

**MODEL<sup>1</sup> GRANT AGREEMENT**  
**In the FIRST TEAM PROGRAMME under Measure 4.4 of Smart Growth Operational**  
**Programme for the Consortium**

Agreement No. ....

**Date of the Agreement:** .....

Grant Agreement for the Project titled ‘.....’ in the First TEAM Programme, being a Grant Project of the Foundation for Polish Science (called HOMING/POWROTY) funded by the European Regional Development Fund within the framework of Smart Growth Operational Programme 2014-2020 (SG OP), Axis IV: Increasing the research potential, Measure 4.4: Increasing the human potential in R&D sector;

(hereinafter referred to as the ‘**Agreement**’);

by and between:

**Foundation for Polish Science (FNP)** with its registered office in Warsaw, ul. Ignacego Krasickiego 20/22, 02-611 Warszawa, entered in the register of associations, other social and professional organisations, foundations and independent public healthcare centres of the National Court Register, kept by the District Court for the capital city of Warsaw, 13th Commercial 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 .....,

holding identity document no. .... and [Polish resident identification number] PESEL

.....,

hereinafter referred to as the ‘**Project Manager**’;

and

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

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

holding identity document no. .... and [Polish resident identification number] PESEL

.....,

hereinafter referred to as the ‘**Consortium Member’s Representative**’,

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<sup>1</sup> According to the Competition Documentation (chapter I - introduction), the model grant agreement may be subject to minor changes.

and

[ ] (research unit/enterprise),

with its registered seat in [ ], ul. [ ], registered in [ ] under no. [ ], holding [tax identification number] NIP [ ],

represented by:

on the basis of authorisation No./dated

[ ] - [ ]

hereinafter referred to as the '*Consortium Leader*',

and

[ ] (enterprise/research unit),

with its registered seat in [ ], ul. [ ], registered in [ ] under No. [ ], holding [tax identification number] NIP [ ],

represented by:

on the basis of authorisation No./dated

[ ] - [ ]

hereinafter referred to as the '**Consortium Member**'.

The Consortium Leader and the Consortium Member are hereinafter jointly referred to as the '**Grantees**' and individually as a '**Grantee**'; the Foundation, the Project Manager, the Consortium Member's Representative, the Consortium Leader and the Consortium Member are hereinafter jointly referred to as the '**Parties**' and individually as a '**Party**'.

## **Article 1 General Terms and Conditions of the Agreement and Representations of the Parties**

1. The cost of implementation of the Project under the name of ' ...', hereinafter referred to as the 'Project', defined as the amount sought in the Application for Funding of Implementation of the Project (hereinafter referred to as the 'Application') filed at the Foundation within the framework of competition No. .... in the First TEAM Programme amounts to PLN ..... (in words: ..... Polish zlotys).

The overall amount of eligible costs amounts to PLN ..... (in words: ..... Polish zlotys), provided that for the Party being a state aid beneficiary a maximum amount of expenditures eligible for financing of the industrial research / development work amounts to PLN ..... (in words: ..... Polish zlotys).

Subject to the terms and conditions specified herein, the Foundation grants to the Consortium Leader and through it to the Consortium Member funding in the total amount not exceeding PLN ..... (in words: ..... Polish zlotys) for the Project implementation, of which:

- a) the maximum amount of funding for the Consortium Leader / Consortium Member<sup>2</sup> amounts to ..... (in words: .....), which represents 100% of eligible expenditures incurred by the Consortium Leader / Consortium Member<sup>2</sup>;
  - b) the maximum amount of funding for the Consortium Leader / Consortium Member<sup>2</sup> amounts to PLN ..... (in words: ..... Polish zlotys). The intensity of the state aid amounts to ...% of eligible expenditures incurred by the Consortium Leader / Consortium Member<sup>2</sup>, excluding stipends for students and PhD students that are not subject to the rules of state aid and are funded in 100%, regardless of state aid intensity in the Project.
2. The Parties assume that, whenever a doubt arises as to the binding version of the Application, the version in the Foundation's possession shall prevail.
  3. The Project Manager, the Consortium Member's Representative and the Grantees undertake to implement the Project consistently with the Agreement, the Application, Competition Documentation No. ... (hereinafter referred to as the 'Competition Documentation'), regulations of the national law, the EU law and the principles of the EU policies, including the regulations governing competitiveness, public procurement, acceptability of state aid, environmental protection and gender equality.
  4. The Grantees undertake to respect the Project Manager's and Consortium Member's Representative's research autonomy consistently with the approved research project being the object of the Application and to assure the adequate conditions for the conduct of research work in line with the scope presented in the Application and grant access to the research apparatus.
  5. The Foundation shall not claim any rights for itself in the deliverables of the research derived from the work performed under the Project on account of provision of the financing for implementation of the Project.
  6. The Foundation shall not be liable to third parties for any losses or damage in connection with implementation of the Project.
  7. The Project Manager, the Consortium Member's Representative and the Grantees represent that, at the time of the signing of the Agreement, they satisfy all the criteria whose satisfaction has been defined in the Competition Documentation as necessary for the Project Manager, the Consortium Member's Representative and the Grantees to secure the funding. The Project Manager, the Consortium Member's Representative and the Grantees undertake to satisfy the criteria defined above throughout the Project implementation period.
  8. During the Project implementation and the Project durability period, the Parties receiving the funding which does not constitute state aid undertake:
    - a) not to implement directly the results obtained through implementation of the Project; and
    - b) to disseminate the results of the conducted research and development work to all entities interested in the economic application of the said results, on the arms' length principle or, if their commercial use is not a viable option, free of charge while maintaining equal access opportunities to the said research results, taking into account copyright laws and industrial property laws.
  9. The Project Manager undertakes to commit himself or herself to implementation of the Project to the extent corresponding to a minimum of ... of a full-time position and further undertakes not to

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<sup>2</sup> Delete as applicable.

terminate the employment contract binding him or her with the Consortium Leader on his or her own initiative as well as to maintain his or her time commitment adequate for implementation of the Project and to provide PhD students participating in the Project with adequate scientific supervision and to guarantee coaching from the second scientific supervisor throughout the Project implementation period. At the same time, the Consortium Leader represents that the Project Manager is a person of good character as an employee and undertakes to employ the Project Manager on the minimum working time basis of ...% throughout the Project implementation period.

10. The Consortium Member's Representative undertakes to commit himself or herself to implementation of the Project to the extent corresponding to a minimum of ... of a full-time position and further undertakes not to terminate the employment contract binding him or her with the Consortium Member on his or her own initiative as well as to maintain his or her time commitment adequate for implementation of the Project and to provide PhD students participating in the Project with adequate scientific supervision and to guarantee coaching from the second scientific supervisor throughout the Project implementation period. At the same time, the Consortium Member represents that the Consortium Member's Representative is a person of good character as an employee and undertakes to employ the Consortium Member's Representative on the minimum working time basis of ...% throughout the Project implementation period.
11. The Project Manager, the Consortium Member's Representative and the Grantees undertake to incur all eligible expenditures while respecting the rules of fair competition and equal treatment of tenderers in tendering procedures under the Project in compliance with the Public Procurement Law act, if applicable, or the principle of competitiveness or market reconnaissance, as defined in the Guidelines on Eligibility of Expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014-2020 and in the Cost Eligibility Guide for Measure 4.4 for the Smart Growth Operational Programme relevant to the Grantee concerned (Guide for beneficiaries of state aid or Guide for units other than beneficiaries of state aid, as the case may be). When incurring eligible expenditures, the Project Manager, the Consortium Member's Representative and the Grantees undertake to observe the principles of effectiveness, openness and transparency and shall be obliged to use their best endeavours to avoid any conflict of interest understood as lack of impartiality and objectivity. Should the version of the above-mentioned Guidelines announced during the Project implementation introduce solutions that are more beneficial to the Grantee, the more beneficial solutions shall apply from the day the Project implementation started.
12. The Project Manager, the Consortium Member's Representative and the Grantee undertake to assure durability of the Project effects consistently with Article 71 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 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 during the period from the date of completion of implementation of the Project designated in Article 2.1 of the Agreement until the lapse of 5 years from the date of settlement by SG OP Intermediary Authority of the

Foundation's application for final payment<sup>3</sup> (hereinafter referred to as the 'Project durability period'); the Foundation shall promptly notify the Grantee of the settlement of the Foundation's application for the final payment by SG OP Intermediary Authority.

