interest understood as lack of impartiality and objectivity.

10. The Grantee is obliged to ensure the durability of Project results pursuant to Article 71 of the Regulation No. 1303/2013 of the European Parliament and the Council (EU) of December 17, 2013, laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (Official Journal of the EU, L 347 of December 20, 2013, page 320).
11. The Manager of the Project hereby represents that they shall not simultaneously receive remuneration or stipends under other projects of the Foundation financed from the funds of the Smart Growth Operational Programme.
12. The Enterprise and the Project Manager hereby represent that the total professional involvement of all individuals receiving remuneration under the Project in the realisation of all projects financed from the structural funds and from the Cohesion Fund and activities financed from other sources, including own funds of the Enterprise and of other entities shall not exceed 276 hours per month.
13. The Grantee hereby represents that tasks covered by the Project are not financed from funds obtained from other sources.
14. The Grantee is obliged to achieve and maintain the product indicators and results specified in the Application for funding. Any failure to achieve or maintain these indicators may result in a decrease in funding proportionally to the extent to which they have not been achieved.
15. The Grantee shall notify the Foundation immediately about any threats or deficiencies in the realisation of the Project.
16. The Grantee must not transfer the rights, obligations or liabilities resulting from the Agreement to third parties without prior consent of the Foundation during the Project realisation period specified in §2 item 1 of the Agreement until the termination of Project durability.
17. The Grantee is obliged to realise the Project in a manner that ensures its positive influence on the principle of sustainable development.

## §2 Duration of the Project

1. The Project Manager and the Enterprise are obliged to realise the Project in the period from the ..... to the .....

2. The realisation of the Project means the realisation of the full substantial scope of the Project and documenting the incurred expenditures.
3. The Project Manager and the Enterprise are obliged to complete the realisation of the substantial and financial scope of the Project pursuant to the Application in the cost eligibility period specified in item 1 hereinabove, with the reservation of the provisions of § 10 item 10.
4. Expenditures incurred prior to the commencement and after the end of the cost eligibility period specified in items 1 and 3 hereinabove shall not be deemed as eligible for funding.

### **§ 3 Project financing**

1. The allocation of funds for Project realisation is specified in the Project Budget, hereinafter referred to as the “Budget”, constituting Appendix No. 1 hereto.
2. Funds for the realisation of the Project (excluding stipends) shall be transferred in form of advance payments pursuant to the instalment payment schedule constituting Appendix No. 3 hereto. The first instalment shall be transferred within 14 days from the date of receipt of correctly filled out and signed Agreement by the Foundation, however , not earlier than on the commencement day of the period specified in §2 item 1. Subsequent instalments shall be transferred immediately upon approval of periodical financial reports by the Foundation.
3. The highest amount of the instalment of advance payment under the Project cannot exceed 30% of the funding specified in §1 item 1 hereinabove.

The advance payment shall be settled by means of listing the eligible expenditures settling the instalment in the financial report or by reimbursing the unused funds from the advance payment.

4. The co-financing amount in form of advance payment from the funds of the European Regional Development Fund that remains unused at the end of the budget year shall remain at the disposal of the Enterprise on its bank account in the subsequent budget year.
5. The subsequent instalment of the advance payment may be paid provided that the Enterprise has settled at least 70% of all advance payments received so far and has demonstrated that the incurred expenditures are eligible for co-financing.
6. The Grantee is obliged to settle the total instalment of the given advance payment within 365 days from the date of transfer to the bank account of the Enterprise.
7. If it fails to settle the instalment of advance payment within 365 days from the date of transfer to the bank account of the Enterprise, interest shall be charged on the outstanding funds transferred within the said advance payment, at the rates applied to tax arrears, starting from the date of transfer of funds to the date of reimbursement of the unsettled instalment or to the date of submitting the financial report settling the given instalment. The Enterprise is obliged to return the unsettled part of the advance payment together with accrued interest on funding in form of advance payment transferred to the bank account without being summoned.
8. The co-financing amount specified in §1 item 1 shall be deducted by the amount subject to reimbursement due to deficiencies.

