



**PROJECT CONTRACT**

**Agreement No:** .....

Program Component Grant Agreement, hereinafter referred to as the Project: **[Project title]**

..... **[acronym: .....]** selected under **[name of call]**

....., hereinafter referred to as the "Agreement"<sup>1</sup>, concluded in Warsaw on  
.....<sup>2</sup> between:

<sup>1</sup> The agreement constitutes a contract for the execution and financing of the Project, as referred to in Article 41, paragraph 1 of the Act.

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- **(in the case of a Joint Stock Company (S.A.) and a Limited Joint-Stock Partnership (S.K.A.))**

<name> Joint-Stock Company/ Limited Joint-Stock Partnership,

headquartered in ..... (city), address: postal code ....., street ....., town ..... entered in the Register of Entrepreneurs of the National Court Register kept by the District Court ....., under the KRS number ....., as of..... with share capital in the amount of ..... PLN, paid in the amount of ....., NIP ....., REGON ....., represented by (representation should be in accordance with the actual state of affairs, i.e. with the information in the National Court Register or the deed of appointment, according to the data valid as of the date of conclusion of the Agreement): .....,

- **(In the case of a Limited Liability Company (Ltd.).**

<name> Limited Liability Company,

headquartered in .....(town) address: postal code ....., street ....., town ..... entered in the Register of Entrepreneurs of the National Court Register kept by the District Court ....., under the KRS number ....., as of....., with the share capital of ..... PLN, NIP ....., REGON ....., represented by (representation should be in accordance with the actual state of affairs, i.e. with the information in the National Court Register or the deed of appointment, according to the data valid as of the date of conclusion of the Agreement) :.....

- **(in the case of a Partnership: General Partnership (sp.j.), Limited Partnership (sp.k.), Partnership (sp.p.))**

<name> General Partnership/Limited Partnership/Partnership,

headquartered in ..... (city) address: postal code ....., street ....., town ..... entered in the Register of Entrepreneurs of the National Court Register kept by the District Court ....., under the KRS number ....., as of....., NIP ....., REGON ....., represented by (representation should be in accordance with the actual state of affairs, i.e. with the information in the National Court Register or the deed of appointment, according to the data valid as of the date of the Agreement): .....

- **(in the case of a self-employed individual)**

<name>.....,

Residing in ..... (postal code .....), at ....., conducting business activity under the company ..... in ..... (postal code .....), at ....., location ..... entered in the Central Registration and Information on Business Activity, NIP ....., REGON ....., (if any) represented by: ....., on the basis of .....

- **(in the case of a Civil Partnership (s.c.))**

<Name and surname>, ..... domiciled in ..... (postal code .....), at ....., city ..... registered in the Central Registration and Information on Business Activity, REGON .....,

and <name and surname>, ..... domiciled in ..... (postal code .....), at ....., city ..... registered in the Central Registration and Information on Business Activity, REGON .....,

conducting jointly business in the form of a civil partnership under the name ..... in ..... address: postal code ....., street ....., town ..... NIP ....., REGON....., represented by: ..... under a power of attorney/authorization dated ....., a certified copy of which is attached to the Agreement.

- **(in the case of a scientific unit)**

<name of scientific unit>....., headquartered in .....(city), zip code.....-....., street ..... , locality ..... No. .... REGON: ..... NIP: ..... , represented by: .....(name, function performed) based on the authorization/power of attorney dated ....., a certified copy of which is attached to the Agreement.

- **(in the case of a non-governmental organization, association, foundation)**

<entity name>..... with registered office in ..... (town) address: postal code ....., street ....., town ..... entered in the Register of Associations, other social and professional organizations, foundations and independent public health care institutions/entrepreneurs (if there is only one register, delete as appropriate) of the National Court Register kept by the District Court ....., under the KRS number ....., NIP ....., REGON ....., represented by :....., on the basis of .....

- **(for municipalities, counties, associations of municipalities, districts, metropolitan associations)**

National Center for Research and Development, 69 Chmielna St., 00-801 Warsaw, hereinafter referred to as the "Center" or "NCBR",

represented by:

.....

under power of attorney No. .... dated .....,

and

.....

under power of attorney No. .... dated .....

a

1) ..... \*, hereinafter referred to as the "Program Component Operator",

2) ..... \*, hereinafter referred to as "Program Component Partner",

3) ..... \*, hereinafter referred to as the "Program Component Partner",

4)..... \*, hereinafter referred to as the "Program Component Partner",

being beneficiaries, jointly implementing the Project as a consortium represented by the Program Component Operator acting for and on behalf of itself and the aforementioned Program Component Partners on the basis of a consortium agreement, a copy of which is attached as Annex No. 2 to the Agreement, collectively referred to as the Consortium,

hereinafter referred to as **the "Parties"**.

Acting on the basis of<sup>3</sup> :

- 1) Act of April 30, 2010 on the National Center for Research and Development, hereinafter referred to as the "Act";
- 2) Article 365(11) of the Law of July 20, 2018. Law on Higher Education and Science;
- 3) Act of August 27, 2009 on public finance, hereinafter referred to as "ufp";
- 4) Commission Regulation (EU) No. 651/2014 of June 17, 2014 declaring certain types 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";
- 5) Act of September 11, 2019. Public Procurement Law, hereinafter referred to as the "PPL Law";
- 6) Regulation of the Minister of Science and Higher Education of August 19, 2020 on granting state aid through the National Center for Research and Development, hereinafter referred to as the "MNiSW regulation";
- 7) Regulations on the implementation of the second Swiss Contribution to selected member states of the European Union to reduce economic and social disparities within the European Union, hereinafter referred to as the "Regulations";
- 8) Guidelines of the Minister of Funds and Regional Policy for the award of contracts under the Swiss-Polish Cooperation Program, hereinafter referred to as the Guidelines;
- 9) Framework Agreement between the Republic of Poland and the Swiss Confederation on the implementation of the second Swiss Contribution to selected member states of the European Union to reduce economic and

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<entity name> ..... located at .....(city), .....(postal code), ....., NIP ....., REGON....., represented by :....., based on .....

-- In the case of Program Component Partners excluding the designation of the person authorized to sign the Agreement.

<sup>2</sup> Applies to the conclusion of the Agreement in writing.

<sup>3</sup> The documents listed can be found at: [www.programszwajcarski.gov.pl](http://www.programszwajcarski.gov.pl); [www.ncbr.gov.pl](http://www.ncbr.gov.pl)

social disparities within the European Union (Official Journal 'Monitor Polski' item 255,2023), hereinafter referred to as the "Framework Agreement".

10) Program agreement;

The parties agree as follows.

## § 1.

### Definitions

Whenever the Agreement refers to:

- 1) **industrial research** - it should be understood as the research referred to in Article 2 point 85 of Regulation No. 651/2014;
- 2) **beneficiary** - it should be understood as the Project contractor referred to in Article 41 paragraph 1 of the Law<sup>4</sup> ;
- 3) **funding** - it should be understood as the amount of funds granted to the Program Component Operator and Program Component Partners from public funds on the basis of the Agreement;
- 4) **scientific entity** - it should be understood as an entity referred to in Article 37(1)(1) of the Act that meets the criteria of an organization that conducts research and disseminates knowledge, as defined in Article 2(83) of Regulation No. 651/2014, with the proviso that it cannot be an entity whose sole purpose is to disseminate on a large scale the results of R&D work through teaching, publications or knowledge transfer;
- 5) **consortium** - it should be understood as Program Component Operator and Program Component Partners implementing the Project jointly on the basis of the consortium agreement referred to in item 20. 20;
- 6) **copies** - should be understood as copies of documents, each page of which has been certified as a true copy of the original by a person authorized to represent the Program Component Operator or the Program Component Partner, unless the Agreement provides otherwise;
- 7) **eligible costs** - it should be understood as eligible costs in accordance with the rules described in the *Cost Eligibility Guide, which is part of the call documentation and is a catalog of possible eligible costs*. The *Cost Eligibility Guide* may be subject to update, however, the version of the *Cost Eligibility Guide* in effect on the date the expense was incurred shall be used to assess the eligibility of expenses incurred;
- 8) **SME** - means a micro, small or medium-sized enterprise within the meaning of Article 2 of Annex I to Regulation No. 651/2014 and Commission Recommendation 2003/361/EC of May 6, 2003 on the definition of micro, small and medium-sized enterprises;
- 9) **development work** - it should be understood as experimental development work, as referred to in Article 2 item 86 of Regulation No. 651/2014;
- 10) **R&D work** - it should be understood as work involving industrial research or development work, whereby the scope and type of work (i.e. industrial research or development work) indicated to be carried out under the Project is specified in the application for co-financing constituting Annex No. 3 to the Agreement;
- 11) **project** - it should be understood as an undertaking referred to in Article 2 item 1 of the Act, implemented by the Program Component Operator and the Program Component Partners on the basis of the Agreement, involving the conduct of R&D work;
- 12) **entrepreneur** - it should be understood as an enterprise within the meaning of Article 1 of Annex I to Regulation No. 651/2014;
- 13) **scientific risk** - should be understood as the probability of failure to achieve the objectives or goals of the Project, despite the conduct of the Program Component Operator or the Program Component Partners in accordance with the law, the Agreement, applicable procedures and good practices and due diligence, caused by circumstances that could not be foreseen at the stage of applying for funding;
- 14) **force majeure** - shall mean an event or combination of events beyond the control of the Parties, which prevent the performance of obligations under the Agreement, which the Parties could not have foreseen and which they could not have prevented or overcome by acting with due diligence;

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<sup>4</sup> Applies only to projects selected in calls for proposals.

- 15) **flat rate** - this means a simplified method of accounting for costs that represent a certain percentage of one or more cost categories;
- 16) **public funds** - it should be understood as the funds referred to in Article 5 paragraph 1 item 1 and 2 of the upf;
- 17) **consortium agreement** - it should be understood as an agreement on the formation of a consortium concluded between Program Component Operator and Program Component Partners ;
- 18) **own contribution of the Program Component Operator or Program Component Partners** - means funds secured by the Program Component Operator and Program Component Partners, which will be used to cover eligible costs and which will not be transferred to the Program Component Operator and Program Component Partners in the form of a grant (the difference between the amount of eligible costs and the amount of grant transferred to the Program Component Operator ); the own contribution of the Program Component Operator and the Program Component Partners cannot come from public funds, including grants/subsidies from the state budget and the budget of local self-government units, unless the mode of awarding the aforementioned grants/subsidies does not exclude the possibility of allocating funds from them to cover own contribution in other projects<sup>5</sup> ;
- 19) **Project proposal** - it should be understood as the application submitted by the Program Component Operator for the purpose of obtaining funding, which is attached as Annex No. 3 to the Agreement;
- 20) **Application for payment** - it should be understood as a document submitted by the Program Component Operator, drawn up according to the model specified by the Center, which serves, inter alia, to apply for the transfer of an advance payment, settlement of an advance payment, application for payment of a grant (including in the form of a refund);
- 21) **Program Completion Date** - should be understood as the date of approval by the Swiss side of the Final Report on the implementation of the Scientific Research and Innovation Program. NCBR will promptly inform the Program Component Operator about the termination of the aforementioned program.