13. The Grantees undertake to enable the Project Manager, the Consortium Member's Representative and young doctors to commit adequate time to the conduct of scientific research or development work during the Project implementation period.
14. The Project Manager, the Consortium Member's Representative and the Grantees represent that the assignments covered by the Project are not and shall not be funded from the financing originating from the other public sources.
15. The Project Manager, the Consortium Member's Representative and the Grantees represent that the eligible expenditures associated with implementation of the Project approved and settled by the Foundation are not and shall not be funded from the financing originating from other national or EU public sources.
16. The Project Manager, the Consortium Member's Representative and the Grantees shall be obliged to attain the product's indicators and performance specified in the Application.
17. The Project Manager, the Consortium Member's Representative and the Grantees shall promptly notify the Foundation of any threats, issues and irregularities in implementation of the Project, including the Grantee's intention to discontinue its implementation.
18. The Project Manager, the Consortium Member's Representative and the Grantees undertake to present, in the course of implementation and during the Project durability period, at the Foundation's written request, any and all information and clarifications associated with implementation of the Project by the dates set in such request.
19. The Project Manager, the Consortium Member's Representative and the Grantees may not, during the Project implementation period referred to in Article 2.1 of the Agreement, until the lapse of the Project durability period, transfer to another entity the rights, obligations or amounts receivable arising under the Agreement, without the Foundation's written consent.
20. The Project Manager, the Consortium Member's Representative and the Grantees undertake to conduct the Project in the manner assuring its positive contribution to the principle of sustainable growth.
21. The Grantees undertake to apply for all approvals from the ethics committees or other committees and for other permits required by law that are necessary for the conduct of the relevant research prior to the start of the conduct of such research. At the Foundation's request, the Grantees shall be obliged to submit the copies of the aforementioned approvals or permits. The Project Manager, the Consortium Member's Representative and the Grantees undertake to ensure that no research whose conduct requires an approval or permit under the applicable laws, is conducted prior to all required approvals and permits being secured.
22. The Project Manager, the Consortium Member's Representative and the Grantees represent that the financing settled in the financial reports in the indirect costs category (O) shall be incurred

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<sup>3</sup> The day of settlement by SG OP Intermediary Authority of the Foundation's application for final payment shall be understood to mean the date of its transfer to the Foundation's bank account when the financing is transferred within the framework of settlement of the Foundation's application for final payment and, as the day of approval of the application for final payment, in the remaining cases.

exclusively in connection with implementation of the Project on the terms and conditions referred to in Article 3.19.

23. The Grantees represent that they are not in arrears with the payment of any budgetary dues and with the settlement of social security and health insurance contributions.
24. The Project Manager, the Consortium Member's Representative and the Grantees shall be obliged to submit, at the Foundation's request and by the dates set by the Foundation, the financial and statistical information relating to the measures taken under the Project being implemented by the Project Manager, the Consortium Member's Representative and the Grantees.
25. The Party which is a Research Unit undertakes not to grant state aid under the pending Project<sup>4</sup>.
26. Activity carried out by the Party which is a Research Unit under the ongoing Project is not a business activity.
27. The Grantees, the Project Manager and the Consortium Member's Representative undertake to ensure in their actions that the rules of the Foundation for Polish Science's Code of Ethics for Laureates and Beneficiaries are observed.

## **Article 2 Project Implementation Period**

1. The Project Manager, the Consortium Member's Representative and the Grantees undertake to implement the Project from ..... until ..... The Project implementation period shall be identical to the period in which the expenditures incurred may be deemed eligible.
2. Implementation of the Project shall include performance of the full material scope of the Project consistently with the Application and documentation of the expenditures incurred.
3. The Project Manager, the Consortium Member's Representative and the Grantees undertake to complete performance of the material and financial scope of the Project derived from the Application during the expenditure eligibility period defined in Clause 1 of this article, subject to the provisions of Article 11.9.
4. The expenditures incurred prior to the start and after the end of the expenditure eligibility period referred to in Clause 1 and in Clause 3 of this article shall not be deemed eligible.

## **Article 3 Financing of the Project**

1. Allocation of the financing for implementation of the Project shall be defined in the Project budget, hereinafter referred to as the Budget, constituting Appendix No. 1 hereto.
2. The financing for implementation of the Project shall be transferred consistently with the time schedule of tranche payments constituting Appendix No. 3 hereto. The first tranche shall be transferred within 14 days of the receipt of the correctly completed and signed Agreement from the Foundation, however not earlier than on the start day of the period specified in Article 2.1.
3. The second tranche shall be paid following:
  - a) submission by the Project Manager of the correctly completed and full financial report for the

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<sup>4</sup> According to the provisions of the Framework for State aid for research and development and innovation (OJ C 198, 27.6.2014, p. 1), in part 2.2. - Indirect State aid to undertakings through public funded research and knowledge dissemination organisations and research infrastructures.

- second reporting period and progress report for the first reporting period;
- b) approval of the reports specified in Clause 3 letter a) of this article;
  - c) settlement in the financial report of at least 50% of all funds provided to date (and if less than 50% of all funds provided to date are settled in the financial report – following the Project Manager submitting, along with that report, a justified request for the tranche to be paid and the Foundation granting the request).
4. The receipt of the third and subsequent tranches shall be conditional upon (subject to Clause 5 of this article):
- a) subsequent submissions by the Project Manager of correctly completed and full financial and progress reports (if the date of payment of a given tranche falls after the date of submission of the progress report),
  - b) approval of the reports specified in Clause 4 letter a) of this article,
  - c) settlement in the financial report of at least 50% of all funds provided to date (and if less than 50% of all funds provided to date are settled in the financial report – upon the Project Manager submitting, along with this report, a justified request for the tranche to be paid and the Foundation granting the request).
5. The last tranche shall be paid following:
- a) settlement in the financial report of at least 70% of all funds provided to date,
  - b) the Project Manager submitting an updated tranche payment schedule and the Foundation approving the schedule.
  - d)
6. The tranche payment time schedule referred to in Clause 2 of this article does not take account of the financing earmarked for personal scholarships for students and PhD students that are disbursed according to the rules defined in the agreements referred to in Article 6.5.
7. Settlement of the funds provided consists in showing in the financial report of the eligible expenditures settling the tranches that have been provided.
8. The amount of the funding not expensed at the end of the budget year shall remain at the Project Manager and Grantees' disposal during the following budget year.
9. The amount of the funding specified in Article 1.1 may be reduced, in particular:
- a) by the amount reimbursable on account of any irregularities;
  - b) in the case of a failure to attain the indicators, in proportion to the degree of their non-attainment; or
  - c) upon statement of non-utilisation of the Project financing by the Foundation or the Project Manager's failure to report the reasons for its non-utilisation. In such case, the Foundation shall have the right to both reduce the amount of the funding and to make changes to the Budget;
  - d) as a result of an analysis of the reports and of the conducted inspections or failure to attain (including suspected non-attainment) of the Project assumed results at any given stage.