9. Expenditures exceeding the total amount of eligible costs specified in §1 item 1, including expenditures resulting from the increase in the total cost of Project realisation, shall be borne by the Grantee and deemed as ineligible costs.
10. The Grantee is obliged to ensure the financing of ineligible costs necessary for the realisation of the Project on its own.
11. The funds for the Project shall be transferred to the interest-bearing account of the Enterprise, account No.: .....
12. The Enterprise is obliged to reimburse the bank interest accrued on funding transferred in form of advance payment to the bank account of the Enterprise by the 31<sup>st</sup> of January of the subsequent year, after the advance payment has been made, by a separate bank transfer to the bank account specified by the Foundation.
13. Funds for the realisation of the Project shall be paid by the Foundation subject to the availability of funds transferred by the Intermediary Authority for the realisation of the HOMING/POWROTY Programme on the bank account of the Foundation.
14. The principles of receiving and payment of registered stipends for students and doctoral students shall be governed by separate agreements concluded on request of the Project Manager between the Foundation, the Project Manager and the student or doctoral student in question. The Enterprise hereby declares that the fact that students listed in the Project Budget receive registered research stipends shall not affect their previously acquired rights to stipends and shall not result in decreasing their remunerations. The Grantee hereby declares that stipend beneficiaries shall not receive remuneration from the Project funds during the period of the stipend.
15. The Project Manager is authorised to dispose of the granted funding. The Enterprise may spend the funds transferred by the Foundation for the Project part only upon approval of the Project Manager.
16. Employees of the competent finance department of the Enterprise may refuse to approve the decision of the Project Manager concerning the expenditure of funds under the Project part if such decision is non-compliant with the law or with the provisions of this Agreement.
17. The Enterprise is obliged to maintain separate accounting records pertaining to the realisation of the Project, pursuant to the transparency principle stipulated in the Act of September 29, 1994 on Accountancy (consolidated text: Journal of Laws 2013.330 of March 11, 2013, with further amendments), in a manner enabling identification of specific accounting operations connected with the Project. However, the above rule shall not apply to indirect costs settled on a lump sum basis.
18. If the Project Manager or the Enterprise incurs eligible costs in the amount exceeding that specified in §1 item 1 this shall not constitute a basis for increasing the granted amount of funding.
19. The Foundation may withhold the payment of an instalment in order to clarify any doubts and obtain information in the event if justified suspicions occur that the realisation of the Project is not compliant with the Agreement, in particular in the following events:
  - a. if discrepancies are found between the realisation of the Project and the Project description contained in the Application,

- b. if the Enterprise and Project Manager fail to provide the information and clarification specified in §7 item 13,
- c. if there is no progress in the Project realisation in relation to the dates specified in the Application.

#### § 4 Eligible costs

1. Accepting the Project for realisation and signing the Agreement does not mean that all costs incurred in connection with Project realisation shall be deemed as eligible. The eligibility of incurred expenditures shall also be evaluated during the realisation of the Project, when the Project Manager and the Enterprise submit reports.
2. The expenditures may be deemed as eligible, if all of the following conditions are met:
  - a. the expenditure was actually incurred during the period specified in §2 item 1 hereinabove, pursuant to the conditions defined in sub-section 6.1 of the *Guidelines on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014-2020*;
  - b. it is compliant with the binding European Union and national legislation;
  - c. it is compliant with the *Smart Growth Operational Programme 2014-2020* and the *Detailed Description of the Priority Axes of the Smart Growth Operational Programme 2014-2020*;
  - d. it has been incurred in compliance with the provisions of the Agreement;
  - e. it was included in the substantial scope of the project contained in the project proposal;
  - f. it is necessary for the realisation of the Project and it was incurred in connection with the realisation of the Project;
  - g. it has been incurred in a transparent, rational and effective way, in compliance with the principle of achieving the best effects from the given expenditures;
  - h. it has been appropriately documented;
  - i. it has been listed in the report;
  - j. it refers to delivered goods, provided services or performed works;
  - k. it has been incurred in compliance with the Public Procurement Law (if applicable), or in compliance with the fair competition principle;
  - l. it does not constitute non-eligible expenditure pursuant to European Union and national legislation;
  - m. It is compliant with the conditions for deeming it as eligible expenditure specified in the competition documentation.
  - n. it has been incurred in compliance with the provisions of *the Cost Eligibility Guide under Measure 4.4. of the SG OP for state aid beneficiaries*.

3. Eligible costs under the present Project include direct costs and indirect costs (O). Direct costs include the following categories: Remunerations (W), Subcontracting (E), Cross-financing (C), and Other direct costs (Op).
4. If the Unit purchases intangible assets under the Project, from the received funding, the Enterprise shall be obliged to maintain them as part of its assets for a period of 5 years from the date of completing the Project, to depreciate such assets pursuant to separate regulations and to use such assets exclusively for the purposes of the Project.
5. Expenditures incurred on the goods and services tax (VAT) may be deemed as eligible for funding if they are not subject to recovery or deduction for the Enterprise, which the Enterprise shall confirm by submitting a relevant statement constituting Appendix No. 4 hereto.
6. If the possibility to deduct or recover VAT from the goods and services purchased under the Project occurs after submitting the statement specified in item 5, whether during the realisation of the Project or after its completion (during the durability period of the Project), the Enterprise shall be obliged to submit an update of the said statement to the Foundation.
7. If the updated statement specified in items 5 and 6 hereinabove is submitted during the duration of the Project, the expenditures incurred to cover VAT, with the reservation of the provisions of §12 items 7 and 8, shall be deemed as ineligible, pursuant to the period specified in the statement.