## § 2.

### Subject of the Agreement

1. The Agreement sets out the terms of the Center's grant for the implementation of the Project, as well as the rights and obligations of the Parties, related to the implementation of the Project.
2. Funding for R&D work, which is state aid, is granted on the basis of Chapter 2<sup>6</sup> of the MNiSW regulation and constitutes state aid exempt from the notification requirement provided for in Article 108 of the Treaty on the Functioning of the European Union, pursuant to Regulation No. 651/2014.

## § 3.

### Rights and obligations of the Parties

1. The Center undertakes to provide the Program Component Operator, and through it, the Program Component Partners, with funding for the implementation of the Project, in the amount specified in § 6(3) of the Agreement.
2. Qualification of the Project for funding is not equivalent to recognition of all costs incurred during its implementation as eligible.
3. The Program Component Operator and the Program Component Partners undertake to implement the Project with due diligence and to use the grant in accordance with:
  - 1) Agreement and its annexes, in particular with the grant application attached as Annex 3 to the Agreement;
  - 2) applicable national and EU laws, including competition, public procurement and state aid regulations;
  - 3) Guidelines;
  - 4) Framework Agreement.
4. The Program Component Operator undertakes, in particular:

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<sup>5</sup> In such a case, it should be verified that the own contribution made in this way does not lead to double financing of expenses and unjustified state aid to the entrepreneur.

<sup>6</sup> To be completed at the stage of preparation of the model grant agreement for a specific call for proposals.

- 1) to achieve, together with the Program Component Partners, the established goals and indicators specified in the in the project proposal;
  - 2) not to transfer, during the period of eligibility of costs referred to in § 7 section 1 of the Agreement and in the period of 5 years from the moment of approval of the final report by the Center referred to in § 9 section 1 item 2), to another entity rights, obligations or receivables under the Agreement, without the consent of the Center expressed in writing under pain of nullity<sup>7</sup> ;
  - 3) submit payment applications and Reports to the Center within the prescribed deadlines;
  - 4) promptly inform the Center of its intention to make such changes in the legal and organizational status of itself and the Program Component Partners that may directly affect the implementation of the Project, and obtain the Center's approval to make changes in the legal and organizational status of itself or the Program Component Partner that may directly affect the implementation of the Agreement/Project or the achievement of the Project objectives. The Center shall provide feedback within 60 days;
  - 5) Provide the declared own contribution for the Project and ensure its contribution by the Partners of the Program Component;
  - 6) provide the Center and entities authorized by the Center with any requested information or documents regarding the implementation of the Project and the disbursement of the grant, as well as the results of the Project and their use, during the implementation of the Project and for a period of 10 years from the Program Completion Date.
5. Program Component Operator:
- 1) under the power of attorney, undertakes to represent the consortium in all matters related to the execution of the Agreement and provide the Program Component Partners with all information related to the execution of the Agreement (in justified cases, the Center may also provide information related to the implementation of the Project to the Program Component Partners);
  - 2) undertakes to inform the Center of all amendments to the consortium agreement within 14 days of the amendments to it, and to obtain the Center's written or electronic (signed with a qualified electronic signature) consent to amend the consortium agreement with respect to the change of the Program Component Partner;
  - 3) shall ensure that the consortium agreement contains provisions that ensure the proper implementation of the Project by the Program Component Operator and the Program Component Partners and the performance by them of all duties that are necessary for the proper implementation of the Agreement;
6. The Center shall not be liable to the Program Component Partners for the failure of the Program Component Operator to fulfill its obligations under the Agreement.
7. The Program Component Operator agrees to make available to government authorities, including legal protection authorities or entities authorized by them, all information about the implementation of the Project, including the grant application, its reviews, the Agreement, Reports and other documents related to the implemented Project for purposes related to the activities of these authorities or entities.

#### **§ 4.**

##### **Intellectual Property Rights and Implementation of Project Results**

1. The Program Component Operator and the Partners of the Program Component undertake to implement the full material scope of the Project in accordance with the project proposal attached as Annex 3 to the Agreement.
2. The distribution of property rights to the results of R&D work and related access rights, resulting from the Project, vested in the Program Component Operator or the Program Component Partners shall be in accordance with Article 32(1) of the Law and shall not violate the provisions on public assistance<sup>8</sup> . Agreements

<sup>7</sup> Applicable to Program Component Partners, respectively.

<sup>8</sup> In accordance with point 28 of the "Communication from the Commission - Framework for state aid for research, development and innovation" of June 27, 2014. 2014/C 198/01 (Official Journal of the E.U.C No. 198, p. 1), "in the case of collaborative projects carried out by enterprises and organizations conducting research or research infrastructures, the Commission considers that the participating enterprises are not granted indirect state aid through these entities due to the favorable conditions of the collaboration, if one of the following conditions is met:

a) Participating companies bear the full cost of the project; or

(b) the results of cooperation that do not give rise to intellectual property rights can be disseminated, and intellectual property rights arising from the activities of research organizations or research infrastructures fully belong to these entities; or

concluded with subcontractors may not violate the rule set forth in the preceding sentence. The transfer of the owned property rights to the results of R&D work being the result of the Project between the Program Component Operator or the Program Component Partners shall be made for a remuneration corresponding to the market value of such rights<sup>9</sup>.

3. The distribution of property rights to the results of R&D work resulting from the Project shall be carried out in accordance with paragraph 2 and shall not constitute unauthorized state aid.
4. The ownership of property rights copyrights created as a result of the Project shall be governed by the provisions of the Law of February 4, 1994 on copyright and related rights<sup>10</sup>.
5. In the case of implementation of the results of R&D work, the Program Component Operator or the Program Component Partners are obliged to implement the results of R&D work in the manner specified in the contract. The following forms of implementation of the results of R&D work carried out under the Project are possible:
  - 1) Introduction of the results of R&D work into the own business activity of the Program Component Operator or the Program Component Partner being an entrepreneur by starting production or rendering services on the basis of the obtained results of the Project or
  - 2) granting a license for the use of the rights of the Program Component Operator or the Program Component Partner to the results of R&D work in the business activity conducted by another entrepreneur or
  - 3) The sale of rights to the results of R&D work in order to introduce them into the business activities of another entrepreneur.
6. The Program Component Operator or the Program Component Partner may begin implementation of R&D results prior to completion of the Project.
7. The disposal of rights to R&D results for resale is not considered implementation of R&D results<sup>11</sup>.
8. The sale of rights to the results of R&D work or granting of a license to use the rights of the Program Component Operator or the Program Component Partner to the results of R&D work in business activities conducted by another entrepreneur, referred to in paragraph 5 items. 2 and 3, should be made at the market price<sup>12</sup>.
9. The contract for the sale of rights to the results of R&D work or the granting of a license to use such rights to the results shall include, in particular, the following elements:
  - 1) guarantees the price of disposal of the rights to R&D results or licensing of the rights to these results to the Program Component Operator or Program Component Partner at the market level;
  - 2) obliges the purchaser/licensee to implement the results of R&D work in its own business by starting production or providing services based on the results of the Project;
  - 3) prohibits the transfer of rights to R&D results to a third party (in the case of a sales contract)<sup>13</sup>;
  - 4) determines the date by which the introduction of R&D results into the business of the buyer/licensee is to take place;
  - 5) obliges the purchaser/licensee to submit a statement on introducing the results of R&D work into its business activity no later than one year from the date of conclusion of the contract for sale of rights to the results of such work/agreement for granting a license to use the rights to the results vested in the

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(c) any intellectual property rights created as a result of the project and related access rights are allocated among the various collaborative partners in a manner that properly reflects their work packages, contributions, and mutual interests; or

(d) the research organizations or research infrastructures shall receive compensation corresponding to the market value of the intellectual property rights that arose as a result of their activities and that were granted to the participating enterprises or the right of access to which was granted to the participating enterprises. From this compensation may be deducted the absolute value of any contribution - financial and non-financial - of the participating enterprises to the costs of the activities of the research organizations or research infrastructures that led to the intellectual property rights in question."

<sup>9</sup> The price can be considered market-based if:

- (a) its amount was determined through an open, transparent and non-discriminatory competitive sales procedure; or
- (b) a valuation by an independent expert confirms that the price is at least equal to market value; or
- (c) the seller can demonstrate that it negotiated the price at arm's length to obtain the maximum economic benefit at the time of contracting, taking into account its statutory objectives; or
- (d) according to the consortium agreement, the enterprise has the right of first refusal with respect to intellectual property rights created as a result of cooperation with the research unit, and the cooperating entities have the mutual right to solicit economically more favorable offers from third parties, the enterprises in the consortium must adjust their offers accordingly.

<sup>10</sup> (OJ 2022, item 2509).

<sup>11</sup> Subsequent sale of the rights to the results of R&D work, or development work, is permitted provided that the original purchaser implements the results in his own business activities.

<sup>12</sup> See footnote 10.

<sup>13</sup> See footnote 12.

Program Component Operator or the Program Component Partner, or no later than one year from the completion of the Project, in a situation where the contract for sale of rights to the results of R&D work/agreement for granting a license to use the rights to the results vested in the Program Component Operator or the Program Component Partner was concluded in the course of Project implementation.

10. Implementation within the meaning of paragraph 5 item 1 may not be carried out by Program Component Operator or Program Component Partner which is a scientific unit.