10. Incurring by the Project Manager, the Consortium Member's Representative or the Grantees of the eligible expenditures in the amount higher than specified in Article 1.1 shall not serve as the basis for increasing the amount of the funding granted.
11. The expenditures beyond the total amount specified in Article 1.1, including the expenditures derived from an increase of the total cost of implementation of the Project, shall be incurred by the Grantees and shall constitute ineligible expenditures.
12. The Grantees shall be obliged to assure by themselves the financing of the costs constituting their required own contribution and ineligible expenditures necessary for implementation of the Project.
13. The financing intended for the Project-related part shall be transferred to the Consortium Leader's dedicated interest-bearing bank account No. .... In commercially justified cases, the bank account may be non-interest bearing.
14. In the case of execution of a payment by the Foundation to an account with a wrong number as a result of a default upon the obligation referred to in Article 16.6, the costs associated with re-execution of the payment and all consequences of the attempts to recover the amount representing unjust enrichment by a third party, including the consequences of the loss of that amount, shall burden the Consortium Leader. The Consortium Leader shall be liable jointly and severally with an unjustly enriched third party and shall be obliged to return, at the Foundation's request, the full amount transferred to the bank account with the wrong number. At the time of return of the full amount, the Foundation shall declare that it transfers to the Consortium Leader the title in any and all recourse financial claims it may hold against the unjustly enriched third party.
15. The Project Manager shall be liable for distributing funds among the Grantees, in accordance with this Agreement, the Application and the Competition Documentation. The Consortium Leader shall be liable for transferring funds to the Consortium Member. The Foundation shall not be liable for incorrect distribution or failure to transfer all or part of the funds by the Consortium Leader and any all claims of any Grantee against the Foundation in this respect are hereby excluded.
16. The Consortium Leader shall be obliged to return the bank interest accrued in the Consortium Leader and Consortium Member's bank account during a given calendar year on the funding amount transferred in the form of an advance payment by January the 20th of the year following payment of the advance, by way of a separate funds transfer to the bank account designated by the Foundation.
17. The Foundation shall disburse the financing earmarked for implementation of the Project, subject to availability of the financing provided by SG OP Intermediary Authority for implementation of the HOMING/POWROTY grant project, from the Foundation's dedicated bank account.
18. The payments from the bank account referred to in Clause 13 of this article may be made exclusively as the payments in consideration of the expenditures eligible for financing under the Project, in the amount corresponding to the funding of those expenditures.
19. The Project Manager shall be the administrator of the grant. Expenditure by the Grantees of the financing provided by the Foundation for the Project-related part, including the indirect costs incurred in connection with implementation of the Project and settled using the lump sum method, shall be approved by the Project Manager.
20. An employee of the Consortium Leader's unit competent for financial affairs may refuse to approve the Project Manager's instruction concerning the expenditure of the financing in the Project-related part in the case of its non-compliance with the applicable laws or provisions of the Agreement.



21. An employee of the Consortium Member's unit competent for financial affairs may refuse to approve the Consortium Member's Representative's instruction concerning the expenditure of the financing in the Project-related part in the case of its non-compliance with the applicable laws or provisions of the Agreement.
22. The Grantees undertake to keep separate accounting records concerning implementation of the Project consistently with the transparency principle derived from the Accounting Act of 29 September 1994 in such manner as to enable identification of the individual accounting operations associated with the Project.
23. The Foundation may withhold payment of a tranche in order to clarify any doubts or to obtain any information in the case of reasonable suspicions that the Project is being implemented in breach of the Agreement, in particular:
  - a) upon statement of any discrepancies in implementation of the Project in relation to the Project description contained in the Application;
  - b) the Project Manager's, the Consortium Member's Representative's or the Grantees' failure to provide the information and clarifications referred to in Article 1.18; or
  - c) upon statement of absence of progress in implementation of the Project in relation to the time schedule defined in the Application.
24. The Grantees shall not be entitled to any indemnity in the case of a delay in provision of the financing by the Foundation, in particular as a result of:
  - 1) non-performance or improper performance of the Agreement by the Project Manager, the Consortium Member's Representative and the Grantees;
  - 2) delay in disbursement of the funding due to the factors beyond the Foundation's control;
  - 3) absence or shortage of the funds in the Foundation's account from which payments are made;
  - 4) withholding of execution of a payment on the terms and conditions referred to in Clause 23 of this article and in Article 8.9;
  - 5) refusal, by the authorised institutions, including, but not limited to, the European Commission, to grant state aid to both the Grantees and the Foundation.

#### **Article 4 Eligible Expenditures**

1. Acceptance of the Project for implementation and the signing of the Agreement shall not mean that all costs incurred during its implementation shall be deemed eligible. Eligibility of the incurred expenditures shall also be evaluated in the course of implementation of the Project, based mainly on the reports submitted by the Project Manager.
2. An expenditure satisfying jointly the following conditions shall be an eligible expenditure:
  - a) it has been actually incurred during the period designated in Article 2.1 of the Agreement;
 

consistently with the provisions of the Cost Eligibility Guide for Measure 4.4 of Smart Growth Operational Programme relevant to the Grantee concerned (Guide for beneficiaries of state aid or Guide for units other than beneficiaries of state aid, as the case may be), in force on the day such costs were incurred. Should the version of the above-mentioned Guide announced during the Project implementation introduce solutions that are more beneficial to the Grantee, the more beneficial solutions shall apply from the day the Project implementation started;

- b) it is compatible with the applicable regulations of the EU law and of the national law;
  - c) it is compatible with the Smart Growth Operational Programme 2014-2020 and the Detailed Description of Priority Axes of the Smart Growth Operational Programme 2014-2020;
  - d) it has been incurred consistently with provisions of the Agreement;
  - e) it has been included in the material scope of the Project contained in the Application;
  - f) it is necessary for implementation of the Project and has been incurred in connection with implementation of the Project;
  - g) it has been made in a transparent, rational and effective manner while observing the rules for generating the best effects from the expenditures made;
  - h) it has been duly documented;
  - i) it has been shown in the report;
  - j) it refers to the goods delivered or services provided or work completed;
  - k) it has been incurred in compliance with the regulations of the Public Procurement Law act (if applicable) or, consistently with the principle of competitiveness or of making and documenting a market reconnaissance, as defined in the Guidelines on Eligibility of Expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014-2020;
  - l) ;
  - m) it does not constitute an ineligible expenditure under the EU and national regulations; and
  - n) it is compatible with the conditions for its recognition as an eligible expenditure as defined in the Competition Documentation.
3. The eligible expenditures under the Project are made of direct costs and indirect costs (O). The following categories are present among direct costs: Remuneration (W), Subcontracting (E), Cross-financing (C) and Other direct costs (Op).
  4. The expenditure incurred for tax on goods and services (Value Added Tax, hereinafter 'VAT') may be deemed eligible if VAT is not subject to reimbursement to or deduction for the benefit of the Grantees. The Grantees shall confirm each time the manner of settlement of VAT under the Project by making a declaration concerning the eligibility of VAT, constituting Appendix No. 4 and 5 to the Agreement.
  5. Where the Grantees is entitled to deduct VAT from the value of goods and services purchased under the Project or have it refunded following submission of the declaration, referred to in Section 4, whether during the Project implementation period or the Project durability period as referred to in Section 1.12, the Consortium Leader shall file an updated declaration of the Party concerned.
  6. The Grantees shall be obliged to return VAT which has previously been erroneously deemed as not to be subject to deduction or refund, and for which the Grantees has received funding. The liability of the Party to which the aforesaid case relates to shall cease to be due and payable from the day on which the Grantees becomes eligible to claim deduction or refund of VAT.. If this is the case, the VAT shall be reimbursed in accordance with Section 13.6 together with interest in the amount determined as for tax arrears. The interest referred to in the preceding sentence shall accrue from the day of provision to the Consortium Leader of the financing from which the aforementioned

VAT was funded until the day of its reimbursement to the bank account designated by the Foundation. The time limit referred to in Section 13.6 shall run from the day on which by the Consortium Leader of the request for the return of the funds is served with the call to repay the funding.

7. The index of indirect costs settled with a lump sum rate shall amount to 17% of the eligible expenditure shown in the remaining cost categories, excluding the subcontracting and cross-financing costs.

## **§ 5 Research Teams**

1. The Project Manager and the Consortium Member's Representative are obliged to select team members named in the Budget in open competitions. Following the recruitment, the teams conducting R&D works under the Project should consist of at least 2 students or PhD students or young doctors who will carry out the research specified in the Application under the supervision of the Project Manager or the Consortium Member's Representative. The Project Manager shall provide the Foundation with the personal data of the above-mentioned young scientists within 14 days of the date of completion of each recruitment procedure.
2. In the course of implementation of the Project, the number of young scientists receiving personal scholarships must be consistent with the number specified in the Budget. When a young scientist being a team member loses his or her right to claim a scholarship specified in the agreement referred to in Article 6.5, the Project Manager shall be obliged to notify the Foundation thereof within 7 days.