#### **§5 Project Manager's Team**

1. If the Project Manager specifies team members in the Budget, he/she shall be obliged to appoint them in open competitions. The Project Manager shall submit the data of students or doctoral students who will carry out the research specified in the Application to the Foundation within 14 days from the date of completion of each recruitment procedure.
2. During the realisation of the Project the number of young scientists receiving registered stipends in the team has to be compliant with that specified in the Budget. Should a young scientist who is a team member lose the right to receive the stipend specified in the Agreement specified in §3 item 14, the Project Manager shall be obliged to notify the Foundation about such fact within 7 days.

#### **§ 6 Reporting**

1. The Project Manager shall submit to the Foundation merit-based and financial reports in hardcopy and electronic form, pursuant to the template available on the Foundation website.
2. The Project Manager is obliged to:
  - a.) notify the Foundation immediately, at least in the periodical reports, about any problems connected with the realisation of the Project, including the intention to terminate the Project;
  - b.) notify the Foundation in periodical reports about the unused funds and the reasons why they were not used;
  - c.) prepare reports on the realisation of the Project:

- (1) periodical financial report not later than within 25 days from the expiration date of the reporting period (half-year reporting periods are binding, from March 1 to August 31 and from September 1 to the last calendar day of February, provided that the first report shall cover the period from the commencement date of the realisation of the Project to the end of the current reporting period and the last reporting period shall expire on the date of Project completion);
  - (2) periodical merit-based report not later than within 25 days from the expiration date of the reporting period (one-year reporting periods are binding, from March 1 to the last calendar day of February, provided that the first report shall cover the period from the commencement date of the realisation of the Project to the end of the current reporting period and the last reporting period shall expire on the date of Project completion);
  - (3) final report not later than within 10 days from the date of approval of the last periodical report specified in item 2 points c (1) and (2) hereinabove by the Foundation.
    - d.) Use the IT system of the Foundation, among others, to submit reports, document scientific achievements, submit information about realised Projects or apply for changes in the project budget.
3. Together with the financial part of the periodical report, the Project Manager is obliged to submit a detailed settlement of the received funding spent during the reporting period (sets of documents confirming the expenditures incurred and listed in the given reporting period);
  4. The Foundation may demand to submit the original copies of all or selected documents confirming the incurred expenditures.
  5. If any deficiencies or errors are found in the reports submitted to the Foundation, including, in particular:
    - a.) calculation errors or misallocation of expenditures;
    - b.) lack of information required by the template report,
    - c.) lack of signatures of the Project Manager or the person authorised to represent the Enterprise,
    - d.) expenditures non-compliant with the Budget, with the reservation of the provisions of § 10 item 2,
    - e.) ineligible expenditures,
- the Project Manager shall be obliged to submit the corrected versions within 14 days from the date of receipt of the Foundation's comments. The Foundation may send its comments to the report by e-mail or fax.
6. The Enterprise is obliged to prepare the financial part of the reports specified in item 2 hereinabove and to submit them to the Project Manager within such a period that will enable the Project Manager to submit complete reports, although not later than within 20 days prior to the expiration date of the reporting period specified in item 2 point c (1) hereinabove and not later than within 7 days from the expiration date of the reporting period specified in item 2 point c (3) of this paragraph.



7. The Foundation may correct obvious clerical or calculation errors in the report without the approval of the Project Manager and the Enterprise. The Foundation shall notify the Project Manager about the extent of introduced corrections and additions.
8. The approval of the final report on the realisation of the Project by the Foundation shall constitute final settlement of the Project.