#### **§ 5.**

#### **Bonus conditions<sup>14</sup>**

1. With respect to the assistance referred to in § 2 (2) of the Agreement, the Program Component Operator or Program Component Partner that is an entrepreneur is entitled to a bonus for wide dissemination of the results of industrial research or development work, equal to 15 percentage points, whereby:
  - a. In the case of industrial research - obtaining a bonus may not result in exceeding the intensity of 80% of eligible costs for micro and small entrepreneurs, 75% of eligible costs for medium-sized entrepreneurs, 65% of eligible costs for entrepreneurs other than SMEs,
  - b. in the case of development work - obtaining a bonus may not result in exceeding the intensity of 60% of eligible costs for micro and small entrepreneurs, 50% of eligible costs for medium-sized entrepreneurs, 40% of eligible costs for entrepreneurs other than SMEs,if, within a period of no more than 3 years after the completion of the Project, the results obtained by the Program Component Operator or the Program Component Partner are:
  - 1) presented at least 3 scientific and technical conferences, including at least one of national stature or
  - 2) published in at least two scientific or technical journals included in the list of journals published by the minister responsible for higher education and science , current as of the date of acceptance of the article for publication, or in publicly available databases providing free access to the obtained results of the Project (raw research data), or
  - 3) fully distributed via freeware or software with an open access license.
2. In the case referred to in paragraph 1(3), the Program Component Operator and the Program Component Partner is obliged to make available and widely disseminate the results of industrial research or development work to all entities interested in using these results free of charge, observing the principle of equal access. The provision of an incomplete version of the software, which does not preserve all the functional characteristics ascribed to the results of industrial research and development works, does not constitute wide dissemination.
3. Failure to meet the conditions specified in paragraph 1, will result in a reduction in the intensity of support to the basic level of support intensity. In the event of failure to meet the conditions referred to above upon completion of the Project, the Center shall call on the Program Component Operator to return the equivalent of the bonus together with interest at the rate specified for tax arrears, calculated from the date of transfer of funds to the bank account of the Program Component Operator until the date of their return. The repayment must be made within 14 days from the date of delivery of the summons within 14 days from the date of delivery of the summons.
4. The Beneficiary, being an entrepreneur, shall be entitled to a bonus of 15 percentage points for effective cooperation within the framework of the Project with another entrepreneur or entrepreneurs, not related, within the meaning of Annex I to Regulation No. 651/2014, to it, included in an international consortium, at least one of which is a micro, small or medium entrepreneur, or the cooperation is international in nature, meaning that industrial research or experimental development work is carried out in at least two member states of the European Union or in a member state of the European Union and in a member state of the European Free Trade Agreement (EFTA) - a party to the Agreement on the European Economic Area, whereby:
  - 1) In the case of industrial research - obtaining a bonus may not result in an intensity of 80% of eligible costs for micro and small entrepreneurs, 75% - for medium-sized entrepreneurs, 65% - for entrepreneurs other than SMEs,
  - 2) in the case of development work - obtaining a bonus may not result in exceeding the intensity of 60% of eligible costs for micro and small entrepreneurs, 50% - for medium-sized entrepreneurs, 40% - for entrepreneurs other than SMEs, and
  - 3) No entrepreneur bears more than 70% of the cost of the Project.

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<sup>14</sup> If applicable.



5. The Beneficiary, which is an entrepreneur, is entitled to a bonus of 15 percentage points, for effective cooperation within the framework of the Project implemented as part of an international consortium with at least one scientific unit, which is part of it:
  - 1) In the case of industrial research - obtaining a bonus may not result in exceeding the support intensity of 80% of eligible costs for micro and small entrepreneurs, 75% - for medium-sized entrepreneurs, 65% - for entrepreneurs other than SMEs,
  - 2) In the case of development work - obtaining a bonus may not result in exceeding the support intensity of 60% of eligible costs for micro and small entrepreneurs, 50% - for medium-sized entrepreneurs, 40% - for entrepreneurs other than SMEs,

if:

- 1) The scientific unit bears at least 10% of the Project costs, and
  - 2) The scientific unit has the right to publish the results of the project to the extent that they are derived from its research.
6. Subcontracting is not considered effective cooperation.
  7. Failure to meet the conditions specified in paragraph 4 or paragraph 5, will result in a reduction in the intensity of support to the basic level of support intensity.
  8. The right to receive a bonus for effective cooperation within the Project, shall be entitled only to the extent that it exists as of the date of conclusion of the Agreement. Cooperation with the characteristics of effective cooperation referred to in paragraph 4 or 5, undertaken in the course of Project implementation, shall not entitle to a bonus.
  9. The Program Component Operator or the Program Component Partner, which is an entrepreneur, loses the right to the bonus referred to in paragraph 4 or 5 in the event of termination of the consortium agreement during the implementation of the Project or amendment of the consortium agreement, which results in failure to meet the conditions for granting the bonus. In the case referred to in the preceding sentence, the support intensity is reduced to the basic support intensity level. In the case of failure to meet the conditions referred to above after completion of the project, the Center shall call on the Program Component Operator to return the equivalent of the bonus, together with interest at the rate specified for tax arrears, calculated from the date of transfer of funds to the bank account of the Program Component Operator until the date of their return. The repayment must be made within 14 days from the date of delivery of the summons.
  10. The beneficiary, which is an entrepreneur, is entitled to a bonus for the timely provision of licenses related to the results of industrial research or development work, amounting to 15 percentage points, whereby:
    - 1) In the case of industrial research - obtaining a bonus may not result in exceeding the intensity of 80% of eligible costs for micro and small entrepreneurs, 75% of eligible costs for medium-sized entrepreneurs, 65% of eligible costs for entrepreneurs other than SMEs,
    - 2) in the case of development work - obtaining a bonus may not result in exceeding the intensity of 60% of eligible costs for micro and small entrepreneurs, 50% of eligible costs for medium-sized entrepreneurs, 40% of eligible costs for entrepreneurs other than SMEs,

if, within a period of no more than 3 years after the completion of the Project, the results of the Project protected by intellectual property rights are made available at market price and on a non-exclusive and non-discriminatory basis to interested parties in the European Economic Area.

11. Failure to meet the condition set forth in paragraph 10 shall result in a reduction in the intensity of support to the basic level of support intensity.
12. The Beneficiary, which is an entrepreneur, shall be entitled to a premium for the implementation of the Project in a regionally assisted area of 15 percentage points, whereby:
  - 1) In the case of industrial research - obtaining a bonus may not result in exceeding the intensity of 80% of eligible costs for micro and small entrepreneurs, 75% of eligible costs for medium-sized entrepreneurs, 65% of eligible costs for entrepreneurs other than SMEs,
  - 2) in the case of development work - obtaining a bonus may not result in exceeding the intensity of 60% of eligible costs for micro and small entrepreneurs, 50% of eligible costs for medium-sized entrepreneurs, 40% of eligible costs for entrepreneurs other than SMEs,

if throughout the duration of the Project will be implemented in the areas of the provinces: kujawsko-pomorskie, lubelskie, lubuskie, łódzkie, małopolskie, opolskie, podkarpackie, podlaskie, pomorskie, śląskie, świętokrzyskie, warmińsko-mazurskie and zachodniopomorskie or mazowieckie regional.

13. The Beneficiary, which is an entrepreneur, shall be entitled to a premium for the implementation of the Project in a regionally assisted area, equal to 5 percentage points, whereby:
  - 1) In the case of industrial research - obtaining a bonus may not result in exceeding the intensity of 75% of eligible costs for micro and small entrepreneurs, 65% of eligible costs for medium-sized entrepreneurs, 55% of eligible costs for entrepreneurs other than SMEs,
  - 2) in the case of development work - obtaining a bonus may not result in exceeding the intensity of 50% of eligible costs for micro and small entrepreneurs, 40% of eligible costs for medium-sized entrepreneurs, 30% of eligible costs for entrepreneurs other than SMEs,
 if, throughout the duration of the Project, it will be implemented in the area of the Lower Silesian and Greater Poland Voivodeships and the Warsaw Capital Region in areas belonging to municipalities: Baranów, Blonie, Dąbrówka, Dobre, Góra Kalwaria, Grodzisk Mazowiecki, Jadów, Jaktorów, Kaluszyn, Kampinos, Kołbiel, Latowicz, Leoncin, Leszno, Mrozy, Nasielsk, Osieck, Prażmów, Serock, Siennica, Sobienie-Jeziory, Strachówka, Tarczyn, Tłuszcz, Zakroczym or Żabia Wola.
14. Failure to meet the condition set forth in either paragraph 12 or paragraph 13 shall result in a reduction in the intensity of support to the basic level of support intensity.
15. It is not possible to accumulate bonuses for wide dissemination of results, bonuses for effective cooperation in the Project, bonuses for timely release of licenses related to results, and bonuses for implementation of the Project in the areas referred to in paragraphs 12-13. Obtaining one bonus prevents obtaining the other bonuses.

## § 6.

### Value of the Project and value of funding

1. The total cost of the Project is ..... **PLN (in words: ..... PLN).**
2. The total amount of eligible costs is ..... **PLN (in words: ..... PLN),** whereby:
  - 1) The maximum amount of eligible expenses for industrial research is ..... **PLN (in words: ..... PLN);**
  - 2) The maximum amount of eligible expenditure for development work is ..... **PLN (in words: ..... PLN).**
3. Under the terms of the Agreement, the Center shall grant funding in an amount not exceeding ..... **PLN (in words: ..... PLN),** whereby:
  - 1) The maximum amount of funding for industrial research is ..... **PLN (in words: ..... PLN);**
  - 2) The maximum amount of funding for development work is ..... **PLN (in words: ..... PLN).**
4. The funding referred to in paragraph 3 is paid by:
  - 1) 82.44% of the amount of funding in the form of payment from the budget of European funds, which is ..... PLN (in words: ..... PLN) and
  - 2) 17.56% of the amount of funding from the targeted grant, which is ..... PLN (in words: ..... PLN).
5. Expenses in excess of the total amount of eligible costs specified in paragraph 2, including expenses resulting from an increase in the total cost of Project implementation after the conclusion of the Agreement, shall be borne by the Program Component Operator or the Program Component Partner and shall be ineligible costs.
6. The Program Component Operator or Program Component Partner is required to provide funding for costs that constitute the required own contribution and non-eligible costs necessary to implement the Project on its own.
7. In the event of a change in the amount of eligible expenditures resulting from a change in the scope of the Project, the amount of funding awarded may be reduced.
8. State aid in the Project, for industrial research or development work, the intensity of which is determined on the basis of § 13 and § 14 of the Regulation of the Ministry of Science and Higher Education, is received by entrepreneurs. A scientific unit carries out the Project as part of non-economic activities, does not receive state aid and may receive co-financing of up to 100% of eligible costs.

9. The grant is transferred to the bank account of the Program Component Operator with the number ..... The Program Component Operator and the Program Component Partner are required to establish separate bank accounts for the Project.
10. Until reimbursement or advance payment is received, the Program Component Operator and the Program Component Partners are required to finance Project implementation from their own resources.
11. It is not possible for the Project to settle part of the indirect costs with a flat rate, and the rest on the basis of expenses incurred.