## **Article 6 Remuneration and Stipends**

1. The Project Manager, the Consortium Member's Representative and other employees of the Project claiming remuneration in consideration of their work for the Project from the Project funding cannot simultaneously collect any stipend under another project funded by the Foundation, except for the stipends received under the START programme.
2. The Grantees undertakes to verify from time to time during the Project implementation whether the employee receiving remuneration from the Project funds does not claim a stipend in any other project financed by the Foundation, and whether the total workload of this employee does not exceed 276 hours a month. Moreover, the Grantees undertakes that, if the person receiving remuneration from the Project funds is simultaneously involved in any other project financed by the Foundation, the total workload of this person in the abovementioned projects shall not exceed the full working time, i.e. 1 full-time equivalent.
3. Should implementation of the Project entail working part-time for the Grantees implementing the Project, the remuneration received under the Project shall depend on the percentage of the full working time committed by the employee to execution of the assignments associated with implementation of the Project at the Grantees and may not be higher than the same percentage of the suggested amount of the remuneration specified in the Competition Documentation.
4. The Project Manager shall give the Foundation notice in the financial reports of the percentage of full working time committed to the Project by each employee claiming remuneration from the Project funds and of the total number of hours of their workload per month. Should the employee's

total workload exceed 276 hours monthly, the employee's remuneration from the Project funds shall constitute an ineligible expenditure for each month in which 276 hours have been exceeded.

5. The rules for claiming and disbursing personal scholarships for students and PhD students constitute the object of separate agreements signed at the request of the Manager between the Foundation, the Project Manager and the student or PhD student concerned. If a student or a PhD student performs tasks under the Project at the Consortium Member's, an agreement with the student or the PhD student shall be concluded at the joint request of the Project Manager and the Consortium Member's Representative. The Grantees undertake not to pay the students and PhD students any remuneration from the Project funds during the period when they claim stipends from the Project funds. The granting of a scholarship shall be conditional on ensuring that<sup>5</sup>:
  - a) the results of the collaboration which do not give rise to intellectual property rights are widely disseminated and any intellectual property rights resulting from the activities of research units or Scholarship holders are fully allocated to the entities participating in the Project; or
  - b) any intellectual property rights resulting from the Project as well as related access rights are allocated to the different research units participating in the Project in a manner which adequately reflects their work packages, contributions and respective interests. For the avoidance of doubt, the amount of the Stipend is classified as the contribution of a research unit; or
  - c) the research units participating in the Project receive compensation equivalent to the market price for the intellectual property rights which result from the activities conducted by those research units and Scholarship holders and are assigned to the participating undertakings, or to which participating undertakings are allocated access rights. The absolute amount of the value of any contribution, both financial and non-financial, of the participating undertakings to the costs of the research units' activities that resulted in the intellectual property rights concerned, may be deducted from that compensation.
6. The Grantee undertakes to observe the expenditure eligibility criteria associated with engagement of the persons performing assignments under the Project as defined in the Cost Eligibility Guide for Measure 4.4 for the Smart Growth Operational Programme for the units other than state aid beneficiaries.

### **Article 7 Reporting**

1. The Project Manager shall transmit progress and financial reports to the Foundation.
2. The Project Manager shall be obliged to:
  - a) notify the Foundation promptly, however not less frequently than in periodic reports, of any issues in implementing the Project, including the Project Manager's intention to discontinue its implementation.
  - b) notify the Foundation in periodic reports of unused financing and of the reasons for the failure to utilise it;
  - c) prepare reports on the status of implementation of the Project:

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<sup>5</sup> Communication from the Commission — Framework for State aid for research and development and innovation (2014/C 198/1), item 28 letters b to d.

- (1) a periodic financial report in hard copy and electronic versions, consistent with the template available on the Foundation's website, not later than within 25 days of the date of the lapse of the reporting period (semi-annual reporting periods from 1 March until 31 August and from 1 September until the last calendar day of February shall apply, with the first report covering the period from the start date of implementation of the Project until the end of the current reporting period, whereas the date of completion of implementation of the Project indicates the last reporting period);
  - (2) a periodic progress report in electronic versions, consistent with the template available on the Foundation's website, not later than within 25 days of the date of the lapse of the reporting period (annual reporting periods from 1 March until the last calendar day of February shall apply, with the first report covering the period from the start date of implementation of the Project until the end of the current reporting period, whereas the date of completion of implementation of the Project indicates the last reporting period); and
  - (3) final report in hard copy and electronic versions, consistent with the template available on the Foundation's website, not later than within 10 days of the date of approval by the Foundation of the last periodic report specified in Clause 2 letter c item (1) and (2) of this article.
- d) use the Foundation's IT system, specifically for submitting reports, applying for amendments to the Project budget, updating the research background and information relating to the persons employed under the Project and provide the Foundation with any and all information enabling monitoring of the status of the Project implementation, in particular as regards attainment of the Project indicators. The Project Manager undertakes to secure his or her account in the IT system made available by the Foundation so that no unauthorised persons have access thereto.
3. The Consortium Member's Representative is obliged to provide any information necessary to prepare the reports within a period allowing the Project Manager to timely perform his or her obligations under clause 2 of this article.
  4. Upon submission of the periodic financial report, the Project Manager shall be obliged to present a detailed settlement of the received financing expensed during the reporting period (list of the documents confirming the expenditures incurred and shown in a given reporting period).
  5. The Foundation may request presentation of the certified copies of all or selected documents attesting to the incurred expenditures or commission an assessment of the Project implementation and of the submitted financial or progress report to an external entity.
  6. Should the reports submitted to the Foundation be found to contain material deficiencies or errors, in particular:
    - a) computational errors or expenditure classification errors;
    - b) missing information required according to the template report;
    - c) missing signatures of the Project Manager and of the person authorised by the Consortium Leader;
    - d) expenditures made in breach of the Budget, subject to the provisions of Article 11.2; or
    - e) ineligible expenditures.

The Project Manager shall be obliged to submit the revised versions of the reports within 14 days of the date of receipt of the Foundation's comments. The Foundation may send its comments on the reports via electronic mail or fax. At the request of the Project Manager, the Foundation may extend the aforementioned deadline for submission of the revised report by another period of 14 days.

7. The Consortium Leader shall be obliged to draw up financial reports specified in Clause 2 of this article along with the settlement of the received financing referred to in Clause 4 of this article and to submit the same to the Project Manager by the dates allowing the Project Manager to file the complete reports, however not later than within 20 days of the lapse of the reporting period designated in Clause 2 letter c item (1) of this article and not later than within 7 days of the lapse of the reporting period designated in Clause 2 letter c item (3) of this article. The Consortium Member's Representative and the Consortium Member are obliged to provide any information necessary to prepare the reports within a period allowing the Consortium Leader to prepare the financial report.
8. The Consortium Leader shall be obliged to draw up the revised financial reports along with the detailed settlement of the received financing referred to in Clause 4 of this article by the dates allowing the Project Manager to file the revised financial reports.
9. The Foundation may correct obvious typographical errors or computational errors in the reports, with no need for them to be approved by the Project Manager and the Consortium Leader. The Foundation shall notify the Project Manager of the scope of the corrections and additions made.
10. The Project Manager and Grantees' failure to eliminate errors or deficiencies in the report by the dates specified in Clause 6 of this article may result in:
  - a) rejection of the financial report; or
  - b) recognition of the financial report exclusively in the amount of the costs approved by the Foundation.
11. The Foundation shall give the Project Manager notice of the approval of the report via electronic mail.
12. Approval by the Foundation of the Project final report shall be tantamount to the final settlement of the Project.

#### **Article 8 Document verification, Inspection and Audit, and Storage of Documents**

1. The Project Manager, the Consortium Member's Representative and the Grantees undertake to submit for verification the documents associated with the expenditures incurred under the Project (hereinafter referred to as the 'document verification'), inspection and audit with regard to the pending Project at the first request of the Foundation, the entities authorised by the Foundation or other authorised institutions, in particular by SG OP Intermediary Authority or another institution authorised to carry out an inspection or audit under the separate regulations.
2. The Project Manager, the Consortium Member's Representative and the Grantees undertake to make available, in a single room at their registered offices, any and all documentation associated with the Project and the pending Agreement, at the request of the Foundation or the entities or institutions referred to in Clause 1. The Project Manager, the Consortium Member's Representative and the Grantees undertake to make available the documentation that is arranged in an orderly manner and properly described. In the case of any inspection, the scope of such



inspection may cover every document associated with the expenditures incurred under the Project. If necessary, the Project Manager, the Consortium Member's Representative and the Grantees undertake also to make available documents unrelated directly to the implementation of the Project.

