

GENERAL CONDITIONS

APPLICABLE TO THE FINANCING AGREEMENT

1. GENERAL PROVISIONS

1.1 General principles

- 1.1.1 These general conditions (as amended from time to time, the "**General Conditions**") form an integral part of each financing agreement or grant contract financed by the Innovation Fund of the Republic of Serbia (financing agreement also interchangeably referred to under the umbrella terms: the "**Agreement**" or the "**Special Conditions**").
- 1.1.2 Any reference in these General Conditions to "the Agreement", "this Agreement", or the "Special Conditions" collectively includes each financing agreement and each of the annexes to the financing agreement, including these General Conditions, which form its integral part.
- 1.1.3 All capitalized terms not otherwise defined in these General Conditions shall have the meanings ascribed to them in the Agreement.
- 1.1.4 Any breach of the annexes to the Agreement, including these General Conditions, shall be deemed as a breach of the Agreement.
- 1.1.5 The Agreement, the Beneficiary's rights, obligations and the payments attached to the Agreement may not be assigned to a third party in any manner whatsoever without the prior written consent of the Fund.

1.2 Beneficiary's undertakings

- 1.2.1 The Beneficiary shall:
- a) carry out the Project vis-a-vis the Fund taking all necessary and reasonable measures to ensure that the Project is carried out in accordance with the Project proposal in annex to the Agreement and the terms and conditions of the Agreement;
 - b) implement the Project with the requisite care, efficiency, transparency and diligence, in line with the principle of sound financial management and with the best practices in the field;
 - c) be responsible for complying with any obligation incumbent on it from the Agreement;
 - d) forward to the Fund the data needed to draw up the reports, financial statements and other information or documents required by this Agreement and the annexes thereto, as well as any information needed in the event of audits, checks, monitoring or evaluations, as described herein;
 - e) maintain adequate policies and procedures to enable the Fund to monitor and evaluate the progress of the Project and the achievement of its objectives.
- 1.2.2 The Beneficiary agrees to do the work set out in the Project proposal, in accordance with good standards relevant to such undertakings, and to use the financing received hereunder only in accordance with such Project proposal and the requirements of the Agreement.
- 1.2.3 The Beneficiary shall appoint a project manager for the implementation of the Project.
- 1.2.4 The Beneficiary's project manager is a member of the employed key personnel on the Project, a list of which is given in Annex to the Agreement.
- 1.2.5 The Beneficiary may change the appointed members of key personnel or amend the personnel's allocated roles, only with a prior written approval of the Fund. To be considered as eligible, the proposed nominee must meet the qualifications set by the Fund and hold at least the equivalent qualifications as the leaving member.

- 1.2.6 In exceptional cases, Beneficiary is allowed to request changes of the Approved Project Budget within any budget category. In order to implement the budget changes, the Beneficiary is obligated to send a written request for reallocation of funds to the Fund and an amended Project Budget proposal for approval via email. The Beneficiary has the right to request a change of the Approved Project Budget once in six (6) months. Only after the receipt of the Fund's written approval the Beneficiary can make payments related to these changes. However, if the change affects the disbursement schedule, an amendment to the Agreement needs to be signed.
- 1.2.7 The Beneficiary shall not make any disposal of high-value assets (as defined in the applicable Companies Act) without the prior written approval by the Fund.
- 1.2.8 The Beneficiary must notify the Fund in advance of any potential direct or indirect change of control over the Beneficiary, and any other action which could result in the change of control over the Beneficiary, including the signing of any agreement the consequence of which could be considered a change of control. This notice shall be given within a reasonable time before the change of control event occurs. In case that the change of control event results in termination of the Project, or may have significant influence on the Project, as determined by the Fund, such event shall constitute breach of the Agreement, notwithstanding any other provision of the Agreement.
- 1.2.9 For the purpose of paragraph 1.2.8 above "**control**" means a person directly or indirectly:
- a) having the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - i. cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of the Beneficiary;
 - ii. appoint or remove all, or the majority, of the directors or other equivalent officers of the Beneficiary; or
 - iii. give directions with respect to the operating and financial policies of the Beneficiary with which the directors or other equivalent officers of the Beneficiary are obliged to comply; or
 - b) holding beneficially more than 50% of the issued share capital of the Company.
- 1.2.10 The Beneficiary shall not, without the prior written consent of the Fund (such consent not to be unreasonably withheld or delayed) enter into any merger, consolidation, split up or spin-off with or into other entities, otherwise restructure with or into any other entity, or undertake any business combination or transaction with a similar effect, that would materially adversely affect the financial condition or the value of the assets of the Beneficiary.
- 1.2.11 The Beneficiary shall notify the Fund, without any delay, about its bank accounts being frozen or blocked for more than two (2) business days and/or about the initiation of any bankruptcy or liquidation proceeding against the Beneficiary.
- 1.2.12 During the term of the Agreement, the Beneficiary shall comply with the highest environmental management standards, as determined by the applicable environmental protection laws in the Republic of Serbia and shall provide all the necessary information and permits requested by the Fund. The Beneficiary shall bear sole responsibility to comply with all legally prescribed requirements and the Fund shall not bear any liability whatsoever for the information provided by the Beneficiary. Furthermore, the Beneficiary shall indemnify and keep the Fund harmless in case of any loss caused due to violation of applicable environmental protection laws.