### **§ 7 Monitoring, inspection and audit**

1. The Project Manager and the Enterprise are obliged to undergo inspection and audit with respect to the realisation of the Project. The said inspection or audit shall be carried out by the Foundation and by authorised entities, in particular the Intermediary Authority or another entity authorised to carry out inspections pursuant to separate regulations and to disclose any Project-related documentation on request of such authorities.
2. The Project Manager and the Enterprise shall provide the inspecting bodies with full access to the areas and premises where the Project is realised and to documentation, including financial documents and electronic documents connected with the realisation of the Project.
3. The Project Manager and the Enterprise shall make ordered and correctly annotated documentation confirming the expenditures settled in the reports for verification available to the inspecting authorities, on site (in a single room).
4. Failure to disclose any of the required documents or refusal to provide information or access to the areas and premises where the Project is realised shall be deemed as obstructing the inspection.
5. It is required to ensure the presence of duly authorised, competent individuals who shall provide explanations related to the expenditure of funds and other issues related to the realisation of the Project during the inspection.
6. Inspections may be conducted at any time during the realisation of the Project and within 3 years following the completion of the realisation of SG OP.
7. The inspection may be carried out both in the registered seat of the Enterprise and on the premises where the Project is realised.
8. The Foundation shall notify the Project Manager and the Enterprise about the planned inspection 10 days in advance. Other institutions authorised to carry out inspections pursuant to separate regulations shall notify the Enterprise about the planned inspection within the periods stipulated in the said regulations.
9. The Foundation reserves the right to carry out ad hoc inspections if it receives information about any deficiencies in the realisation of the Project.
10. The Foundation shall prepare an inspection report on the conducted inspection. The Project Manager and the Enterprise are obliged to execute any issued recommendations within the period specified in the inspection report.
11. The Enterprise is obliged to store all data connected with the realisation of Projects, including but not limited to documentation concerning financial and technological management, procedures of entering into agreements with contractors, etc., in a manner ensuring adequate information

security, pursuant to Article 140 of Regulation 1303/2013, i.e. for a two year period from 31 December following the submission of the accounts, in which the given expenditure of the Project is included, but not less than for 10 years of the entry into force of this Agreement.

12. If it is necessary to extend the period specified in item 11 hereinabove, the Foundation shall notify the Enterprise about this fact before the end of this period.
13. The Project Manager and the Enterprise shall, during the realisation of the Project and for 3 years following the completion of SG OP, submit any information and explanations connected with Project realisation on written request of the Foundation, within the period specified in the request.
14. The Project Manager and the Enterprise shall submit to the Foundation, within 7 days from receipt, copies of inspection reports and recommendations or other equivalent documents prepared by competent authorities other than the Foundation if the inspection results concern the Project.
15. The Enterprise and the Project Manager are obliged to carry out audits in the cases specified in Article 34, item 1 point 2 of the Act of April 30, 2010 on the Principles of Financing Science (Journal of Laws of 2014, item 1620 with further amendments).

#### **§ 8 Rights and obligations related to information**

1. The Project Manager and the Enterprise shall notify the general public about the fact that the realisation of the Project was co-financed from funds obtained from the European Union and they shall conduct informational and promotional activities concerning State Aid granted from structural funds for the realised Project.
2. The Project Manager and the Enterprise shall notify the general public about the fact that the realisation of the Project was co-financed from funds of the SG OP both during the realisation and after the completion of the Project during the period of Project durability.
3. The Grantees are recommended, for the purposes of information and promotion of the Project, to comply with the principles contained in the "Instruction manual for applicants and grantees in the programmes under cohesion policy 2014-2020 with respect to information and promotion", published on the website [www.poir.gov.pl](http://www.poir.gov.pl) and the instruction manual for Grantees of the Foundation concerning the promotion of programmes co-financed by the European Union, published on the website [www.fnp.org.pl](http://www.fnp.org.pl).
4. The Enterprise is obliged to place a permanent information and memorial plaque on site of the realisation of the Project not smaller than 70 cm wide and 50 cm high and not later than within two months from the beginning of Project realisation. The said plaque must contain the designation specified in the "Instruction manual for applicants and grantees in the programmes under cohesion policy 2014-2020 with respect to information and promotion" together with the logotype of the Foundation and the name of the HOMING Programme. The Enterprise shall be obliged to place the said plaque regardless of the amount of funding received.
5. The Project Manager and the Enterprise are obliged to mark the documents related to Project realisation, promotional and informational materials and assets purchased or depreciated under the Project in a manner compliant with the "Instruction manual for applicants and grantees in the programmes under cohesion policy 2014-2020 with respect to information and promotion" and the

instruction manual for Foundation grantees on the promotion of programmes financed from EU funds published on the website [www.fnp.org.pl](http://www.fnp.org.pl) .

6. During conferences, seminars and other types of public appearances, the Project Manager and the Enterprise are obliged to inform about the fact that the Project was co-financed from funds obtained from the European Union under SG OP as well as about the role of the Foundation.
7. The Foundation reserves the rights to disclose the image of the Project Manager and information about his/her scientific activity for informational and promotional purposes.
8. Following the realisation of the Agreement, the Project Manager may be obliged to publicly present the Project results in a form, location and on the date specified by the Foundation.
9. The Foundation is authorised to inform the general public about the results obtained from the Project and about the evaluation thereof.
10. When fulfilling the duties specified in this paragraph, the Project Manager and the Enterprise are obliged to use only the official name and logotype of the Foundation available on its websites for these purposes.