3. The Project Manager, the Consortium Member's Representative and the Grantees undertake to grant the Foundation or the entities or institutions referred to in Clause 1 access to the rooms and areas of implementation of the Project and to the ICT systems and documents in the electronic format associated with the Project, assure presence of the persons competent to provide clarifications on implementation of the Project and to answer all inquiries concerning implementation of the Project.
4. Failure to make available all documents required for document verification, inspection and audit or refusal to provide information or to grant access to the sites directly associated with implementation of the Project shall be treated as prevention of document verification, inspection or audit.
5. Document verification, inspection and audit may be conducted both at the Grantees' registered offices and at the site of implementation of the Project.
6. The Foundation shall notify the Project Manager and the Consortium Leader in writing of the reviewing entity authorised by the Foundation to verify documents not later than 14 days ahead of the planned date of document verification. The reviewing entity shall send a notification to the Project Manager and the Consortium Leader about the document verification.
7. The Foundation shall notify the Project Manager and the Consortium Leader in writing of the scope and date of the planned inspection not later than 7 days ahead of the planned date of such inspection. The Foundation reserves the right to hold an ad hoc inspection, in particular as a result of receipt of the information about the irregularities in implementation of the Project or occurrence of other material shortcomings on the part of the Project Manager, the Consortium Member's Representative and the Grantees. An ad hoc inspection shall not require prior notification of the Project Manager and the Consortium Leader.
8. Following the inspection held, the Foundation shall draw up a post-inspection memorandum and send it to the Project Manager and the Consortium Leader by traditional post. The Project Manager, the Consortium Member's Representative and the Grantees shall have the right to provide clarifications and comments to the post-inspection memorandum. Should any recommendations be contained in the post-inspection memorandum, the Project Manager, the Consortium Member's Representative and the Grantees undertake to enforce the same by the dates set therein.
9. In the case of any reservations as to appropriateness of the incurred eligible expenditures or manner of performance of the Agreement, the Foundation shall notify the Project Manager and the Consortium Leader thereof in writing and shall have the right to withhold payment of the funding until final clarification of such reservations.
10. Should any irregularities be stated in the course of the inspection examining appropriateness of the incurred eligible expenditures, the Foundation or another institution authorised to hold an inspection may conduct an inspection aimed at checking once again eligibility of the expenditures and appropriateness of the manner of performance of the Agreement.
11. The Grantees shall be obliged to conduct an audit in the cases specified in Article 34 Clause 1 Sub-Clause 2 of the Act of 30 April 2010 on the Principles of Financing Science.

12. The Grantees shall store post-inspection memoranda, post-inspection recommendations or other equivalent documents drawn up by the institutions and entities referred to in Clause 1 and the audit reports over a period not shorter than the period referred to in Clauses 13 and 14 (unless a longer period of storage is required by law). The Grantees shall provide the Foundation with the copies of the aforementioned documents, excluding the documents drawn up as a result of document verification conducted by an entity authorised by the Foundation or an inspection conducted by the Foundation, without delay, however not later than within 7 days of the date of their receipt.
13. The Grantees shall be obliged to archive any and all data associated with implementation of the Project, in particular the documentation associated with financial management, technical management, procedures for signing contracts with contractors, in the manner assuring their accessibility, confidentiality and security in compliance with Article 140 of Regulation No 1303/2013 by the day of the lapse of two years from the day of settlement of the Foundation's application for final payment by SG OP Intermediary Authority, but at least until 30 June 2031 with respect to the documentation relating to state aid (unless a longer data storage period is required by law).
14. The Foundation may extend the period over which the Grantees are obliged to store the documentation associated with the pending Project, of which the Foundation shall notify the Grantees prior to the lapse of that deadline. Extension of the documentation storage period may apply also to the selected document types.
15. The Grantees shall be obliged to notify the Foundation of the site or change of the site of archiving of documents and to grant the Foundation access to those documents.

### **Article 9 Information and Promotion Rights and Obligations**

1. The Project Manager, the Consortium Member's Representative and the Grantees undertake to notify the general public of the fact that implementation of the Project has been funded with participation of the EU financing and to engage in information and promotional activities relating to the state aid granted from the structural funds under the pending Project.
2. To the extent referred to in Clause 1, the Project Manager, the Consortium Member's Representative and the Grantees shall be obliged to apply the provisions of Clause 2.2, Responsibilities of the beneficiaries, Annex XII to Regulation No 1303/2013 of 17 December 2013 and the Commission implementing regulation (EU) no 821/2014 of 28 July 2014 laying down rules for the application of Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards detailed arrangements for the transfer and management of programme contributions, the reporting on financial instruments, technical characteristics of information and communication measures for operations and the system to record and store data.
3. The Project Manager, the Consortium Member's Representative and the Grantees undertake to notify the general public of the receipt of the funding for implementation of the Project from SG OP funding, both during implementation of the Project and the Project durability period.
4. It is recommended to the Project Manager, the Consortium Member's Representative and the Grantees to observe, as regards information about and promotion of the Project, the rules defined in the 'Information and Promotion Manual for Applicants and Beneficiaries of Cohesion Policy Programmes 2014-2020' published on [www.poir.gov.pl](http://www.poir.gov.pl) website and in the manual for the Foundation's grantees concerning promotion of the programmes funded by the European Union displayed on [www.fnp.org.pl](http://www.fnp.org.pl) website.

5. At the site of implementation of the Project, the Grantees undertake to display, not later than within two months of the start of implementation of the Project, on a permanent basis a visible information and memorial notice board of the following minimum dimensions: 70cm (width) x 50cm (height). The above notice board must bear the markings consistent with the requirements envisaged in the 'Information and Promotion Manual for Applicants and Beneficiaries of Cohesion Policy Programmes 2014-2020' and feature the Foundation's logotype and the name of the First TEAM. The obligation to display the relevant notice board shall rest with the Grantees regardless of the received funding.
6. The Project Manager, the Consortium Member's Representative and the Grantees undertake to mark the documents relating to implementation of the Project, promotional and information materials as well as the assets purchased or depreciated under the Project in the manner consistent with the 'Information and Promotion Manual for Applicants and Beneficiaries of Cohesion Policy Programmes 2014-2020' and the manual for the Foundation's grantees concerning promotion of the programmes funded by the European Union displayed on [www.fnp.org.pl](http://www.fnp.org.pl) website.
7. On the occasion of conferences, seminars and other types of public appearances, the Project Manager, the Consortium Member's Representative and the Grantees undertake to inform the general public both about the Project being supported with the funding originating from the European Union under SG OP and about the Foundation's role.
8. The Foundation reserves the right to disseminate the Project Manager's and the Consortium Member's Representative's image and the information about their scientific activity for information and promotional purposes.
9. Following completion of performance of the Agreement, the Project Manager or the Consortium Member's Representative may be obliged to present to the general public the Project effects in the form and at the venue and time chosen by the Foundation.
10. The Foundation shall have the right to inform the general public about the Project effects and to surrender those effects to evaluation.
11. In discharging the obligations specified in this article, the Project Manager, the Consortium Member's Representative and the Grantees shall be obliged to use to that end solely the Foundation's official name and logotype available on the Foundation's websites.