- 1.2.13 The Beneficiary shall carry out the Project in accordance with the Fund's Environmental and Social Management Framework and the Environmental Management Plan (where applicable), published at the Fund's website, and shall take in a timely manner all measures to enable the Fund to monitor the compliance with provisions of the Environmental Management Plan.
- 1.2.14 The Beneficiary shall be responsible to prevent entering into any services or supply agreement with a shareholder (parent entity) or an affiliate of the Beneficiary, unless such an agreement would establish an independent financial-business relationship (at arm's length terms), under market conditions, or if the Beneficiary can prove that the proposed agreement is to be made in accordance with the prices and terms prevailing in the relevant market. Any agreement proposed to be entered into with a Beneficiary's affiliate must be submitted to the Fund, for prior consideration and approval.
- 1.2.15 The Beneficiary shall not carry out procurement of second hand or refurbished goods. Any irregularities in procurement and documents of the Beneficiary shall be deemed a breach of the Agreement.
- 1.2.16 Upon Fund's request, the Beneficiary shall enable the representatives of the Fund and/or respective authorized national entity of the Republic of Serbia to visit any part of the Beneficiary's premises for the purposes related to the Project.
- 1.2.17 During the term of the Agreement, or before the Agreement commences, the Fund may inquire with the Beneficiary and ask it to provide relevant documentation and information on any potential state aid granted to the Beneficiary, and specifically whether, and on which grounds, the Beneficiary received any state aid (within the meaning of the applicable state aid control regulations in the Republic of Serbia, including the Fund's internal act(s) referring to state aid).

2. FINANCIAL PROVISIONS

2.1 Grant amount

- 2.1.1 The Fund shall finance the implementation of the Project in the amount and in the manner determined in the Special Conditions.

2.2 Mandatory co-financing

- 2.2.1 The Beneficiary shall provide mandatory co-financing for the implementation of the Project in the amount and in the manner specified in the Special Conditions.
- 2.2.2 The Project funds shall be disbursed on a semi-annual basis as set forth in the Schedule of Payments and the Approved Project Budget in Annex of the Agreement.
- 2.2.3 The Beneficiary must open a new RSD bank account, without delay, exclusively for the needs of the Project (the "**Project Account**"). The Project Account is a general account to be used solely for the purpose of making (inbound or outbound) payments related to Project and onto which the Project funds shall be credited (both by the Fund and by the Beneficiary). The Project Account may not be pledged, encumbered, closed or otherwise disposed of without the prior written consent by the Fund.
- 2.2.4 Before the Fund disburses the funds, the Beneficiary shall submit a bank statement as evidence that the mandatory co-financing amount set forth in the Schedule of Payments and the Approved Project Budget for the respective semi-annual period was paid in total on the Project Account in Annex of the Agreement.
- 2.2.5 Mandatory co-financing by the Beneficiary shall be procured from other, private sector sources (such as in-cash equity contributions and own cash contributions, existing or potential private investors/venture capital/private equity, private sector debt financing, strategic private sector industry and other private sector cash contributions), independently of the Fund or other public sector grants or entities.