### **§ 9 Personal Data Protection and Evaluation**

1. The Foundation hereby represents that it is the administrator of personal data provided herein and that such data shall be processed in compliance with the Act of August 29, 1997 on Personal Data Protection (uniform text: Journal of Laws of 2015, item 2135) for statutory purpose of the Foundation, including for the realisation of programmes and storing data contained therein. The Foundation reserves that submitting personal data is voluntary, but required to conclude the Agreement.
2. With respect to personal data disclosed to the Foundation, the Grantees have all the rights resulting from the provisions of Article 32 of the Act specified in item 1 hereinabove, in particular the right to access their data, modify them and raise objections.
3. For evaluation purposes, during the realisation of the Project and the durability period of the Project the Grantees are obliged to co-operate with the Foundation, the Intermediary Authority or with entities authorised by them, including, in particular, to:
  - a. provide information concerning the Project,
  - b. submit information about the economic results and other benefits generated as a result of Project realisation.
  - c. participate in surveys or interviews and to disclose information required for evaluation.

### **§ 10 Changes to the Agreement and the Project**

1. Substantial changes to the Project as specified in Article 71 of Regulation No. 1303/2013 of the European Parliament and the Council (EU) of December 17, 2013, are impermissible.
2. During the realisation of the project, starting from the second reporting period for financial reports, the Project Manager may – unless existing laws or the provisions of agreements or other

regulations binding for the Grantee state otherwise – introduce the following changes on the periodical report stage:

- a. transfer of funds between specific budget categories – provided that the percentage limits for expenditures in each cost category determined by the Foundation or by the Guidelines are maintained,
- b. change the payment plan for subsequent advance payments.

The changes described above do not require signing an annex to the Agreement, although they must be approved by the Foundation.

3. If, during the realisation of the Project, it turns out that it requires changes other than those described in item 2 hereinabove, then the Project Manager will be obliged to notify the Foundation in written form about the proposed changes along with substantiation. The introduction of any changes requires written approval of the Foundation.
4. It is impermissible to introduce such changes to the Agreement that would cause the Project to no longer meet project selection criteria, according to which it was evaluated.
5. It is impermissible to introduce such changes to the Agreement that would have resulted in not granting funding to the Project at the time when it had been evaluated in the project selection procedure.
6. Any changes, apart from those specified in item 2 hereinabove, shall be reported not later than 3 months prior to the completion of the Project.
7. If the Foundation discovers that the financial means were not used in the Project or if the Project Manager fails to notify the Foundation about the cause for such non-usage of funds, the Foundation shall be entitled to lower the amount set forth in § 1 item 1 or to introduce changes to the Budget.
8. The Foundation is entitled to lower the total amount of funding set forth in § 1 item 1 if it deems that such changes are necessary, in particular as a result of analysis of reports and conducted inspections or failure (or suspected failure) to achieve the set objectives of the Project at the given stage.
9. Changes to the Budget introduced pursuant to the provisions of items 2, 7 and 8 hereinabove shall not require signing an Annex to the Agreement.
10. It is permissible to extend the Project cost eligibility period - provided that the proposed project duration must be contained in the cost eligibility period under SG OP and that it must not exceed June 30, 2023 – in particular in the following cases:
  - a. if the Project Manager is a woman who gives birth during the duration of the Project or the Project Manager adopts a child during the duration of the Project, then the project realisation period may be extended by up to 12 months for each child born or adopted during that period; or
  - b. if the project duration specified in the application is shorter than the maximum acceptable duration specified in the Competition Documentation, then it may be extended to the said maximum project duration; or

- c. If the project duration specified in the agreement is the maximum acceptable project duration pursuant to Competition Documentation, then it is possible to extend the cost eligibility period by up to 6 months.
11. The Foundation shall consider whether it is justified to introduce the proposed changes to the application, taking into account the prerequisites that influenced the selection of the project for funding and the influence of the proposed change on project results and indicators. Extending the Project cost eligibility period specified in item 10 hereinabove requires filing an application along with substantiation within the period specified in item 6 hereinabove. The cost eligibility period applied for must not exceed the 30<sup>th</sup> of June 2023. Changes to the cost eligibility period shall not require signing an Annex to the Agreement.
  12. The Enterprise and the Project Manager are obliged to notify the Foundation immediately about any problems that might hinder or prevent the proper realisation of the Project.