## § 7.

### Eligibility of costs

1. The cost eligibility period for the Project is the period of Project implementation, which begins on ..... and ends on .....
2. Costs incurred in the Project meet the following conditions:
  - 1) Are necessary to achieve the objectives of the Project;
  - 2) Are consistent with the Project budget;
  - 3) are accounted for and documented in accordance with the accounting regulations and accounting policies of the Program Component Operator or Program Component Partners;
  - 4) were incurred and paid for during the Project period indicated in paragraph 1;
  - 5) were incurred in accordance with the principles of sound financial management, in particular, the most favorable relationship between inputs and outputs;
  - 6) were incurred in accordance with the *Cost eligibility guide*;
  - 7) were incurred in accordance with the principles set forth in § 10.
3. Commencement of Project implementation by Program Component Operator or Program Component Partner before the date of submission of the project proposal, or on the date of submission of the project proposal, will render all costs under the Project ineligible. In the case referred to in the preceding sentence, § 15 paragraph 4 of the Agreement shall apply.
4. Costs of implementing R&D results are not eligible costs.
5. If the total incurred amount of Program funding for the relevant Program Component Operator or Program Component Partner exceeds PLN 1,450,000 (in words: one million four hundred and fifty thousand zlotys) it is required to submit a certificate from an independent auditor certifying that the costs were incurred in accordance with the Regulations, national law and relevant national accounting practices and the Guidelines.
6. The auditor must be qualified to conduct statutory audits of accounting documents.
7. A certificate issued by a competent and independent public official who is recognized by the relevant national authorities as having the budget and financial control capacity of the entity incurring the costs, and who has not been involved in the preparation of financial statements, certifying that the reported costs have been incurred in accordance with the Regulations, national law and relevant national accounting practices and the Guidelines shall also be accepted as sufficient evidence of the costs incurred.
8. Proceedings to issue a certificate are an eligible cost if they began after at least 80% of the planned Project expenditures had been realized.
9. The Center verifies the expenses incurred, detailed in the Final Report referred to in § 9 paragraph 1 item 2 of the Agreement, on the basis of the certificate referred to in paragraph 5.
10. If an audit has been carried out in the Project, as referred to in § 14 of the Agreement, the audit report is considered sufficient proof of expenditure by the Program Component Operator or the Polish Partners of the Program Component. This means that the certificate referred to in paragraph 5 is not required for them. At the same time, this does not exempt Swiss Partners of the Program Component who meet the conditions referred to in paragraph 5 from submitting the certificate.
11. The certificate referred to in paragraph 5 is submitted together with the Final Report referred to in § 9 paragraph 1 item 2 of the Agreement. On this basis, the Center verifies the expenses incurred, detailed in the Final Report.
12. The certificate referred to in paragraph 5 is submitted together with the Final Report referred to in § 9 paragraph 1 item 2 of the Agreement. On this basis, the Center verifies the expenses incurred, detailed in the Final Report.

13. In the event of termination of the Agreement pursuant to § 16 (1) - (4) of the Agreement, the Center may consider all or part of the costs incurred by the Program Component Operator and the Program Component Partner under the Project as ineligible.
14. In the event of failure to make or improper documentation of the contribution made by Program Component Operator or Program Component Partner, the Center shall be entitled to call for repayment of a portion of the grant funds in an amount proportional to the portion of the non-contributed or incorrectly documented own contribution.

## § 8 .

### Conditions and form of transfer of funding

1. Payment of funding for indirect costs (Overheads) is subject to the demonstration of direct expenses.
2. The Program Component Operator shall immediately transfer funds to the Program Component Partners, in amounts that ensure proper implementation of the Project/liquidity in the Project.
3. The first advance payment for the implementation of the Project, in the amount of up to 30% of the Project funding, shall be paid to the Program Component Operator within 30 days from the date of conclusion of the Agreement, subject to the establishment of the security<sup>15</sup>, referred to in § 19 section 2 of the Agreement, subject to § 19 section 4 of the Agreement. If the date of commencement of the Project implementation falls later than 90 days from the date of conclusion of the Agreement, the first advance shall be paid to the Program Component Operator within 14 days from the date of commencement of the Project implementation, provided that the security<sup>16</sup>, referred to in § 19 paragraph 2, subject to § 19 paragraph 4 of the Agreement, is established. Subsequent advance payments in the amount scheduled in the payment schedule for a given fiscal year shall be paid on the basis of a payment application submitted by the Program Component Operator<sup>17</sup>, subject to paragraph 4. In justified cases, the Center may change the amount of the advance or reimbursement tranche depending on the financial situation of the Center or the Program Component Operator.
4. The condition for receiving another advance is to show that costs representing at least 70% of all advances transferred have been incurred.
5. In order to receive the next advance payment, after fulfilling the condition referred to in paragraph 4, or in order to receive reimbursement of costs incurred, the Program Component Operator is required to submit to the Center an application for payment (either in electronic form with a qualified electronic signature or in hard copy with an identical electronic copy of this document according to the application template in an Excel file sent to the project supervisor's e-mail address) no later than October 31 of the given fiscal year.
6. The Program Component Operator notified by the Center of errors or deficiencies in the submitted payment application, is obliged to correct them within 14 days from the date of receipt of the summons. The Center may make additions or corrections of a clerical or accounting nature in the payment application and reports, without their approval by the Program Component Operator. The Center shall inform the Program Component Operator of the extent of the corrections and additions made.
7. Failure of the Program Component Operator to correct errors or deficiencies in the payment application/reports may result in its rejection and withholding of the funding or recognition of the payment application only in the amount of properly eligible costs.
8. The Center verifies the payment application within 60 days of receiving a correct and complete payment application. Disbursement of funds shall be made upon approval of the payment application. Payment of an advance or reimbursement of costs does not imply approval of the incurred costs shown in the payment application. As part of the verification of the payment application, the Center may request the Program Component Operator to provide, within a specified period of time, the documentation necessary to confirm the eligibility of expenditures contained therein, and in particular to enable verification of the disbursement of funds, as referred to in § 7 paragraph 2 of the Agreement. The running of the 60-day deadline for approval of a correct and complete application for payment shall be suspended if the Program Component Operator is summoned for supplements, corrections or additional clarifications necessary to verify the documentation confirming the eligibility of expenditures.
9. Funds received that are not used in a given fiscal year may be used in the next fiscal year of the Project without the need to conclude an annex to the Agreement.

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<sup>15</sup> If applicable.

<sup>16</sup> If applicable.

<sup>17</sup> Application for an advance payment or refund, prepared according to the template posted on the Center's website [www.ncbr.gov.pl](http://www.ncbr.gov.pl).

10. If a payment application is not submitted by the deadline specified in paragraph 5, the Program Component Operator is required to submit a revised payment schedule by October 31 of the relevant fiscal year. Failure to properly adjust the payment schedule may mean that the Center will update the payment schedule, which will not change the material scope of the Project.
11. In the event of a change in the bank account number, the Program Component Operator is obliged to immediately inform the Center of such change in writing or electronically (with a qualified electronic signature), no later than the date of submission of the payment application. A change in the bank account number does not require an annex to the Agreement.
12. In the event that the Center makes a payment to a bank account with an incorrect number as a result of failure to comply with the obligation referred to in paragraph 11, the costs associated with the re-transfer and any consequences of claiming funds that constitute unjust enrichment of a third party, including the consequences of their loss by the Center, shall be borne by the Program Component Operator. The Program Component Operator shall be jointly and severally liable with the unjustly enriched third party, and shall, upon demand by the Center, return to the Center the full amount of funds transferred to the wrong bank account number. Upon the return of any funds, the Center declares that it transfers to the Program Component Operator the title to recourse financial claims against the unjustly enriched entity.
13. Revenues from the sale of scientific and research equipment purchased or manufactured with funds constituting the grant, received during the Project implementation period, should be shown in the Final Report and are subject to reimbursement to the Center's bank account.
14. The sum of bank interest earned on the amount of funding provided for the Project is shown by the Program Component Operator in the Final Report and returned to the Center's bank account.
15. The portion of the grant not used by the Program Component Operator or the Program Component Partners, upon completion of the Project, shall be returned to the Center's bank account, together with the amount of interest referred to in paragraph 14, within 30 days from the date of completion of the Project.
16. The Program Component Operator and the Program Component Partner shall be obliged to have documents confirming the costs incurred for the implementation of the Project, subject to overhead costs settled in a lump sum. The documents should be prepared and stored in accordance with the law. The original accounting document should be described, indicating the following information: the number of the Agreement, the relevant cost category, the number of the task (WP) implemented in the Project and the amount of eligible costs.
17. The Program Component Operator and the Program Component Partner is obliged to keep separate accounting records of funds by type with analytical breakdown of costs, enabling identification of funds spent on the Project. If, according to the applicable law, the Program Component Operator or the Program Component Partner is not obliged to keep the aforementioned records, it is obliged to keep records with an appropriate description in accordance with paragraph 16, enabling the identification of funds spent on the Project.
18. The Center shall have the right to inspect the documentation referred to in paragraph 16 at any time and at any phase or stage of the Project and for a period of not less than 10 years from the Program Completion Date.
19. Acceptance of the application for payment or approval of the Report referred to in § 9 (1) of the Agreement shall not waive or affect the possibility of different findings and results of the inspections carried out, as referred to in paragraph 18.
20. Payment of the grant is contingent on the Center's receipt of an earmarked grant from the state budget, as referred to in Article 46(1)(1) of the Act.
21. The Center may commission an external entity to evaluate the implementation of the Project and the payment application submitted for verification in order to obtain an expert opinion.
22. The Program Component Operator is obliged to make available at its premises (in a single room), the Center or an institution authorized by it, the ordered and properly described documentation listed in paragraph 16 (including a copy of the aforementioned documentation of the Program Component Partner) for verification purposes. At the request of the Center, the Program Component Operator is obliged to provide the documentation in question to the Center in the form and by the date indicated by the Center.

## § 9.

### Monitoring the implementation of the Project

1. The Program Component Operator shall submit the following documents to the Center for monitoring, reporting and verification of the correct implementation of the Agreement (Reports), in accordance with the template posted on the Center's website [www.ncbr.gov.pl](http://www.ncbr.gov.pl) and in the form specified therein:
  - 1) Interim Report;
  - 2) Final Report;
  - 3) Report on implementation of Project results;
  - 4) Ex-post report;
2. The Program Component Operator's Reports shall include the information indicated by the Center for evaluation purposes.
3. The Interim Report shall document the progress of the Project during the respective reporting period. The interim report shall be submitted after 12 and 24 months of Project implementation (reporting period), starting from the date of commencement of the Project implementation referred to in § 7.1 of the Agreement, within 60 days after the end of the respective reporting period.
4. If the Project implementation period is 24 months, the Program Component Operator shall not submit the last Progress Report.
5. The final report shall include a report on the implementation of the Project with a description of the Project results and a final financial settlement of the Project. The final report shall be submitted within 60 days from the date of completion of the Project.
6. The Program Component Operator shall submit to the Center the Report on Implementation of Project Results, in accordance with the template posted on the Center's website [www.ncbr.gov.pl](http://www.ncbr.gov.pl), within 30 days after the expiration of 3 years from the date of completion of the Project implementation referred to in § 7 par. 1 of the Agreement. In the cases specified in § 4 par. 5 items 2 and 3, the Program Component Operator is obliged to submit, together with the Report on Implementation of Project Results, copies of the agreements referred to in § 4 par. 9. The Program Component Operator shall submit to the Center copies of annexes to the concluded agreements referred to in § 4 par. 9 within 14 days from the date of their conclusion. In case of non-implementation of the Project results, a report on the implementation of the Project results is not required, and the Program Component Operator shall inform the Center of the non-implementation of the Project results, within 30 days after the expiration of 3 years from the date of completion of the Project.
7. The report on the implementation of the Project results shall include a report on the dissemination of R&D results.