#### **Article 10 Personal Data Protection and Evaluation**

1. The Foundation represents that it is the administrator of personal data contained in the Application, the Agreement and in the reports referred to in Article 7.2c and entered in the Foundation's IT system (for which the Foundation is the personal data administrator) in the course of implementation of the Project, and that those data shall be processed in compliance with the Personal Data Protection Act of 29 August 1997, hereinafter referred to as the 'Act'.
2. The Parties jointly represent that the personal data referred to in Clause 1 shall be processed by the Foundation for the purposes of organisation and implementation of the Foundation's programmes, in particular for the purpose of enforcement of the Agreement, reporting, evaluation, control, document verification, audit and archiving.
3. The Project Manager, the Consortium Member's Representative and the Grantees acknowledge that:

- a) the personal data provided by them to the Foundation shall be processed in compliance with the Act;
  - b) in relation to the personal data provided by them to the Foundation, they shall hold the rights specified in Article 32 of the Act, in particular the right to access and correct the data and the right to request discontinuance of their processing; and
  - c) provision of personal data by them to the Foundation is voluntary but necessary for the signing of the Agreement.
4. For the purpose of due implementation of the Agreement, the Grantees outsource to the Foundation, under Article 31 of the Act, the personal data of the persons engaged in implementation of the Project of which they are the administrators, to the extent required for enforcement of the provisions of the Agreement.
  5. When processing the personal data outsourced thereto by the Grantees, the Foundation undertakes to apply the provisions of Regulation of the Minister of Internal Affairs and Administration of 29 April 2004 concerning Documentation of Personal Data Processing and Technical and Organizational Conditions to be Satisfied by IT Devices and Systems used to Process Personal Data.
  6. As regards the outsourced personal data, the Foundation undertakes to:
    - a) provide the Grantees with the information on processing of the outsourced personal data;
    - b) allow solely the persons holding personalised authorisation to process the outsourced personal data to process such data;
    - c) promptly notify the Grantees of any breaches of security of the outsourced personal data;
    - d) keep records of the persons authorised to process the personal data obtained in the course of enforcement of the Agreement; and
    - e) keep secret the information to which the Foundation has access in connection with enforcement of the Agreement as well as the methods of securing such information. The above obligation shall survive the lapse of the term of the Agreement.
  7. For evaluation purposes, the Project Manager, the Consortium Member's Representative and the Grantees shall be obliged, during the Project implementation period and during the period of its durability, to collaborate with the Foundation, SG OP Intermediary Authority or with the entities authorised by them and, in particular, to:
    - a) provide the information relating to the Project;
    - b) present the information about the economic effects and other benefits generated as a result of implementation of the Project; and
    - c) participate in surveys and interviews and make available the information required for evaluation purposes.

### **Article 11 Amendments to the Agreement and to the Project**

1. No amendment to the material scope of the Project referred to in Article 71 of Regulation (EU) No. 1303/2013 of the European Parliament and of the Council of 17 December 2013 shall be acceptable.
2. During implementation of the Project, starting from the second reporting period for financial reports, the Project Manager may, unless the applicable laws and regulations, provisions of agreements and other regulations binding the Grantees provide otherwise, make amendments, at the stage of periodic reports, involving:

- a) in the Competition Documentation or Cost Eligibility Guide for Measure 4.4 for the Smart Growth Operational Programme for the units other than state aid beneficiaries,
- b) the tranche payment schedule.

The aforementioned amendments shall not require the drafting of an annex to the Agreement but shall require approval by the Foundation, as a minimum using the electronic means. Incorporation of the above amendments shall be conditional upon their entry in the Foundation's electronic system and presentation of the justification for the amendments in writing.

3. Transfers of funds between the Grantees' budgets require an annex to the Agreement.
4. If it transpires during implementation of the Project that the Project requires amendments other than those referred to in Section 2 of this article, the Project Manager shall then be obliged to notify the Foundation in writing of the proposed amendments with a substantive justification and a proposal to transfer the funds within the Project budget, broken down by reporting period. The amendments shall be made subject to the Foundation's written approval.
5. No amendment to the Agreement as a result of which the Project would cease to satisfy the project selection criteria according to which it was evaluated would be acceptable.
6. No amendment to the Agreement as a result of which the Project would not be granted the funding at the time when the Project was subjected to evaluation under the project selection procedure would be acceptable.
7. The amendments, excluding the amendments referred to in Clause 2 of this article, must be notified not later than 3 months ahead of the end of implementation of the Project.
8. The amendments to the Budget and to the Agreement made consistently with Clause 2 of this article and Article 3.9 shall not require the signing of an annex to the Agreement.
9. Extension of the Project expenditure eligibility period shall be acceptable and the proposed Project implementation period must fall within SG OP's expenditure eligibility period and may not extend beyond 30 June 2023, in particular in the following cases:
  - a) when the Project Manager is a woman who, during implementation of the Project, gives birth to a child or when the Project Manager adopts a child during implementation of the Project, the Project implementation period may be extended by a period of up to 12 months for every child born or adopted during the aforementioned period; or
  - b) when the Project implementation period specified in the Application is shorter than the maximum acceptable period specified in the Competition Documentation, the Project implementation period may be extended up to the aforementioned maximum duration of the Project; or
  - c) when the Project implementation period in the agreement is the maximum acceptable Project implementation period adopted in the Competition Documentation, extension of the expenditure eligibility period shall be possible for a period of up to 6 months.
10. The Foundation shall consider legitimacy of making the proposed amendments to the Application, given the preconditions that contributed to the selection of the Project for funding and the impact of the proposed amendment on the Project effects and the programme indicators. Extension of the Project expenditure eligibility period referred to in Clause 9 of this article shall require submission of an application together with a justification within the time limit set in Clause 7 of this article. The sought expenditure eligibility period may not extend beyond 30 June 2023. A change of the expenditure eligibility period shall require drawing up an annex to the Agreement.

11. The Competition Documentation in the part relating to the conditions to be satisfied by the Project Manager, the Consortium Member's Representative and the Grantees during implementation of the Project and of the procedures in force during implementation of the Project may be updated also after the signing of the Agreement, unilaterally by the Foundation, to which updates the Project Manager, the Consortium Member's Representative and the Grantees hereby consent. The Foundation shall notify the Project Manager, the Consortium Member's Representative and the Grantees of any updates and their scope. Should an update of the Competition Documentation give rise to a conflict between the provisions of the Agreement and the updated Competition Documentation, the Parties shall sign an annex to the Agreement without delay in order to bring it in line with the updated version of the Competition Documentation. Should the Project Manager, the Consortium Member's Representative and the Grantees fail to give their consent, following the update, to the amendments arising from the updated Competition Documentation, they shall be obliged to continue implementation of the Project on the previously applicable terms and conditions (from before the update of the Competition Documentation), except for the amendments arising from the Foundation's obligations towards IA SGOP, in particular those arising from the future amendments to the agreement between the Foundation and IA SGOP which amendments the Project Manager, the Consortium Member's Representative and the Grantees are obliged to enforce.

### **Article 12 Dissolution of the Agreement**

1. The Agreement may be dissolved by way of the Parties' joint declaration of intent in the case of occurrence of the circumstances that prevent continued enforcement of the provisions contained in the Agreement.
2. Dissolution of the Agreement according to the procedure specified in Clause 1 and Clause 3 of this article shall not release the Project Manager and the Consortium Leader from the obligation to submit the financial and progress reports within 25 days of the date of dissolution of the Agreement and the final report by the date referred to in Article 7 Clause 2 letter (c) item (3) or to store the documentation associated with implementation of the Project consistently with Article 8 Clauses 12 to 14 and to make the same available at the Foundation's request.
3. The Foundation shall be authorised to dissolve the Agreement with immediate effect when:
  - a) The Project Manager or the Consortium Member's Representative delays the start of implementation of the Project for a period longer than 3 months after the agreed start date of the Project and fails to inform about the reasons for the delay or has discontinued implementation of the Project or implements the Project in violation of the provisions of the Agreement or in breach of law;
  - b) A Grantee has discontinued implementation of the Project or implements the Project in violation of the provisions of the Agreement or in breach of law;
  - c) The Grantee to which state aid has been granted has discontinued its business activity, liquidation or bankruptcy proceedings have been instituted against the Grantee or the Grantee remains under compulsory administration;
  - d) The Project Manager or the Consortium Member's Representative has failed to conduct an open recruitment procedure for young scientists in the team consistently with the Competition Documentation or defaults on his or her obligations specified in Article 5;