### **§ 11 Termination of the Agreement**

1. The Agreement may be terminated at any time, upon mutual consent of the Parties, if circumstances occur that prevent further execution of the provisions contained herein.
2. Termination of the Agreement in the manner specified in items 1 and 3 of this paragraph shall not release the Project Manager and the Enterprise from the obligation to submit a final report within 25 days from the date of termination of the Agreement and to store the documentation connected with Project realisation pursuant to the provisions of §7 item 11 and to make it available to the Foundation on request.
3. The Foundation has the right to terminate the Agreement with immediate effect, in the following cases:
  - a. if the Project Manager postpones the commencement of Project realisation for a period exceeding 3 months from the agreed Project commencement date and he/she fails to inform the Foundation about the cause of such delay or if he/she has ceased to realise the Project or realises it in a manner non-compliant with the provisions of the Agreement,
  - b. if the Project Manager fails to recruit young scientists for the team in an open recruitment process pursuant to Competition Documentation or fails to fulfil the obligations specified in §5 item 1 and 2,
  - c. if the Project Manager fails to achieve the intended objective of the Project due to reasons n part of the Project Manager,
  - d. if the Project Manager or the Enterprise refuses to undergo or obstructs the inspection specified in §7,
  - e. if the Project Manager or the Enterprise fails to remove deficiencies found during inspection or to implement post-inspection recommendations within the period set by the Foundation,
  - f. if the Project Manager or the Enterprise fails to file, within the agreed period and on the agreed terms and conditions, the reports specified in §6,

- g. if the Project Manager or the Enterprise file reports specified in §6 that are non-compliant with the actual state,
  - h. if the Project Manager or the Enterprise fail to fulfil their obligations specified in §8 or §9 item 3,
  - i. if the Enterprise fails to fulfil their obligations specified in §1 item 4, § 3 item 10 or § 7 item 15,
  - j. if the Project Manager or the Enterprise have submitted false or incomplete documentation in order to receive funding,
  - k. if changes have been introduced to the substantial scope of the Project as set forth in Article 71 of the Regulation No. 1303/2013 of the European Parliament and the Council (EU) of December 17, 2013.
  - l. If the Project Manager has violated the principles set forth in the Code of Ethics for laureates and beneficiaries of the Foundation.
  - m. if the Project Manager or the Enterprise violate other provisions of the Agreement,
  - n. if further realisation of the Project is impossible or aimless,
  - o. if the Grantee or Project Manager have failed to submit information and clarifications concerning the realisation of the Project,
  - p. if the Enterprise has violated the principles specified in § 13 of the Agreement,
  - q. if an instance of Force Majeure occurs.
4. In the event of termination of the Agreement due to reasons specified in items 1 and 3 hereinabove, the Project Manager and the Enterprise shall not be entitled to compensation for damages.

## § 12 Reimbursement of Funding

1. If the Agreement is terminated in the manners specified in § 11 item 3, the Enterprise, on request of the Foundation, shall reimburse the total amount of funding received pursuant to the Agreement, within 14 days from the receipt of notification, together with interest at the rate applied to tax arrears, charged for the period from the date of transferring the funds to the Enterprise to the date of reimbursement to the bank account specified by the Foundation. The equivalent of the funding transferred pursuant to agreements specified in §3 item 14 shall be transferred by the Enterprise to the Foundation on the conditions specified in the previous sentence, provided that interest shall be charged from the date of payment of the stipend to individual young scientists.
2. If the Agreement is terminated in the manners specified in § 11 item 1, the Enterprise, on request of the Foundation, shall reimburse the total amount of funding received pursuant to the Agreement, within 14 days from the receipt of notification, together with interest at the rate applied to tax arrears, charged for the period from the date of transferring the funds to the Enterprise to the date of reimbursement to the bank account specified by the Foundation, pursuant to the principle specified in item 1, sentence 2 of this paragraph. In particularly justified cases, on

a written request of the Project Manager and the Enterprise, the Foundation may waive the demand to reimburse settled funds and/or waive the demand to pay interest, considering, in particular, the manner of executing the provisions of the Agreement by the Project Manager and the Enterprise.