- 2.2.6 The Beneficiary must secure semi-annual payment of the mandatory co-financing prior to the disbursement of funds by the Fund, as set forth in the Approved Project Budget and the Schedule of Payments in Annex of the Agreement.
- 2.2.7 For the avoidance of any doubt, the Beneficiary and/or its shareholders shall not provide the mandatory co-financing from the state aid-related sources or in a form of an in-kind contribution.
- 2.2.8 In case that the mandatory co-financing amount designated in the Schedule of Payments and the Approved Project Budget for the respective semi-annual period is not paid in full to the Project Account, the Fund will be entitled to suspend the disbursement of funds, may amend the timeframe for the disbursement of funds, or may terminate the Agreement, pursuant to the procedure described in Article 8 of these General Conditions.

2.3 Funds disbursement

- 2.3.1 Semi-annually disbursements of the funds to the Beneficiary are subject to (cumulatively):
- 2.3.1.1 the Beneficiary having deposited (or procured to be deposited) the amount of the mandatory co-financing for the respective semi-annual period, in accordance with the Approved Project Budget and the Schedule of Payments in Annex of the Agreement;
 - 2.3.1.2 the submission by the Beneficiary of the (i) Semi-annual Progress Report and the (ii) Semi-annual Financial Report;
 - 2.3.1.3 review and approval by the Fund of the relevant (i) Semi-annual Progress Report and the (ii) Semi-annual Financial Report; and
 - 2.3.1.4 the satisfactory outcome of the on-site monitoring visit by the Fund, performed at the discretion of the Fund.
- 2.3.2 The amounts of semi-annual disbursement by the Fund, outlined in the Schedule of Payments and the Approved Project Budget, are subject to adjustments calculated and determined by the Fund based on the eligible expenditures of the Beneficiary for each semi-annual period, or if has incurred non-eligible expenses during the respective period.
- 2.3.3 Without prejudice to the preceding general obligations of the Beneficiary provided for in this Article 2.3, for each intended procurement of goods and/or services by the Beneficiary of an estimated value of (as applicable):
- a) EUR 100,000 and more, in the case of the Matching Grants Program and Collaborative Grant Scheme Program; and
 - b) EUR 50,000 and more, in the case of the Mini Grants Program;
- the Beneficiary is obliged to submit to the Fund, for prior review and approval, all documentation related to the intended procurement and request the approval of the Fund for implementing the respective procurement. Only after having obtained the Fund's written approval on the implementation of the individual procurement, the Beneficiary will be allowed to finalize the procurement procedure and make accompanying payments.

2.4 Direct Grant Contract

- 2.4.1 The funds for the implementation of the Mini Grants Program, Matching Grants Program and Collaborative Grant Scheme Program, as applicable, have been provided in relation to the implementation of the action entitled "*Increased innovation capacity and technological readiness of SMEs*", and granted under a direct grant contract entered into between the Fund and Ministry of Finance of the Republic of Serbia — the Department for Contracting and Financing of EU Funded Programs (CFCU) (the "**Direct Grant Contract**").

- 2.4.2 The Beneficiary acknowledges and consents that the Fund's payment obligations under this Agreement are dependent upon the amount of funds made available to the Fund, under the Direct Grant Contract.
- 2.4.3 Accordingly, in the event that any amount of such funds is not made available to the Fund, or has been denied to the Fund in any other way, or if, as a result of the currency exchange variations, the amount of funds made available is insufficient for the purposes of the Project, the Fund shall not have any liability whatsoever towards the Beneficiary or to any third parties in respect of Agreement termination, any expenditures or liabilities incurred by the Beneficiary or any third parties in connection with the Agreement.

2.5 Suspension of disbursements in case of breach of the Agreement terms

- 2.5.1 Without prejudice to any other provision of these General Conditions, if the Beneficiary breaches any of the terms of the Agreement (including, for the avoidance of doubt and without limitation, the Special Conditions, the General Conditions and the designated grant program manual), the Fund shall have the right to:
- 2.5.1.1 suspend the disbursement of funds due to the breach; and/or
- 2.5.1.2 terminate the Agreement, in which case the Beneficiary shall be required to carry out the refund; and/or
- 2.5.2 Prior to suspending the disbursement of funds, the Fund shall send a written notice to the Beneficiary informing it about the breach and requesting that the Beneficiary apply the instructed corrective actions and mitigating measures to eliminate the breach within thirty (30) days after the date of receipt of the notice.
- 2.5.3 In case that the Beneficiary does not eliminate the breach within the period of thirty (30) days, the Fund may terminate the Agreement by sending a termination notice to the Beneficiary.