In the report, the Program Component Operator shall indicate the forms of dissemination of these results, together with documents confirming the transfer of information to the public, in particular:

  - 1) Confirmation of participation in the conference with its program, which includes an item on the presentation of the results of the Supported Project;
  - 2) Confirmation of publication in scientific or technical journals appearing in the list of journals published by the Minister of Higher Education and Science (publicly available link or copy of the journal copy);
  - 3) Indication of the website where the database providing free access to the raw research data has been made available;
  - 4) Transfer of data carrier with freeware or software with open access license.
8. The Program Component Operator shall submit an Ex-post Report within 30 days after the expiration of 5 years from the date of completion of the Project. In the case of implementation in the form of sale of rights to the results of R&D work or granting a license to use the rights to these results to the Program Component Operator or the Program Component Partner, the Program Component Operator shall attach to the Ex-post Report a statement on the introduction of the results of these works into the business activities of the purchaser/licensee.
9. The Center is entitled to request from the Program Component Operator additional clarifications or additions to the submitted Report. The Program Component Operator is obliged to provide the information referred to in the preceding sentence within 14 days of receiving the Center's request.
10. If the Center finds any irregularities in the reports submitted by the Program Component Operator or in the attachments to the reports, the Program Component Operator shall be obliged to correct them within 14 days from the date of receipt of the summons.

11. The Center's evaluation of the Interim Report is aimed in particular at determining whether:
  - 1) Project implementation is proceeding in accordance with the Agreement;
  - 2) Continued implementation of the Project leads to the achievement of the intended results and objectives of the Project.
12. The Center's evaluation of the Final Report includes an inspection of the compliance of the Project's performance with the terms of the Agreement and is intended to determine whether the Project can be considered:
  - 1) made;
  - 2) executed, with a request to return the unused or misused grant, together with interest calculated as for tax arrears from the date of receipt by the Program Component Operator of the grant until the date of repayment;
  - 3) not executed in whole or in part, with a simultaneous call for repayment of all or part of the grant, together with interest calculated as for tax arrears from the date of receipt of the grant by the Program Component Operator until the date of repayment, or without a call for repayment in the cases referred to in § 16 paragraph 6.
13. If the permissible levels of public assistance intensity are exceeded, the Program Component Operator will reimburse the Center for the portion of the grant in excess of the permissible levels of public assistance intensity, together with interest calculated as for tax arrears from the date the Program Component Operator received the grant until the date of reimbursement.
14. The Program Component Operator is obliged to submit a copy of the R&D report<sup>18</sup> for a given year to the Center in each year of the Agreement, immediately after submission to the Central Statistical Office. If the R&D report has already been submitted to the Center in connection with the fulfillment of an obligation under another contract, the Program Component Operator is obliged to inform the Center that the R&D report has been submitted and indicate the number of the contract to which the submitted report relates.
15. In the event that the implementation of the Project to date indicates the impossibility of achieving the anticipated results and objectives of the Project, in particular due to the occurrence of force majeure, scientific risks, or a significant and unforeseeable change in socio-economic relations, so that the implementation of the Project has become impossible or, from the point of view of the public interest, inexpedient, the Program Component Operator is obliged to immediately inform the Center of this fact and submit a documented request to discontinue the Project.
16. If the Center accepts the request referred to in paragraph 15:
  - 1) The Program Component Operator shall be obliged to return to the Center's account the portion of the grant not used for the Project within 14 days from the date of delivery to the Program Component Operator of a letter accepting by the Center the discontinuation of the Project;
  - 2) The Program Component Operator shall submit a Final Report to the Center (in the form specified in accordance with paragraph 1), within 60 days from the date of delivery to the Program Component Operator of a letter of acceptance by the Center to discontinue the Project;
  - 3) The Program Component Operator, subject to § 16(6), in the event that the analysis conducted shows that the failure of the Project implementation was not due to an unauthorized act or omission of the Program Component Operator or the Program Component Partner, will receive a grant proportionate to the scope of work completed, with the rule that the grant amount is calculated on the basis of the eligible costs actually incurred by the Program Component Operator and the Program Component Partners.
17. If the Center determines that the implementation of the Project to date indicates that it is not possible to achieve the anticipated results and objectives of the Project, in particular, due to the occurrence of force majeure, scientific risks or a significant and unforeseeable change in socio-economic relations, by which the implementation of the Project has become impossible or, from the point of view of the public interest, inexpedient, the Center may decide to discontinue further implementation of the Project. In the case referred to in the preceding sentence, the Program Component Operator and the Program Component Partners are not entitled to compensation - the Program Component Operator and the Program Component Partners waive any financial claims due to the Center's decision to discontinue further implementation of the Project.
18. If the Center makes the decision referred to in paragraph 17, the provisions of paragraph 16 shall apply accordingly.

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<sup>18</sup> Report on research and development (R&D) activities, submitted to the Central Statistical Office under the Law on Public Statistics of June 29, 1995.

## § 10.

### Competitiveness of expenditure

1. The Program Component Operator or Program Component Partner prepares and conducts the public procurement procedure in accordance with Article 7.1 of the Regulations, the derogations to Article 7.2 of the Regulations set forth in the Annex to the Framework Agreement, Article 8 of the Program Agreement, and in accordance with the Public Procurement Law in the case of entities that are contracting entities as defined in the aforementioned Law, in a manner that ensures fair competition, equal treatment of contractors, openness, transparency of the procedure and selection of contractors, and efficiency understood as purposeful and economical spending.
2. The Program Component Operator or Program Component Partner shall award contracts as follows:
  - 1) If the Program Component Operator or Program Component Partner is obliged to award contracts under Articles 4 - 6 of the PPL Act or is obliged to apply the PPL Act under other legal acts, the provisions of the PPL Act in effect on the date of initiation of these proceedings shall apply to the award of contracts made under the Project. If the Program Component Operator or the Program Component Partner awards a contract in the Project, the net value of which, i.e. without VAT, does not trigger the obligation to apply the PPL Act in force on the date of initiation of the proceedings, it is obliged in this respect to apply the procedure specified in the *Wytyczne w zakresie udzielania zamówień w ramach Szwajcarsko-Polskiego Programu Współpracy*;
  - 2) when the Program Component Operator or the Program Component Partner is an entity other than the one indicated in item. 1, it shall award contracts according to the procedure described in the *Wytyczne w zakresie udzielania zamówień w ramach Szwajcarsko-Polskiego Programu Współpracy*;
  - 3) When the Program Component Partner is a Swiss entity, it awards contracts according to Swiss law.
3. In the case of violation by the Program Component Operator or the Program Component Partner of the mode and rules referred to in paragraphs 1-2, including violation of the provisions or procedures of the public procurement law, the Center is authorized, in accordance with the Guidelines, to impose financial corrections applying, as appropriate, the Guidelines of the Minister of Funds and Regional Policy on how to correct irregularities for 2021-2027 issued on the basis of Art. 5 section 1 item 8 of the Act of April 28, 2022 on the principles of implementation of tasks financed from European funds in the financial perspective 2021-2027.<sup>19</sup> In the case referred to in the previous sentence, § 16 of the Agreement shall apply accordingly.

## § 11.

### Promotion and information

1. The Program Component Operator and the Program Component Partner are obliged to inform the public about the fact that they have received funding for the Project from the Center, both during the implementation of the Project and after its completion.
2. The Program Component Operator and the Program Component Partner are required to apply the rules set forth in the *"Communication and Information Manual Second Swiss Contribution to selected EU Member States,"* and the *"Wytycznych w zakresie wypełniania obowiązków informacyjnych dotyczących beneficjentów programów dofinansowanych z budżetu państwa lub z państwowych funduszy celowych"*, posted at [www.ncbr.gov.pl](http://www.ncbr.gov.pl).

## § 12.

### Project sustainability rules

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<sup>19</sup> The guidelines can be found at: <https://www.funduszeuropejskie.gov.pl> under: About the Funds/Learn about the Funds European 2021-2027/Laws and Documents/Guidelines



1. The Program Component Operator and the Program Component Partner undertake to ensure the sustainability of the<sup>20</sup> Project for a period of at least 5 years after the Center approves the final report referred to in § 9(1)(2), in accordance with the principles set forth in this paragraph.
2. The Program Component Operator and the Program Component Partner are solely responsible for maintaining the sustainability of the Project and fulfilling their obligations in this regard.
3. Starting from the date of confirmation of receipt of the asset or intangible asset, the Program Component Operator and the Program Component Partner shall:
  - a) Their operation and use in accordance with the objectives set by the project,
  - b) their insurance against losses due to fire, theft, vandalism, flooding and other events provided for in standard insurance contracts for tangible / intangible assets of a given type,
  - c) maintain them with their own funds in an undeteriorated condition and with their fitness for use during the period of durability.
4. Tangible and intangible assets generated, acquired or improved with the funds may be sold, rented, leased or mortgaged during the implementation of the project referred to in Paragraph 7.1 of the Agreement or during the life of the project referred to in Paragraph 1 only after obtaining written approval from the Center and SDC in accordance with Article 4.15(7) of the Regulations.
5. The request for the sale, lease, rental or mortgage referred to in paragraph 4 is made to the Center by the Program Component Operator. The Center shall request the consent of the SDC, and then respond to the Program Component Operator. If the Center and SDC give their consent, the Program Component Operator shall ensure that the project sustainability obligations are guaranteed in the contract to be concluded with the third party (except for the mortgage).
6. Ownership rights include the right to dispose of the results of activities implemented under the project, including copyrights and revenues generated as a result of the implementation of activities. In projects implemented in partnership, the ownership rights of the results of activities are decided by the national partnership agreement or bilateral agreement, respectively.
7. The principles of project sustainability indicated for fixed assets, appropriate to their nature, should be applied to intangible assets.