3. The Enterprise is obliged to reimburse the funds if inspection authorities find any violations of the terms and conditions of Project realisation, of national or EU legislation, in particular in the following cases:
  - a. if it is found that the funding granted was used in a manner non-compliant with the subject of the Agreement,
  - b. if undue funding was received,
  - c. if the received amount of funding was excessive,
  - d. if provisions concerning the durability of the Project have been violated,
  - e. if the funding has been used in a manner non-compliant with the procedures specified in Article 184 of the Act on Public Finance.
4. In the case specified in item 3 hereinabove, the Enterprise shall reimburse the amount specified in the decision together with interest at the rate applied to tax arrears, charged for the period from the date of transferring the funds to the Enterprise to the date of reimbursement to the bank account specified by the Foundation, on the terms and conditions specified by the Foundation.
5. Grantees being enterprises other than SME are obliged to disclose all net revenues, pursuant to Article 61, item 1 of Regulation 1303/2013 generated in connection with Project realisation, on the terms and conditions set forth in Article 61 of the said Regulation and in the relevant Guidelines of the competent Minister for regional development concerning issues related to the preparation of investment projects, including revenue-generating projects and hybrid projects for 2014-2020. As it is impossible to objectively determine the revenues in advance on the basis of one of the methods specified in Article 61 item 3 or item 5 of Regulation 1303/2013, the Grantee (being enterprises other than an SME) is obliged to return, proportionally, the revenue generated during a 3 year period following the completion of the Project or by the end of the period for submitting documents concerning the completion of the Project, specified in the regulations on European Regional Development Fund, whichever date is first, pursuant to the provisions specified in the document entitled: The Procedure of calculating and monitoring revenue in projects of large enterprises, realised under Priority Axes 1 and 4 of the Smart Growth Operational Programme.
6. Funds transferred by the Foundation but not used in the Project shall be reimbursed to the bank account specified by the Foundation within 25 days from the Project completion date.
7. Funds used in a manner non-compliant with the cost eligibility conditions shall be reimbursed to the bank account specified by the Foundation within 14 days from the date of receipt of the call to return the funds by the Enterprise.
8. Expenditures incurred to cover goods and services tax (VAT) that are deemed as eligible for funding, if the statement specified in §4 items 5 and 6 hereinabove has been filed after the expiry of the period specified in §2 item 1 – within 5 years – are subject to reimbursement together with interest charged at the rate as for tax arrears, in the manner stipulated in item 7 of this paragraph.

The said interest shall be charged from the date of transferring the funds from which the VAT was covered to the Enterprise to the date of reimbursement to the bank account specified by the Foundation. The period specified in item 7 shall commence on the date of submitting the relevant updated statement by the Enterprise.

9. The Foundation may authorise third parties to act on its behalf for debt enforcement purposes.
10. The Grantee shall not bear responsibility for non-performance or improper performance resulting from cases of force majeure. The Grantee shall be obliged to notify the Foundation immediately about the occurrence of force majeure and to substantiate the existence of force majeure by stating its influence on the course of Project realisation.
11. In the event of failure to reimburse the full amount of funds together with interest calculated as for tax arrears, such payment shall be allocated proportionally to the principal outstanding amount, understood as the amount of Funding to be reimbursed (without interest) and the amount of interest calculated as for tax arrears, basing on the proportion of the principal amount to the interest amount as of the date of payment.
12. In case of failure to reimburse the amounts specified in this paragraph of the Agreement, the provisions of Article 207 of the Act on Public Finance shall apply, including, the exclusion [of the Project] from the possibility to receive funds designated for the realisation of programmes financed from European Regional Development Fund pursuant to the principles set forth in Article 207, item 4 of the Act on Public Finance.
13. The Grantee is obliged to cover the documented costs of debt enforcement actions initiated against it, in particular costs of legal assistance provided by professional attorneys, if any payments have been made to the Grantee.

### **§ 13 State aid**

1. The Foundation hereby represents that it has been authorised by the Intermediary Authority, i.e. The National Centre for Research and Development to sign grant agreements that foresee granting state aid to enterprises on behalf of the Intermediary Authority. The entity granting state aid remains the Intermediary Authority, represented by the Foundation.
2. State aid for enterprises as set forth herein is granted pursuant to the terms and conditions of the Ordinance of the Minister of Science and Higher Education of February 25, 2015, on the terms and conditions and manner of granting state aid and de minimis aid through the National Centre for Research and Development (Journal of Laws of 2015, item 299) (hereinafter referred to as the: "Ordinance of the Minister of Science and Higher Education") constituting the aid programme of the reference number SA. 41471 (2015/X) and the provisions of Regulation No. 651/2014 of the Commission (EU) of June 17, 2014, declaring certain categories of aid compatible with the internal market in the application of Articles 107 and 108 of the Treaty (Official Journal of the EU L 187 of 26.6.2014, page 1) (hereinafter referred to as the: "Regulation 651/2014"). Granting state aid does not require notification in the view of Article 108 item 3 of the Treaty on the Functioning of the European Union.
3. The Grantee hereby represents that all information submitted by them in order to determine the compliance of the granted state aid with the national and European Union legislation on state aid,



including the Ordinance of the Minister of Science and Higher Education and Regulation 651/2014, in particular with regulations pertaining to state aid intensity, is truthful and valid. In the event of any changes with respect to the above, the Grantee shall submit the relevant notification to the Foundation immediately, but not later than within 7 days from the occurrence or disclosure of such change. The intensity of financing such Project is specified in the Cost Eligibility Guide.