3. PROCUREMENT PROCEDURES

3.1 Principles

- 3.1.1 The Beneficiary undertakes to fully respect and adhere to the following principles when conducting procurements: fair competition, transparency, proportionality, equal treatment, non-discrimination, economic efficiency, efficiency, effectiveness, objectivity and impartiality.
- 3.1.2 The Beneficiary undertakes to carry out the procurement of supplies and services defined within the Project by fully adhering to the procurement requirements, and by applying procurement procedures, defined in the designated grant program manual.
- 3.1.3 The Beneficiary shall ensure that the funds are used to purchase and acquire only those supplies and services that are necessary to carry out the Project.
- 3.1.4 The Beneficiary shall evaluate the offers received against objective and transparent criteria which enable measuring the quality of offers, and which take into account the price.
- 3.1.5 The Beneficiary shall keep sufficient and appropriate documentation with regard to the procedures applied.
- 3.1.6 All legal persons effectively established and having their registered seat in one of the following countries / territories: Austria, Belgium, Bulgaria, Czech Republic, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom, Albania, Bosnia and Herzegovina, Kosovo¹, Montenegro, Serbia, Turkey, Republic of Northern Macedonia, Iceland, Liechtenstein, Norway, Algeria, Armenia,

¹ All reference to Kosovo in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.



Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Republic of Moldova, Morocco, Occupied Palestinian Territories (oPt), Syria, Tunisia, Ukraine, may participate in the tender procedures on equal terms (nationality rule).

- 3.1.7 The nationality rule does not apply to the engagement of experts and other natural persons.
- 3.1.8 The rule of origin (as defined in the designated grant program manual) applies only to the procurement of supplies. For the procurement of supplies priced EUR 100,000 or more, proof of origin must be submitted from one of the countries / territories referred to in Article 3.1.6.
- 3.1.9 Procured supplies may originate from any country / territory if their price is up to EUR 100,000 per purchase, in which case no proof of origin is required. When the procurement is divided into lots, the rule applies per lot.
- 3.1.10 The Beneficiary shall ensure to avoid any conflict of interests when conducting procurement.
- 3.1.11 The Beneficiary shall evaluate the offers and award the contract to the:
 - a) tenderer offering best value for money (i.e. the tenderer offering the best price-quality ratio); or
 - b) tenderer offering the lowest price for the fulfilment of the technical specifications (for the supply contracts, as appropriate).
- 3.1.12 Failure by the Beneficiary to comply with all of the above principles or rules would render the related expenditure ineligible for funding.

4. OBLIGATION TO PROVIDE FINANCIAL AND OTHER REPORTS

4.1 Records, accounts and other information

- 4.1.1 The Beneficiary shall provide the Fund with all required information on the implementation of the Project.
- 4.1.2 The Beneficiary is obliged to keep accurate and regular accounts in relation to Project implementation, using appropriate accounting and bookkeeping policies applicable in the Republic of Serbia.
- 4.1.3 The Beneficiary shall maintain a financial management system and prepare financial statements and the Semi-annual Financial Reports in accordance with consistently applied accounting standards, in a manner adequate to reflect the operations resources and expenditures related to the Project.
- 4.1.4 At the request of the Fund, the Beneficiary is obliged to have its financial statements audited by independent auditors acceptable to the Fund, in accordance with consistently applied auditing standards, as well as to promptly furnish the statements as so audited to the Fund.
- 4.1.5 The Beneficiary shall enable the Fund to inspect the implementation of the Project its operation and any relevant records and documents and prepare and furnish the Fund with all such information, as the Fund may reasonably request in relation to the foregoing.
- 4.1.6 The Beneficiary shall ensure that the records, accounting, and supporting documents related to the work under the Agreement, are kept in a way which allows for their separate identification within the framework of the business and financial records of the Beneficiary. These documents should be easily accessible, filed in a manner that facilitates their examination, and available in original form (including electronic form), or as a copy.
- 4.1.7 The Beneficiary shall keep all records, accounting and supporting documents related to the Agreement (including the master file referenced and defined in Article 4.1.12 below) for 5 (five) years following the complete disbursement of funds and in each case, until any ongoing audit, verification, appeal, litigation, or pursuit of claim is pending and finally resolved.