- e) The Project Manager or the Consortium Member's Representative has failed to attain the target intended under the Project for the reasons resting with the Project Manager or the Consortium Member's Representative;
- f) The Project Manager, the Consortium Member's Representative or the Grantees refuse to surrender to or prevent the conduct of an inspection, document verification or audit referred to in Article 8;
- g) The Project Manager, the Consortium Member's Representative or the Grantees have failed to cause elimination of the stated irregularities or implementation of post-inspection recommendations by the dates set by the Foundation;
- h) The Project Manager has failed to submit the reports referred to in Article 7 by the dates set and on the agreed principles;
- i) The Project Manager has submitted the reports referred to in Article 7 that do not reflect the actual state of affairs;
- j) The Project Manager, the Consortium Member's Representative or the Grantees have defaulted on their obligations specified in Article 9 or Article 10.7;
- k) The Grantees have defaulted on their obligations specified in Article 1.3 and 1.18 and Article 3.12;
- l) The Project Manager, the Consortium Member's Representative or the Grantees have presented false or incomplete declarations or documents in order to secure the funding or during the Project implementation or during the Project durability period;
- m) Amendments have been made to the material scope of the Project referred to in Article 71 of Regulation (EU) No. 1303/2013 of the European Parliament and of the Council of 17 December 2013;
- n) The Project Manager or the Consortium Member's Representative has breached the rules of the Foundation for Polish Science's Code of Ethics for Laureates and Beneficiaries;
- o) The Project Manager, the Consortium Member's Representative or the Grantees have breached other provisions of the Agreement;
- p) Further implementation of the Project is not possible or pointless;
- q) The Project Manager, the Consortium Member's Representative and the Grantees have failed to present the information or clarifications concerning implementation of the Project;
- r) The Grantee has breached the rules specified in Article 14 of the Agreement;
- s) The Project Manager, the Consortium Member's Representative or a Grantee is obligated to return the aid following a decision of the European Commission;
- t) A ban has been imposed, by way of a final court ruling, against the Project Manager, the Consortium Member's Representative or a Grantee, referred to in Article 12(1)(1) of the Act of 15 June 2012 on the Consequences of Entrusting Work to Foreign Nationals Residing Illegally in the Territory of the Republic of Poland;
- u) A preliminary investigation in the case likely to impact implementation of the Project has been instituted against the Project Manager, the Consortium Member's Representative or a Grantee or the persons for whose actions they are liable under the Act of 28 October 2002 on the Liability of Collective Entities for Acts Prohibited under Penalty;

- v) A Force Majeure event has occurred;
  - w) The Grantees, the Project Manager or the Consortium Member's Representative used the funding contrary to its intended purpose, unduly collected funding or collected funding in excessive amount.
4. In the case of dissolution of the Agreement for the reasons referred to in Clause 1 and Clause 3 of this article, the Project Manager, the Consortium Member's Representative and the Grantees shall not be entitled to any indemnity.

### **Article 13 Return of Funding**

1. In the event of dissolution of the Agreement for the reasons specified in Article 12.1 or 12.3, the Grantees shall return, at the Foundation's request, in full the financing provided under the Agreement within 14 days of the date of the call plus the interest in the amount specified as for overdue tax liabilities, to be computed from the day the funding is provided to the<sup>6</sup> Consortium Leader until the day of its return<sup>7</sup> to the bank account designated by the Foundation plus the interest accrued in the Consortium Leader's and the Consortium Member's bank accounts on the funding provided by the Foundation in the form of an advance payment. The Consortium Leader shall transfer the equivalent of the financing provided under the agreements referred to in Article 6.5 to the Foundation on the principles mentioned in the preceding sentence, with the interest accrued from the date of payment of the stipends to the individual young scientists.

In the especially justified cases, at the Project Manager and Consortium Leader's written request, the Foundation may refrain from demanding return of the settled financing or/and payment of the interest in the amount specified as for overdue tax liabilities while taking into consideration, in particular, the manner of performance of the Agreement by the Project Manager, the Consortium Member's Representative and the Grantees.

2. The Grantees shall be jointly and severally liable for returning the funds if the control bodies identify a breach of the rules and of the terms and conditions of implementation of the Project as defined in the Agreement, acts of the national and the EU law, especially in the case of:
- a) statement of utilisation of the granted funding inconsistently with the object of the Agreement;
  - b) undue collection of the funding;
  - c) collection of the funding in an excessive amount;
  - d) default on the provisions governing durability of the Project; or
  - e) utilisation of the funding in breach of the procedures referred to in Article 184 of the Act on Public Finances of 27 August 2009.
3. In the case referred to in Clause 2 of this article, the Grantees shall be jointly and severally liable for transferring, by the dates and on the terms and conditions defined by the Foundation, the amount specified in the call for payment plus the interest in the amount specified as for overdue tax liabilities, to be computed from the day the funding is provided to the Consortium Leader until the day of its return to the bank account designated by the Foundation.

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<sup>6</sup> The day the Foundation's bank account is debited shall be deemed, respectively, the day of provision of the financing to the Consortium Leader or the day of payment of the stipend.

<sup>7</sup> The day of return shall be understood to mean the day on which the Consortium Leader's bank account is debited.

4. A Grantee (other than a SME) undertakes to disclose all net revenues within the meaning of Article 61.1 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 that are generated in connection with implementation of the Project, according to the rules defined in Article 61 of that Regulation and in the applicable Guidelines of the minister competent for the affairs of regional development as regards the issues associated with preparation of investment projects, including revenue-generating projects and hybrid projects for the years 2014-2020. Due to the inability to objectively define the revenues in advance using one of the methods designated in Article 61 Clause 3 or Clause 5 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013, the Grantee (other than a SME) undertakes to return, on a pro rata basis, the revenues generated during the period of 3 years from the day of settlement by SG OP Intermediary Authority of the Foundation's application for final payment or by the date set for submission of the documents concerning the closure of the programme as defined in the regulations concerning the European Regional Development Fund, whichever is earlier, on the terms and conditions defined in 'Procedure for calculating and monitoring revenues for the beneficiaries receiving funding under Axis Four of Smart Growth Operational Programme' document.
5. Within 25 days of the date of completion of implementation of the Project, the financing provided by the Foundation and not used in the Project shall be returned to the account designated by the Foundation.
6. The financing used in breach of the cost eligibility principles shall be returned to the account designated by the Foundation within 14 days of the receipt by the Consortium Leader of the call for its return.
7. The return of the financing shall be made to the account designated by the Foundation indicating:
  - a) the number of the Agreement;
  - b) information on the principal amount and the interest amount;
  - c) the title of reimbursement;
  - d) the year when the financing being returned was provided.
8. For the purpose of collection of its amounts receivable, the Foundation may grant a third party a power of attorney to act on its behalf.
9. The Grantees shall not be liable for non-performance or improper performance of the Agreement due to the operation of Force Majeure. The Grantees shall be obliged to promptly notify the Foundation of occurrence of Force Majeure and shall substantiate existence of Force Majeure by defining its impact on the implementation of the Project.
10. In the case of a failure to return the financing in the full amount with the interest specified as for overdue tax liabilities, the paid amount shall be allocated, on a pro rata basis, towards settlement of the principal overdue amount understood as the amount of the funding envisaged for return (net of interest) and the amount of the interest as for overdue tax liabilities at the ratio at which the primary overdue amount remains in relation to the amount of the interest.
11. The Grantees undertake to cover the documented costs of debt collection measures taken against the Grantee, in particular the costs of legal aid provided by professional legal representatives whenever any payment has been made to the Grantees.

## Article 14 State Aid

1. The Foundation represents that it has been authorised by the Intermediary Authority, i.e. the National Centre for Research and Development [NCBR], to sign, on behalf of the Intermediary Authority, grant agreements envisaging the granting of state aid to entrepreneurs. The Intermediary Authority, represented by the Foundation, remains the entity granting state aid.
2. State aid for a Grantee being an enterprise referred to in the Agreement is granted in compliance with the provisions of Regulation of the Minister of Science and Higher Education of 25 February 2015 on the conditions and procedure of granting state aid and de minimis aid through the National Centre for Research and Development (hereinafter the 'Regulation of the Minister of Science and Higher Education'), constituting an aid programme ref. No. SA.41471(2015/X), and the regulations of Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (hereinafter referred to as 'Regulation No 651/2014'). Granting of aid does not require any notification within the meaning of Article 108.3 of the Treaty on the Functioning of the European Union.
3. The Grantee declares that all information submitted by the Grantee used to determine whether the provided state aid is compatible with the national and EU regulations in force governing state aid, including the Order of the Minister of Science and Higher Education and Commission Regulation (EU) No 651/2014, is true and accurate. In the case of any changes in that respect, the Grantee undertakes to notify the Foundation thereof without delay, however not later than within 7 days of occurrence or disclosure of such changes. The 'Cost Eligibility Guide for Measure 4.4 of Smart Growth Operational Programme for State Aid Beneficiaries' shall define intensity of the Project financing.
4. The Grantee being an enterprise represents that the financial contribution from the public funding does not cause a significant loss of jobs<sup>8</sup> at the enterprise's existing locations within the territory of the European Union.
5. If the Grantee is an enterprise engaged in any business activity in connection with which no state aid can be granted and another business activity, the Grantee undertakes to ensure accounting separation of its businesses from the other activities, including allocation of revenues and costs using the consistently applied and justified methods. The enterprise further undertakes to specify in the documentation referred to in Article 10.1 of the Accounting Act of 29 September 1994 the method of ensuring accounting separation and methods of allocation of revenues and costs.