### **§ 13.**

#### **Control and storage of documents**

1. Inspections and audits of the Project shall be carried out in accordance with the provisions of the Agreement.
2. The Program Component Operator and the Program Component Partner agree to submit to inspection and audit of the executed Agreement, conducted by the Center and other institutions authorized to do so, at any time during the implementation of the Project for a period of not less than 10 years from the Program Completion Date.
3. In carrying out the commitment referred to in paragraph 2, the Program Component Operator and the Program Component Partner at their own expense:
  - 1) informs the inspectors of all places (areas, premises) where the Project is implemented and Project documentation is stored;
  - 2) shall make available, at the request of the inspectors, all documentation related to the Project and the executed Agreement, in accordance with Paragraph 8(22) of the Agreement, including access to the accounting computer system, as well as to all documents and computer files and any other media related to the financial and technical management of the Project, including all Confidential Information related

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<sup>20</sup> The Project's sustainability rules also apply to the maintenance of tangible and intangible assets produced, acquired or improved in the course of the Project. The terms: "fixed assets", "intangible assets" and "improvement of a fixed asset" should be understood in accordance with the Accounting Act of September 29, 1994.

to the implementation of the Project (if necessary to determine the eligibility of costs incurred in the Project, documents not directly related to its implementation should also be made available);

- 3) provide inspectors with access to any land and premises where the Project is being implemented and allow inspection of fixed assets purchased, depreciated or manufactured as part of the implementation of the Project;
  - 4) shall provide oral and written explanations during inspections regarding the implementation of the Project, and shall ensure, at its own expense, the presence of competent persons to provide explanations to the inspectors regarding the expenditure of funds and other issues related to the implementation of the Project;
  - 5) shall provide to the inspectors, upon their request, extracts, statements, printouts, as well as copies of documents related to the implementation of the Project, and shall ensure the presence of a person who, during the inspection, will be authorized to certify the copies as true copies.
4. Inspections at the Project site shall be carried out on the basis of a written or electronic (with qualified electronic signature) named inspection authorization.
  5. In justified cases, including due to the voluminous nature of the documentation, numerous Program Component Partners, or the urgent need for the Program Component Operator or Program Component Partners to provide clarification of substantive issues, the deadline for the audit may be extended by the Center.
  6. The inspectors are entitled during the inspection to record the course of inspection activities, by taking photographs, film or recording sound - to the extent consistent with the subject of the inspection.
  7. Failure by a Program Component Operator or a Program Component Partner to perform any of the duties referred to in paragraph 3 shall be treated as obstruction or prevention of the inspection.
  8. The Program Component Operator is notified of the scheduled inspection no later than 5 days before the date of its commencement. The notice is provided by regular mail and may also be provided electronically.
  9. Upon completion of the inspection, an inspection protocol is prepared, which, after being signed by authorized persons, is submitted to the Program Component Operator in 2 copies. One copy of the inspection protocol is provided to the Center by the Program Component Operator.
  10. The Program Component Operator has the right to submit, within 14 days from the date of receipt of the inspection protocol, reasoned written or electronic (with qualified electronic signature) objections to the protocol. At the request of the Program Component Operator, submitted before the expiration of the deadline for raising objections, the applicable deadline may be extended by the Center for a specified period of time.
  11. The Center shall have the right to correct obvious mistakes in the inspection protocol at any time, ex officio or at the request of the inspected entity. Information on the extent of the correction shall be provided without undue delay to the Program Component Operator.
  12. In the course of considering objections, the Center has the right to carry out additional inspection activities or demand the submission of documents or additional explanations in writing or in electronic form (with a qualified electronic signature) or in documentary form (including by email).
  13. The objections referred to in paragraph 10 may be withdrawn at any time. Objections that have been withdrawn shall be left without consideration.
  14. In case of refusal to sign the audit protocol, the Program Component Operator shall provide a written or electronic (with qualified electronic signature) justification along with 1 copy of the unsigned audit protocol within 14 days from the date of receipt of the audit protocol by the Program Component Operator.
  15. The Center, after considering the objections, prepares final audit conclusions, which include corrected audit findings or a written or electronic (with qualified electronic signature) position on the objections raised, along with the reasons for refusing to correct the findings. The final audit conclusions are forwarded to the Program Component Operator.
  16. Audit conclusions shall be supplemented with audit recommendations or recommendations, if necessary. The audit conclusions shall include a deadline for providing the Center with information on how the audit recommendations have been implemented or how the recommendations have been used. The deadline shall be set, taking into account the nature of these recommendations or recommendations.
  17. No objections may be filed to the final audit conclusions.
  18. Submission by the Program Component Operator of objections referred to in paragraph 10 or refusal to sign the protocol does not suspend the obligation to implement the recommendations.

19. The Program Component Operator shall inform the Center within the prescribed period of time on how to implement the audit recommendations or recommendations.
20. In the event of objections to the correctness of incurring eligible expenditures or the manner of implementation of the Agreement, the Center shall inform the Program Component Operator in writing or electronically (with a qualified electronic signature), and shall be entitled to withhold payment of the grant until the objections are finally resolved.
21. If irregularities are found during the audit examining the correctness of the eligible costs incurred, the Center, an institution authorized by it, or another institution authorized to conduct an audit under separate regulations, may carry out an audit to re-verify the eligibility of costs and the correctness of the manner of implementation of the Agreement.
22. During an on-site inspection of the Project, the Center or any other institution authorized to conduct inspections under separate regulations may verify whether the Program Component Operator or the Program Component Partner has not acquired the right to deduct the amount of value added tax (VAT) by input VAT.
23. During the on-site inspection, the institution authorized to carry out the inspection may verify the correctness of the application of the flat rate, in accordance with the limit of costs covered by the flat rate.
24. If the Center becomes aware of suspected irregularities in the implementation of the Project or the occurrence of other significant deficiencies on the part of the Program Component Operator or the Program Component Partner, the Center or another authorized institution may conduct an ad hoc inspection without the notification referred to in paragraph 8. An ad hoc inspection may also result from the need for urgent investigation of the facts or events that have occurred. The provisions of paragraphs 1-7 and 9-20 shall apply mutatis mutandis to the conduct of an ad hoc inspection.
25. The Program Component Operator and the Program Component Partner are obliged to provide the Center with copies of post-inspection information and post-inspection recommendations or other equivalent documents prepared by the inspecting institutions, if the inspection results relate to the Project, within 7 days from the date of receipt of these documents.
26. The Program Component Operator and the Program Component Partner shall be obliged to store in a manner guaranteeing confidentiality and due security of information, all data related to the implementation of the Project, in particular documentation related to financial management, technical management, procedures for contracting with contractors for a period of not less than 10 years from the Program Completion Date.
27. In the event that the Program Component Operator or the Program Component Operator suspends or ceases its activities prior to the date by which it is required to retain documents, the Program Component Operator agrees to immediately, in writing, inform the Center of the place of archiving documents related to the ongoing Project.

#### **§ 14.**

##### **Project Audit**

1. The project, in which the value of the grant exceeds PLN 3,000,000 (in words: three million zlotys), is subject to a mandatory external audit.
2. An audit is an eligible cost if it commenced after at least 80% of the planned Project expenditures have been realized and is conducted in accordance with **the guidelines attached as Appendix 3 to the *Cost eligibility guide*.**
3. The Program Component Operator shall submit the audit report to the Center along with the Final Report. The Program Component Operator is obliged to comply with the audit recommendations and include them in the Final Report.
4. The report referred to in Paragraph 3 shall be kept by the Program Component Operator for the period referred to in § 13 Paragraph 26 of the Agreement, and shall be made available to the Center upon any request.
5. The report referred to in paragraph 3 shall be tantamount to verification of the eligible costs of the Project, if the audit was performed in accordance with the guidelines attached as Annex 3 to the *Cost eligibility guide*.
6. The auditing entity is selected by the Program Component Operator with observance of the rules referred to in § 10 of the Agreement, and must ensure that the audit is conducted by an auditor who meets the conditions set forth in Article 286 ufp<sup>21</sup>. The auditing entity or auditor must not be a subsidiary of the audited entity, as

well as an entity or auditor that audited the financial statements of the audited entity during the 3 years preceding the audit.

## **§ 15.**

### **Mode and conditions of termination of the Agreement and withholding of funding**

1. The Agreement may be terminated by either Party, subject to one month's notice. The termination shall be in writing or in electronic form (with qualified electronic signature) under pain of nullity and must contain the reasons for which the Agreement is terminated.
2. The Center may withhold funding or terminate the Agreement with one month's notice, in particular if:
  - 1) The Program Component Operator or the Program Component Partner refuses to submit to or obstructs the inspection or fails to implement the inspection recommendations within the indicated timeframe;
  - 2) The Program Component Operator or the Program Component Partner has made legal and organizational changes in its status that threaten the implementation of the Agreement or that may have a negative impact on the implementation of the Project or the achievement of the Project objectives;
  - 3) The Program Component Operator did not submit the payment application or Report by the due date;
  - 4) The Program Component Operator has not corrected the payment application or Report containing deficiencies or errors within the prescribed period;
  - 5) The Program Component Operator or the Program Component Partner did not submit information and explanations on the implementation of the Project;
  - 6) The Program Component Operator or Program Component Partner does not promote the Project in the manner specified in the Agreement;
  - 7) negatively evaluated the Report referred to in § 9 of the Agreement;
  - 8) further implementation of the Project by the Program Component Operator or the Program Component Partner is impossible or inexpedient;
  - 9) The project has lost its bilateral or international character, particularly when one or more partners withdraw from its implementation;
  - 10) force majeure occurs that has or may have a negative impact on the implementation of the Project or the achievement of the Project objectives;
  - 11) The Program Component Operator or the Program Component Partner fails to comply with the obligations set forth in § 3.4 of the Agreement;
  - 12) The Program Component Operator did not provide an audit of the Project as specified in § 13 of the Agreement.
3. The Center may withhold funding or terminate the Agreement with immediate effect if:
  - 1) The Program Component Operator or the Program Component Partner has not commenced implementation of the Project for a period of more than 90 days from the Project start date specified in the Agreement;
  - 2) The Program Component Operator or Program Component Partner has ceased implementation of the Project or is implementing the Project in a manner contrary to the Agreement or in violation of the law;
  - 3) there is a lack of progress in the implementation of the Project in relation to the deadlines set out in the schedule of project implementation, which is part of the project proposal, constituting Annex No. 3 to the contract, which makes it reasonable to believe that the Project will not be implemented or its objective will not be achieved;
  - 4) The Program Component Operator or Program Component Partner has ceased operations, liquidation or restructuring proceedings have been initiated against it, or it remains in receivership, which has or may have a negative impact on the implementation of the Project or the achievement of the Project objectives;
  - 5) in order to obtain funding or at the stage of Project implementation or within 10 years from the Program Completion Date, the Program Component Operator or the Program Component Partner provided false or factually inaccurate statements or documents;
  - 6) The Program Component Operator or the Program Component Partner committed irregularities and failed to remedy their causes and effects within the time specified by the auditing entity;
  - 7) the Project's goal has not been achieved;