- 4.1.8 Upon completion of the Project implementation, the Beneficiary is obliged to prepare and submit all relevant information regarding the entire business activities of the Beneficiary, as well as specific Project results at the request of the Fund for up to five (5) years after the completion of the Project. This information may include but is not limited to: number of employees, revenue generated, state aid information, funding collected, number of patents granted and other relevant financial information to be used to monitor and analyse the effects of the relevant programme, as well as any other information at the request of the Fund that may be used for the relevant public announcements or publications prepared or issued by the Fund.
- 4.1.9 The Special Conditions may set out additional reporting requirements.
- 4.1.10 The Fund may request additional information it deems material for the Project, at any time. The Beneficiary shall provide this information promptly upon request.
- 4.1.11 The Beneficiary must at all times, for the period of the Project duration, keep the financial records for the Project segregated and separate from other existing and/or future projects.
- 4.1.12 At the beginning of the Project period, the Beneficiary shall create a master file, in the form acceptable for the Fund and make this file available to the Fund during any monitoring visit. The "**master file**" means and includes the following:
- a) Application and supporting documentation;
 - b) Official documentation exchanged between the Parties during the application period;
 - c) Award notification;
 - d) Official documentation exchanged between the Parties during project implementation;
 - e) Copies of all reports required by, and submitted to the Fund;
 - f) Copies of all invoices, receipts, and supporting financial documentation related to proof of purchase and payments from the Project Account (for e.g. proof of delivery of services, such as approved reports, time sheets, certificates, etc; proof of receipt of goods, such as delivery slips from suppliers; proof of completion of works, such as acceptance certificates; proof of payment, such as bank statements);
 - g) Procurement documentation including tendering documents, bids from tenderers, and evaluation reports;
 - h) Agreements with third parties and order forms, as evidence of existing commitments;
 - i) Accounting records, computerized or manual (such as general ledger, sub-ledgers, payroll accounts, fixed assets registers, and other relevant accounting information);
 - j) Staff and payroll records such as employment/engagement contracts, salary/remuneration statements, and other relevant supporting documentation related to Beneficiary's staff in line with national regulation.
- 4.1.13 If the Beneficiary fails to provide any report, any additional information requested by the Fund, or fails to comply with obligations stipulated under this Article 4, the Fund may cancel and suspend further disbursements of the funds and/or terminate the Agreement.

4.2 Reporting obligations – Progress Reports

- 4.2.1 The Beneficiary must submit to the Fund accurate and coherent Semi-annual Progress Reports and Semi-annual Financial Reports, including relevant supporting documentation, in predefined intervals, in accordance with the Special Conditions.

- 4.2.2 The Beneficiary shall submit for review and approval by the Fund the Semi-annual Progress Report and Semi-annual Financial Report signed by the Beneficiary's authorized legal representative, electronically, through the Fund's electronic portal.
- 4.2.3 Semi-annual Progress Report and Semi-annual Financial Report are to be submitted together with all required or requested supporting documentation in accordance with the Agreement (including, but not limited to: invoices, delivery receipts, payroll calculations, consultant reports on work performed, consultant deliverables (where applicable), service delivery reports for all purchases, procurement documentation, etc.), and the bank account statement showing that the Beneficiary has deposited to the Project Account the mandatory co-financing amount envisaged for the given semi-annual period.
- 4.2.4 The Fund will review the Semi-annual Progress Report and the Semi-annual Financial Report, as well as supporting documentation, and, where applicable, follow up by a monitoring visit conducted by the Fund's staff or its representatives.
- 4.2.5 Subject to approval of the Semi-annual Progress Report and the Semi-annual Financial Report (including supporting documentation), and a positive outcome of the monitoring visit (if performed), the Beneficiary shall be eligible for disbursement for the next period.
- 4.2.6 The Beneficiary shall be required to update the Semi-annual Progress Report and/or the Semi-annual Financial Report and resubmit it to the Fund, upon Fund's request, if, following the Fund's review of these reports, any unintentional deviations and/or technical mistakes are found. Disbursement for the next period will be made only after the updated Semi-annual Progress Report and/or Semi-annual Financial Report are approved by the Fund.
- 4.2.7 The period of reporting covered in the Semi-annual Progress Report should match the period covered in the Beneficiary Semi-annual Financial Report (except in case of the final progress report). The Fund will review the Semi-annual Progress Report and the Semi-annual Financial Report only after receiving both these reports.