## Article 15 Communication between the Parties

1. The Parties envisaged specifically the following forms of communication within the framework of performance of the Agreement:
  - 1) by registered letter;
  - 2) by courier service; or
  - 3) via electronic mail.

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<sup>8</sup> A significant loss of jobs shall mean the loss of a minimum of 100 jobs.

2. The representations, requests, notices and information shall be deemed served, respectively, upon receipt of a registered letter, receipt of a courier parcel or securing of acknowledgement of receipt by the addressee of the written communication sent via electronic mail.
3. The written communication shall be treated as validly served when the Project Manager, the Consortium Member's Representative or Grantees have failed to notify a change of their contact details or the sent communication has been returned with a note from the postal operator about its inability to deliver the letter/parcel, e.g. 'the addressee has moved', 'not collected in time' or 'addressee not known'.
4. Should the Project Manager, the Consortium Member's Representative or Grantees refuse to accept written communication, such communication shall be deemed delivered on the day the Project Manager, the Consortium Member's Representative or Grantees make a declaration about their refusal to accept such communication.
5. If the deadline falls on a public holiday or Saturday, the last day of the deadline shall be deemed to be the immediately following weekday.
6. All written communication associated with performance of the Agreement shall bear the number of the Agreement.
7. The Parties' addresses for notices shall be as follows:
  - 1) For the Foundation:  
Fundacja na rzecz Nauki Polskiej  
ul. Ignacego Krasickiego 20/22  
02-611 Warszawa
  - 2) Consortium Leader and Project Manager:
  - 3) Consortium Member and Consortium Member's Representative:
8. The following persons shall be authorised to act as contact persons within the framework of ongoing performance of the Agreement:
  - 1) For the Foundation:  
as regards subject matter of the Project: , email , phone   
as regards financial implementation of the Project: , email , phone
  - 2) For the Grantees:
    - a) Project Manager: , email , phone
    - b) Consortium Member's Representative: , email , phone

9. In the case of a change of the data referred to in Clause 7 or Clause 8, the Party affected by such change shall be obliged to notify the other Party thereof without delay, however not later than within 14 days of the change of the said data. Until such notification, the communication sent to the previous addresses shall be deemed validly served. Change of the aforementioned data shall not require signing an annex to the Agreement.

#### **Article 16 Final Provisions**

1. The Agreement shall take effect on the day of its signing by the last of the Parties and, when not all Parties sign the Agreement on the same day, the Foundation shall be the Party signing the Agreement as the last one.
2. The matters not regulated herein shall be governed by the provisions of the Competition Documentation, the provisions of the Polish Civil Code and the other commonly applicable regulations of the national law and those of the EU law, if properly applied.
3. In case of doubt as to the meaning of the terms used herein, the definitions contained in the section titled 'Explanation of Concepts' of the Competition Documentation shall apply.
4. Any disputes arising in connection with performance of the Agreement shall be resolved by the Parties amicably or, when this is not possible, by a common court having jurisdiction over the Foundation's registered office.
5. Any amendments hereto shall only be valid if made in writing.
6. The Project Manager and the Consortium Leader undertake to promptly notify the Foundation of any change of the number of the bank account referred to in Article 3.13 of the Agreement and of the personal data designated in the Agreement and of any other changes likely to impact implementation and handling of the Project. The Project Manager's, Consortium Representative's and Grantees' written representations about the changes of the aforementioned data shall not constitute an amendment to the Agreement and shall not require signing an annex to the Agreement.
7. Negative consequences, if any, associated with the failure to notify in the situation referred to in the first sentence of Clause 6 of this article shall burden the Party which has defaulted on that obligation.
8. Should:
  - a) any amendments be made to the agreement signed between SG OP Intermediary Authority and the Foundation that give rise to a conflict or inconsistency between the provisions of the Agreement and the aforementioned agreement or to the need for amendment of the provisions of the Agreement;
  - b) any amendments be made to the documents invoked in the Agreement to the extent that gives rise to a conflict or inconsistency with the provisions of the Agreement, except for the provisions relating to the possible amendments arising from Article 11 of the Agreement;
  - c) any part of the Agreement be found by a common court or another authorised body to be invalid or ineffective by law;

the remaining provisions of the Agreement shall continue to be deemed fully applicable and binding and the Parties undertake to one another to amend or supplement the provisions of the



Agreement so as to adjust its wording to the aforementioned changes, rulings, decisions or provisions.

9. The Parties jointly agree that, should any provision of the Agreement or part thereof be found to be invalid, ineffective or unenforceable for any reason, this shall have no impact on the validity of the remaining provisions of the Agreement. In such case, the Parties undertake to take all legally acceptable measures to agree their rights, obligations and common interests so that the targets specified in the Agreement can be attained otherwise in a manner that is legal and feasible.
10. A change of the numbering of articles and clauses of the Agreement shall have that effect on the agreements referred to in Article 6.5 that the provisions of the Agreement shall apply accordingly where those agreements invoke the provisions of the Agreement.
11. Unless this Agreement provides otherwise, the Consortium Leader shall be liable for representing the Grantees with respect to third parties, preparing documents and providing information.
12. The Parties jointly represent that any statement made by the Consortium Leader to third parties and institutions in connection with the performance of this Agreement shall be deemed to have been made by all the Grantees.
13. The Consortium Member agrees to provide the Consortium Leader with any information necessary to obtain the advances and to settle the funding granted.
14. The Consortium Leader agrees to promptly transfer to the Consortium Member a portion of funding payable to it.
15. The Consortium Leader agrees to promptly notify the Foundation of any subsequent amendment to the Consortium Agreement. At the same time, the Foundation shall not be liable for mutual settlements or obligations of the Grantees or for the validity and compliance of the Consortium Agreement with applicable laws.
16. The Foundation shall not be liable to the Consortium Member for the Consortium Leader's default on any obligations under the Agreement, nor shall it be obliged to notify the Consortium Member of the occurrence of such default.
17. The Grantees shall be jointly and severally liable for the performance and all obligations hereunder and for the proper spending of the funds received.
18. This Agreement has been drawn up in two language versions, Polish and English, in three identical counterparts, one for each Party. In the case of any discrepancy between the Polish and English language versions, the Polish version shall prevail.
19. The Agreement has been executed in five identical counterparts, one for each of the Parties.
20. The following appendices constitute an integral part of the Agreement:
  - a) Appendix No. 1: Budget;
  - b) Appendix No. 2: Project Implementation Schedule;
  - c) Appendix No. 3: Tranche Payment Schedule;
  - d) Appendix No. 4: Consortium Leader's VAT Eligibility Declaration;
  - e) Appendix No. 5: Consortium Member's VAT Eligibility Declaration;
  - f) Appendix No. 6: Declaration concerning Project Indirect Costs;

- g) Appendix No. 7: Power of Attorney (this appendix is required when the Agreement is signed by a person/s not holding statutory powers to represent the Consortium Leader).
- h) Appendix No. 8: Power of Attorney (this appendix is required when the Agreement is signed by a person/s not holding statutory powers to represent the Consortium Member).
- i) Appendix No. 9: Consortium Agreement

Foundation	Project Manager	Consortium Leader	Consortium Member	Consortium Member's Representative
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