- 8) The Program Component Operator or Program Component Partner has purchased goods or services in a manner contrary to the terms of the Agreement;
  - 9) The Component Operator of the Program has not established or contributed within the specified period and in the form specified by the Center, a security for the proper performance of obligations under the Agreement;
  - 10) The Program Component Operator or the Program Component Partner has misused the grant, collected the grant improperly or in an excessive amount;
  - 11) The Program Component Operator or Program Component Partner used the grant in violation of the Agreement;
  - 12) The Program Component Operator or the Program Component Partner shall be charged with the repayment obligation resulting from the decision of the European Commission;
  - 13) was adjudged, by a final court judgment, against the Program Component Operator or the Program Component Partner, the prohibition referred to in Article 12(1) of the Act of June 15, 2012 on the effects of entrusting work to foreigners residing illegally on the territory of the Republic of Poland;
  - 14) The Program Component Operator or the Program Component Partner, without the consent of the Center, failed to carry out the industrial research, development work planned in the project proposal constituting Annex No. 3 to the Agreement, or carried them out to an incomplete extent;
  - 15) The Program Component Operator or Program Component Partner has implemented the R&D results in a manner inconsistent with the contract;
  - 16) The Program Component Operator or the Program Component Partner has sold or licensed the rights to the R&D results on terms that do not comply with the Agreement;
  - 17) The Program Component Operator has not provided the Center with a copy of the agreement for the sale of rights to the results of R&D work/copy of the license agreement, including annexes to these agreements, or the amendment of the sale agreement/license agreement prevents the proper implementation of the Agreement;
  - 18) The Center has become aware that the purchaser/licensee of the rights to the R&D results generated by the Project has failed to implement them into its own business by starting production or providing services based on the Project results, within the timeframe stipulated in the sales/licensing agreement concluded with the Program Component Operator or the Program Component Partner, or, in the case of a sales agreement, has resold the rights to the results to a third party;
  - 19) The Program Component Operator or the Program Component Partner, despite the obligation to repay the funds allocated for the implementation of programs financed with European funds or funds from domestic sources, and allocated for the implementation of the project financed by the Center, has not repaid these funds within the period indicated by the Center, unless the Program Component Operator or the Program Component Partner has been granted repayment relief;
  - 20) pre-trial proceedings have been initiated against the Program Component Operator or the Program Component Partner or persons for whom they are liable under the Act on Liability of Collective Entities for Criminal Acts of October 28, 2002, in a case that may affect the implementation of the Project;
  - 21) during the 3 years preceding the conclusion of the Agreement or during the implementation of the Project, the Center has terminated another agreement with the Program Component Operator or the Program Component Partner for funding or execution and financing of the project due to the fault of the Program Component Operator or the Program Component Partner, or for reasons attributable to the Program Component Operator or the Program Component Partner - this does not apply to cases of termination due to force majeure or in case of confirmation of by the Center of the occurrence of the prerequisites described in paragraph 9 and § 16 paragraph 6 of the Agreement;
  - 22) The Program Component Operator did not inform about the amendment of the consortium agreement within 14 days after the amendment, the amendment of the consortium agreement prevents the proper implementation of the Agreement, or there was a change in the Program Component Partner without the consent of the Center.
4. The Center shall terminate the Agreement with immediate effect in the event that the Program Component Operator or the Program Component Partner commenced implementation of the Project earlier than the day following the date of submission of the project proposal.

5. The Center may withhold funding if the amount included in the payment request is undue or the Center has taken action on possible irregularities affecting the expenditure in question.
6. If the grant is withheld, until the next tranche of the grant is paid or until the date of termination of the Agreement, the Program Component Operator is obliged to finance the implementation of the Project from its own resources.
7. Termination of the Agreement in the modes referred to in paragraphs 1-4 does not relieve the Program Component Operator or the Program Component Partner from the obligation to submit the Final Report, within 60 days from the date of termination of the Agreement, and to keep the documentation related to the implementation of the Project and make it available to the Center upon request. In justified cases, in particular, when there has been a termination of the Agreement by the Program Component Operator or the Program Component Partner, the grant has not been transferred, and the Project implementation has not been started, the Center may waive the request to submit the Final Report.
8. In the event of termination of the Agreement in the modes referred to in paragraphs 1-4, neither the Program Component Operator nor the Program Component Partner shall be entitled to compensation.
9. The Program Component Operator or Program Component Partner shall not be liable to the Center or be deemed in breach of the Agreement in connection with the non-performance or improper performance of its obligations under the Agreement to the extent that such non-performance or improper performance is the result of force majeure, scientific risks arising from the implementation of the research, or a significant and unforeseeable change in socioeconomic relations and the analysis conducted demonstrates that it was not due to an unauthorized act or omission of the Program Component Operator or Program Component Partner.
10. The Program Component Operator or the Program Component Partner is obliged to immediately inform the Center of the fact of the occurrence of the circumstances referred to above, to prove these circumstances by providing documentation confirming their occurrence, and to indicate the impact that the event had on the course of the Project.

## **§ 16.**

### **Return of funding and recovery of funds<sup>22</sup>**

1. If the costs are considered ineligible, in particular as a result of an audit or other activities verifying the correctness of the expenses incurred by the Program Component Operator or the Program Component Partner, the Center calls on the Program Component Operator to reimburse the costs considered ineligible with interest at the rate specified for tax arrears, calculated from the date of transfer of funds to the bank account of the Program Component Operator until the date of reimbursement. The reimbursement must be made within 14 days from the date of delivery of the summons.
2. Subject to the following provisions, in the event of termination of the Agreement under § 15 paragraphs 1-4 of the Agreement, the Center shall call on the Program Component Operator to return the entire grant received (also transferred to the Program Component Partner), within 14 days from the date of delivery of the call, together with interest at the rate specified for tax arrears, calculated from the date of transfer of funds to the bank account of the Program Component Operator until the date of their return, and together with bank interest accrued on the grant transferred in the form of an advance payment or reimbursement of costs, subject to paragraph 4. (4) Funding reimbursements shall be made to the bank accounts indicated by the Center containing in the title of the transfer:
  - 1) Project Number;
  - 2) Information about the principal amount and the amount of interest;
  - 3) return title;
  - 4) The year in which the funds subject to reimbursement were transferred.
3. In the case of:
  - 1) The use of the grant contrary to its intended purpose;
  - 2) use of funding in violation of the procedures referred to in Article 184 ufp<sup>23</sup> ;
  - 3) taking the funding improperly or in an excessive amount, Article 207 ufp shall apply.

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<sup>22</sup> Not applicable to state budget entities.

<sup>23</sup> Violation of the procedures referred to in Article 184 ufp also includes violation of the Agreement and the acts to which it refers.

4. If the circumstances referred to in paragraph 2 are found, the Center calls on the Program Component Operator to:
  - 1) return of funds or
  - 2) agreeing to reduce subsequent payments in accordance with Article 207 (2) ufp  
Within 14 days of service of the summons.
5. In the case of reimbursement of expenses on the basis of which lump-sum expenses have been accrued, the Program Component Operator is obliged to reimburse lump-sum expenses proportionally.
6. In the event of failure to repay the funds in full with interest as for tax arrears, the payment shall be credited proportionally to the amount of principal arrears, understood as the amount of funding to be repaid (without interest) and the amount of interest as for tax arrears in the ratio in which, on the date of payment, the amount of principal arrears remains to the amount of interest.
7. Upon ineffective lapse of the time limit referred to in paragraph 4, the Center shall initiate administrative proceedings and issue a decision specifying the amount to be repaid and the date from which interest shall accrue and the manner of repayment, as well as an instruction on the sanction under Article 207(4)(3) of the ufp.
8. The Program Component Operator shall be excluded from receiving funds referred to in Article 207 (1) of the ufp under the terms of Article 207 (4) of the ufp.
9. The Center may, in justified cases, demand reimbursement of only a portion of the transferred funding.
10. In the event that the failure of the Project was related to the occurrence of force majeure, scientific risks arising from the implementation of the research, or a significant and unforeseeable change in socio-economic relations, and the analysis conducted shows that the failure of the Project was not due to an unauthorized act or omission of the Program Component Operator or the Program Component Partner, the Program Component Operator, to the extent indicated by the Center, will not be obliged to return the grant.
11. The Program Component Operator undertakes to pay the documented costs of collection actions taken against it.
12. At the reasoned request of the Program Component Operator, it is permissible to postpone the repayment of repayment receivables, to spread the repayment in installments, or to write off the receivables in accordance with applicable regulations.

#### **§ 17.**

##### **Financial responsibility to the Center for the implementation of the Project**

1. The Program Component Operator is responsible to the Center for the proper execution of the Agreement.
2. Subject to paragraph 3, in the event of ineffective enforcement against the Program Component Operator, the other Program Component Partners<sup>24</sup> shall be jointly and severally liable for the performance of the Agreement, including the acts or omissions of the Program Component Operator and the proper disbursement of the grant.
3. In justified cases, if the legal and economic analysis of the solvency potential of the Program Component Operator shows that it will be ineffective, inexpedient or unreasonable to seek reimbursement of the grant, or the Program Component Operator is a state budgetary unit, it is permissible for the Center to seek reimbursement of funds first from the Program Component Partners<sup>25</sup>.

#### **§ 18.**

##### **Mode and scope of amending the Agreement**

1. The parties may amend the Agreement by consensual declarations of intent in writing or electronically (with qualified electronic signature) under pain of nullity, subject to paragraphs 2- 4.
2. Change:
  - 1) address or method of representation of the Program Component Operator or Program Component Partners;
  - 2) bank account numbers;

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<sup>24</sup> The provisions of § 16 of the Agreement shall apply accordingly.

<sup>25</sup> The provisions of § 16 of the Agreement shall apply accordingly.

- 3) consortium agreement, which does not affect the obligations of the Program Component Operator under the Agreement, subject to § 3.5.2 of the Agreement;
  - 4) personnel involved in the implementation of the Project, provided that the new staff member has equivalent competence and experience, subject to paragraph 4;
- does not require an amendment to the Agreement in the form of an annex, but requires informing the Center no later than 14 days from the date of occurrence of the reason justifying the change.

3. Change:

- 1) pertaining to transfer between cost categories not exceeding 15% of the amount within the category indicated in the Project Budget (appendix 6 of the Agreement) to which the transfer is made (+15%), with the proviso that overheads are settled on a flat rate basis and cannot be increased, and subject to paragraph 9;
  - 2) deadlines for the implementation of individual WPs of the Project implementation schedule by no more than 4 months, with an unchanged deadline for completion of the Project;
  - 3) pertaining to the transfer of received, unused funds between subsequent fiscal years, as long as they do not affect the determination of the Project implementation schedule and the Project budget;
  - 4) the amount of eligible costs of the ND to which the transfer is made (+20%) indicated in the Project Budget (appendix 6 of the Agreement), while maintaining the permissible levels of intensity of public assistance, subject to the transfers referred to in item. 1;
  - 5) Concerning the transfer of costs between cost items indicated in Part VI. Project implementation costs / project costs of the project proposal (Annex No. 3 to the Agreement) inside the same cost category and within the costs of the Program Component Operator or the same Program Component Partner, while maintaining the permissible levels of intensity of public assistance, subject to the transfers specified in items. 1 and 4, and assuming no impact on the material scope of the implemented project;
  - 6) concerning justification and method of estimation of cost items indicated in Part VI. Costs of project implementation / project costs of the project proposal (appendix no. 3 to the Agreement), provided that the change will not affect the amount of eligible cost of a given cost item and the material scope of the implemented project, and is in accordance with the provisions of the *Cost eligibility guide*;
- does not require an amendment to the Agreement in the form of an annex, but requires that the Center be informed no later than on the date of submission of the payment request, in the next Report and during the inspection of the Project.