4.3 Reporting obligations – Final Report

- 4.3.1 After the Project is fully completed, a final progress report and the Semi-annual Financial Report for the last semi-annual period of the Project must be submitted to the Fund for review and approval, whereby the respective final reports must be submitted within 4 (four) weeks after the end of the final reporting period
- 4.3.2 The Fund reserves the right to define shorter deadlines for the submission of the final progress report and the financial report for the last period of the Project, depending on the validity and application of the Direct Grant Agreement concluded between the Fund and the Ministry of Finance.
- 4.3.3 The final progress report pertains to the Project as a whole and must contain a detailed description of all previously completed and currently ongoing activities, as well as actions planned for the upcoming period, and it must compare results achieved during the Project implementation to the activities, timetables and milestones originally defined and approved in the Project proposal.

4.4 Reporting obligations – general

- 4.4.1 The Semi-annual Progress Report, the Semi-annual Financial Report, and the final progress report must describe the implementation of the Project according to the activities envisaged, difficulties encountered, and measures taken to overcome problems, eventual changes introduced, revisions of the development plan reflecting modifications to the initial plan of activities, as well as the degree of achievement of its results (impact, outcomes or outputs) as measured by corresponding indicators.
- 4.4.2 Any failure to submit reports in a timely fashion, shall amount to a breach of the Agreement and



could be cause for the suspension of disbursement of funds, and/or termination of the Agreement if unresolved, unless this failure is caused by unforeseen circumstances of which the Fund is forthwith notified.



- 4.4.3 In addition to the reports mentioned under this Article, the Beneficiary shall report to the Fund all significant Project events, positive or otherwise, in order to keep the Fund informed of the Project status and enable potential changes to Project activities, including rescheduling and re-budgeting.
- 4.4.4 For avoidance of doubt, any change to the Project (e.g. regarding the Project implementation, timelines, the Project budget, deliverables, the Project staff, etc.) should be communicated to the Fund in writing, as they require the Fund's written consent and cannot be effective before such consent is granted.

4.5 Reporting obligations – monitoring

- 4.5.1 The Beneficiary shall allow the Fund, persons, or auditors appointed by the Fund, upon their request, to inspect and audit its accounts, records and other documents relating to the Project and performance under the Agreement. The Beneficiary shall prepare and furnish to the Fund all such information that the Fund may reasonably request in relation to the aforementioned. Failure to comply with this obligation may result in termination of the Agreement by the Fund.
- 4.5.2 Apart from the Fund, representatives of institutions from which the Fund receives financing for the grant, such as the IPA Unit of the Ministry of Science, Technological Development and Innovation, Department for Contracting and Financing of EU Funded Programs (CFCU), Technical Secretariat of the National IPA Coordinator (NIPAC TS), the National Authorizing Officer (NAO SO), the European Commission, the European Anti-Fraud Office, and the European Court of Auditors, as well as any external auditor authorized in accordance with the Direct Grant Contract may take part in the Fund's monitoring visit as observers or perform a monitoring visit on their own.

5. LIABILITY

- 5.1 The Fund cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Beneficiary while the Project is being carried out or as a consequence of the Project. The Fund cannot, therefore, accept any claim for compensation or increases in payment in connection with such damage or injury.
- 5.2 The Beneficiary shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them while the Project is being carried out or as a consequence of the Project. The Beneficiary shall discharge the Fund of all liability arising from any claim or action brought as a result of an infringement of rules or regulations by the Beneficiary or the Beneficiary's employees or individuals for whom those employees are responsible, or as a result of violation of a third party's rights. For the purpose of this Article 5 employees of the Beneficiary shall be considered as third parties.
- 5.3 In case of the breach followed by termination of the Agreement, the Beneficiary shall indemnify the Fund against all losses, liabilities, costs, and damages which the Fund may incur due to such breach of the Agreement, as well in case of any other damage or loss caused by the Beneficiary.