4. The Grantee hereby represents that the funding from state aid will not cause a significant loss of jobs<sup>2</sup> at existing locations of the Grantee in the territory of the European Union.
5. If the Grantee is an enterprise conducting economic activity that is not eligible for granting state aid and other economic activity, then it is obliged to maintain separate accounts for the given activity, among others to allocate revenues and costs basing on consistently applied, justified methods. The Grantee is also obliged to specify in the documentation set forth in Article 10, item 1 of the Accountancy Act of September 29, 1994 (Journal of Laws of 2013, item 330 with further amendments) the manner of maintaining separate ledger accounts and the method of allocating costs and revenues.

#### § 14 Final provisions

1. This Agreement shall enter into force on the date of signing by the last of the Parties; however, if both Parties do not sign it on the same day then the last signing Party shall be the Foundation.
2. In cases not regulated in this Agreement, the following shall apply: provisions of the Competition Documentation, the relevant provisions of the Polish Civil Code and other commonly binding provisions of Polish law and, if applicable, European Union law.
3. In the event of any doubts concerning the meaning of the terms used herein, definitions contained in the "Definitions of Terms" section of the Competition Documentation shall apply.
4. Any potential disputes connected with the execution of this Agreement shall be settled by the Parties in an amicable manner or, if Parties fail to reach consensus, by the competent common court of local jurisdiction for the seat of the Foundation.
5. Any modifications to this Agreement require written form, otherwise they shall be considered null and void.
6. All correspondence connected with the execution of this Agreement requires written form and shall be sent by the Foundation to the following address:  
  
Address for notifications: .....  
Fax number: .....  
E-mail address: .....
7. The Project Manager and the Enterprise shall notify the Foundation immediately about any changes in the bank account number and to the address and contact data specified herein and about any other changes that might affect the realisation and servicing of the Project. Written statements

<sup>2</sup> Significant loss of jobs means the loss of at least 100 jobs.

of the Project Manager and the Enterprise on changes in personal data, contact data and bank account number do not constitute modifications of the Agreement.

8. Any potential negative consequences resulting from failure to provide the notification specified in sentence 1 of item 7 hereinabove shall be borne by the Party who failed to fulfil this obligation.
9. In the event if:
  - a. such changes are introduced to the agreement concluded between the Intermediary Authority and the Foundation that result in the contradiction or non-compliance of the provisions of this Agreement with the said agreement or in the necessity to modify the provisions of the Agreement;
  - b. changes are introduced to documents referred to herein to such extent that results in the contradiction or non-compliance with the provisions of the Agreement, with the exclusion of provisions on acceptable changes under § 10 of the Agreement;
  - c. any part of the Agreement is deemed by common court or another competent authority as invalid or ineffective from the legal point of view,

The remaining provisions of the Agreement shall remain fully binding and valid and the Parties hereby agree to modify or supplement the provisions of the Agreement in such a way that will enable to adapt its content to the said changes, judgments, verdicts or decisions.

10. The Parties hereby agree that, if any provision of the Agreement shall become invalid, ineffective or unenforceable in whole or in part, due to any reasons, it shall not affect the validity of the remaining provisions of the Agreement. In such event, the Parties undertake to take any legally permitted steps in order to agree on their rights, duties and mutual interests in such a way that will enable them to realise the objectives of this Agreement in a different, legal and viable way.

11. This Contract has been made up in three identical copies: one for each Party.

12. The following appendices constitute an integral part of this Agreement:

- a. Appendix No. 1.: budget,
- b. Appendix No. 2 – Schedule of the realisation of the Project;
- c. Appendix No. 3 – Instalment payment schedule;
- d. Appendix No. 4 - VAT eligibility statement of the Enterprise (obligatory only if the Grantee applies for partial reimbursement of VAT incurred under the project),
- e. Appendix No. 5 - Statement confirming that the unit does not receive funding from national or European state aid sources with respect to the eligible costs covered by the Grant Assignment Agreement,
- f. Appendix No. 6 - Certificate on the absence of arrears in payments of budget fees, social security and health insurance contributions,
- g. Appendix No. 7 – Statement of the Enterprise in which the Project will be realised concerning the application for all consents of ethics committees and other permissions required by law necessary to conduct research to which they refer, stating that it will start to conduct such research only after obtaining all relevant consents and permissions. (if applicable)

- h. Appendix No. 8 - Power of attorney (this appendix is required if the agreement is signed by individual(s) who are not authorised to represent the Enterprise pursuant to the Statutes),
- i. Appendix No. 9: Statement on the status of the Enterprise,
- j. Appendix No. 10: Form containing information presented when applying for aid other than farming or fishing aid, *de minimis* aid or *de minimis* aid in farming and fishing.

The Foundation

Project Manager

Enterprise

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