4. Change:

- 1) legal and organizational status of the Program Component Operator or the Program Component Partner, which may directly affect the implementation of the Agreement/Project or the achievement of the Project objectives;
  - 2) payment schedule, as long as this change does not affect the completion date of the Project;
  - 3) Project Manager;
- does not require an amendment to the Agreement in the form of an annex, but requires the Center's approval, with the proviso that the Center's failure to respond to the request for a change of Project Manager within 30 days of its receipt by the Center shall be deemed to be approval of the person of the new Project Manager.

5. Transfers of funds between categories of expenditures accounted for by the lump sum and other categories of expenditures within the Project are not allowed.
6. Such an amendment to the Agreement, the result of which would be the non-award of a grant to the Project at a time when the Project was subject to evaluation under the project selection procedure, is not permitted<sup>26</sup>.
7. If it is necessary to make changes to the Project that require the form of an annex or the approval of the Center, the Program Component Operator is required to submit to the Center a request for acceptance of the changes, along with a presentation of the scope of the changes and their justification, no later than 14 days from the date of occurrence of the reason justifying the change. The Center may refuse to the Program Component Operator to accept changes to the Project without justification for the refusal, if they are submitted later than 30 days before the scheduled completion date of the Project.

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<sup>26</sup> It does not apply to situations where the project selection criterion should only be met at the time of assistance.



8. The Center is entitled to request from the Program Component Operator additional clarifications and additions to the submitted application for change in the Project. The Program Component Operator is required to provide the above information within 14 days of receiving the Center's request.
9. In the case of entrepreneurs, cost shifts may not result in an increase in the amount of public assistance granted to a particular entrepreneur.

## § 19.

### Security for the proper execution of the Agreement<sup>27</sup>

1. The grant shall be paid after the Program Component Operator establishes and lodges a performance bond in the form specified in paragraph 2, subject to paragraphs 4 and 5.
2. The security referred to in paragraph 1, subject to paragraph 7, shall be established in the amount of 100% of the grant amount referred to in § 6 paragraph 3 of the Agreement, for the period of Project implementation and for the period until the Center approves the ex-post report referred to in § 9 paragraph 8, in the form of a blank promissory note, bearing the clause "not for hire" with a notarized signature or affixed in the presence of a person authorized by the Center, together with a promissory note declaration.
3. The Operator of the Program Component is obliged to submit to the Center a properly issued security referred to in paragraph 2 within 14 days from the date of conclusion of the Agreement.
4. Notwithstanding the provisions of paragraphs 1 to 3, the Center may, in case of reasonable doubts about the proper implementation of the Agreement or after a financial analysis, change the form of financing of the Agreement as to the amount of paid tranches of funds or reimbursements, and require the Program Component Operator or the Program Component Partner to establish an additional or other than specified in paragraph 2, security for the implementation of the Agreement within a specified period, not less than 14 days.
5. The security referred to in paragraph 4 shall be established in the amount of up to 100% of the grant amount referred to in § 6 paragraph 3 of the Agreement, in the form of:
  - 1) bank guarantee;
  - 2) bank guarantee;
  - 3) insurance guarantee;
  - 4) a registered pledge; if the pledged property can be the subject of insurance, the pledge shall be established together with an assignment of rights under the insurance policy for the pledged property;
  - 5) Transfer of movable property of the Program Component Operator as collateral;
  - 6) mortgage; if the Center deems it necessary, the mortgage shall be established together with the assignment of rights under the insurance policy of the mortgaged property;
  - 7) surety under civil law, together with a statement of submission to execution made in accordance with Article 777(1)(5) of the Code of Civil Procedure.
6. The release of the security referred to in this paragraph shall be made at the request of the Program Component Operator upon approval by the Center of the ex-post report referred to in § 9, paragraph 8. The Center may release the Program Component Operator from the security upon completion of the Project.
7. The Center reserves the right to claim rights from a given form of security up to the amount corresponding to the amount of the financial violation, plus the interest to which the Center is entitled and the costs of collection incurred by the Center, but not more than the amount of the established security.
8. Termination of the Agreement as a result of irregularities in the implementation of the Project is a self-explanatory condition for the possibility of using the security.
9. In particularly justified cases, the Program Component Operator or the Program Component Partner may provide collateral in a form other than that specified in paragraph 5, upon approval of the Center.
10. If the financial analysis of the situation of the Program Component Operator indicates a financial risk of loss of disbursed funds under the awarded grant, the Center may apply one of the following solutions<sup>28</sup> :

<sup>27</sup> It does not apply to units of the public finance sector or foundations whose sole funder is the State Treasury, as well as research institutes and institutes operating within the framework of the Lukaszewicz Research Network.

<sup>28</sup> Does not apply to the Program Component Operator, which is an entity providing public services or services of general economic interest referred to in Articles 93 and 106(2) of the Treaty on the Functioning of the European Union, or is a research institute within the meaning of the Act of April 30, 2010 on research institutes.

1. Refuse to allow the Program Component Operator to pay the advance (the Project will be settled on the basis of reimbursement only) or reduce its amount;
  2. require the Program Component Operator to provide additional security.
11. At the request of the Program Component Operator or at the initiative of the Center, the Center may change the form or value of the collateral or require the Program Component Operator to change the form or value of the collateral in the event that the established collateral proves to be inadequate, insufficient or excessive.
  12. All collateral activities shall be governed by separate regulations applicable to the particular form of collateral.

## **§ 20.**

### **Confidential information**

1. Confidential information includes any information related to the activities of the Program Component Operator or the Program Component Partners, not made available by the Program Component Operator or the Program Component Partners to the public, having economic value or whose disclosure to third parties may expose the Program Component Operator or the Program Component Partners to harm, and as to which the Program Component Operator or the Program Component Partners have taken the necessary measures to maintain their confidentiality, contained in any form, marked as confidential, disclosed to the Center during the grant application process and during the implementation of the Project (Confidential Information).
2. During the implementation of the Project and for a period of 10 years from the Program Completion Date, the Center shall exercise due diligence to ensure that adequate safeguards are in place to protect Confidential Information from unauthorized access and to ensure that only Center employees and persons through whom the Center performs its functions have access to Confidential Information.
3. The Center and insiders shall be entitled to use Confidential Information, only to the extent necessary for the proper execution of the Agreement.

## **§ 21.**

### **Processing of personal data**

1. Information clause on the processing of personal data of persons performing the contract concluded with the National Center for Research and Development Annex No. 6 to the Agreement.
2. A change in the content of the above Annex does not require an annex to this Agreement and may be made in documentary form.

## **§ 22.**

### **Communication of the Parties**

1. The parties specifically provide for the following forms of communication in the performance of the Agreement:
  - 1) By registered mail;
  - 2) by courier service;
  - 3) via e-PUAP;
  - 4) via email<sup>29</sup>.
2. Statements, requests, notices and information will be considered delivered upon receipt of registered mail, receipt of courier service, completion of authorization through e-PUAP or receipt by the recipient of correspondence by e-mail.
3. Correspondence will be treated as properly delivered in the event that the Program Component Operator has not informed of a change in mailing details, or correspondence sent is returned with a postal operator's notation of non-delivery, e.g. "addressee has moved", "not picked up on time", "addressee unknown".
4. If the Program Component Operator refuses to accept the correspondence, it shall be deemed to have been delivered on the date of the Program Component Operator's statement of refusal.
5. All correspondence related to the implementation of the Agreement should bear the Agreement number.
6. Addresses for delivery of correspondence are as follows:

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<sup>29</sup> Proof of email delivery is the return report, confirming the delivery of the message to the addressee.

**National Center for Research and Development, 69 Chmielna St., 00-801 Warsaw;**

NCBR box addresses for correspondence transmitted via ePUAP:

- /NCBiR/default

- /NCBiR/esp

- /NCBiR/ESP box

The address of the Program Component Operator for delivery of correspondence is as follows:

.....

Box address of the Program Component Operator for correspondence transmitted via ePUAP:

.....

7. In the event of a change in the data referred to in paragraph 6, the Party affected by the change shall be obliged to notify the other Party of the change immediately, but no later than within 14 days of the change in data. Until such notification, correspondence sent to the previous addresses shall be deemed to have been as effectively delivered.
8. In the case of introduction of an ICT system at the Center for communication with contractors of projects financed by the Center, the Program Component Operator is obliged to accede to the system by the date indicated by the Center.
9. The Center shall inform the Program Component Operator of the introduction of the new ICT system and the necessity for the Program Component Operator to join it by means of a unilateral and non-appealable statement, and the Program Component Operator hereby declares that it will perform the obligation to join the new ICT system within the time specified by the Center.
10. Persons authorized to communicate with the Center through the ICT system referred to in paragraph 8 are those designated by the Program Component Operator.

## **§ 23.**

### **Final provisions**

1. Any doubts arising during the implementation of the Project and related to the interpretation of the Agreement will be resolved in the first instance through negotiations between the Parties. If there are grounds for immediate termination of the Agreement, negotiations may be waived.
2. If the Parties fail to reach an agreement, disputes will be subject to settlement by a common court with local jurisdiction over the Center's headquarters.
3. For evaluation purposes, the Program Component Operator and the Program Component Partner during the Project implementation period and for a period of not less than 10 years from the Program Completion Date, is required to cooperate with the Center or an institution authorized by the Center, including in particular:
  - 1) To provide information regarding the completed Project,
  - 2) submit information on economic effects and other benefits generated by the Project,
  - 3) to participate in surveys, interviews and to share information necessary for the evaluation, including ensuring the participation of those involved in the project even after the termination of their employment or cooperation.
4. The Agreement is drawn up in two counterparts, one for each Party<sup>30</sup>.
5. The Agreement shall enter into force on the date of signature by the last Party.
6. Annexes are an integral part of the Agreement:
  - 1) document confirming the authorization of the Component Operator's representative to act for and on its behalf (power of attorney, other)<sup>31</sup>;
  - 2) A copy of the consortium agreement;
  - 3) Project proposal;

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<sup>30</sup> Applies to the conclusion of the Agreement in writing.

<sup>31</sup> If applicable. At the stage of signing the Agreement, the Program Component Operator shall provide a hand-signed document or an electronic document with a qualified electronic signature. It is permissible to send a copy of the hand-signed document confirmed as a true copy of the original (in the case of a paper copy - confirmation with a handwritten signature, and in the case of a scan of the document - with a qualified electronic signature).

- 4) payment schedule;
- 5) Project Budget;
- 6) GDPR information clause;

On behalf of the Center:

On behalf of the Program Component Operator  
and Program Component Partners:

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.....