6. EXTENSION AND SUSPENSION OF THE PROJECT

6.1 Extension

- 6.1.1 The project may be extended only under exceptional circumstances for a period up to additional six (6) months subject to the review and approval by the IF. The Beneficiary must submit the request for change with the description of change and the justification for change at latest 30 days before the original end date of the project.
- 6.1.2 The circumstances in which the project may be extended by the Fund are unforeseen delays in project implementation caused by administrative, financial or other procedural factors; force majeure events which include, but are not limited to floods, fires, earthquakes, draughts, power



and water shortages or general shortages of basic resources necessary for project implementation, armed conflict, etc.

6.1.3 The approved amount of financing is not subject to increase in any case.

6.2 Suspension

6.2.1 The Fund may suspend, and may request the Beneficiary to suspend, the implementation of the Project, or any part thereof, if exceptional circumstances, notably of force majeure, make such implementation excessively difficult or dangerous. The Fund shall inform the Beneficiary without delay, stating the nature, probable duration and foreseeable effects of the suspension.

6.2.2 The Fund may suspend the Agreement, or the participation of a Beneficiary in the Agreement, if the Fund unequivocally learns that the grant award procedure, or the implementation of the Project by the Beneficiary have been subject to substantial errors, material breach of obligations, irregularities or fraud.

6.2.3 With respect to the events described in preceding paragraph 6.2.2, the Beneficiary shall provide any requested information, clarification, or document immediately upon request by the Fund. If, notwithstanding the information, clarification or document provided by the Beneficiary, the award procedure, the financing, or the implementation of the grant prove to have been subject to breach of obligations, irregularities, fraud, or breach of obligations, then the Fund may terminate this Agreement.

6.2.4 If the Fund does not terminate the Agreement, the Beneficiary shall act upon Fund's requests and instructions to rectify and mitigate any irregularity which was determined and shall resume the implementation of the Agreement after having obtained the approval of the Fund.

6.2.5 In case of suspension according to paragraphs 6.2.1 and 6.2.2 above, the implementation period shall be extended by a period equivalent to the length of the suspension.

7. FORCE MAJEURE

7.1 The term force majeure, as used herein covers any unforeseeable events, not within the control of either party to the Agreement, which neither Party could have avoided, and which by the exercise of due diligence neither Party is able to overcome such as acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, pandemics, landslides, earthquakes, storms, floods, washouts, civil disturbances, explosion.

7.2 A decision of the European Union to suspend the cooperation with the Republic of Serbia as partner country, as well as the amendments of the relevant laws and regulations, or other documents, national or international, relevant for the survival of the Fund and/or the relevant grant programme awarded by the Fund (particularly those connected to financing of the Fund or program activities), is considered to be a case of force majeure when it implies suspending funding under this Agreement.

7.3 The Parties shall each not be liable for delay in performance or non-performance of the Agreement, to the extent caused by force majeure, but only under cumulative conditions that (i) any such cause or circumstance is beyond control of the affected Party and has not arisen due to fault of the affected Party or its prior breach of this Agreement, and (ii) the affected Party is not already in delay with performing its affected obligations when such cause or circumstance has arisen or taken place.

7.4 The Party suffering the case of force majeure must notify the other Party in writing, within seventy-two (72) hours at the latest, counting from the occurrence of the force majeure. Failure to provide the written notification within the stipulated deadline prevents the Party from referring to the provisions of the force majeure and renders the Party liable to compensate for resulting damages to the other Party, unless agreed differently by the Parties.

8. TERMINATION

8.1 Termination in case of force majeure

- 8.1.1 In the cases foreseen in Articles 7 (*Force majeure*), if the Fund believes that the Agreement can no longer be executed effectively or appropriately due to the force majeure, it shall duly consult the Beneficiary. Failing agreement on a solution, the Fund may terminate the Agreement by serving 2 (two) months written notice, without being required to pay any indemnity.

8.2 Termination by the Fund

- 8.2.1 The Fund may unilaterally terminate the Agreement at its sole discretion, due to the breach by the Beneficiary of the Agreement (including, for the avoidance of doubt and without limitation, the Special Conditions, the General Conditions and the terms set under the designated grant program manual).
- 8.2.2 Before terminating the Agreement, the Fund shall send a written notice to the Beneficiary informing it about the breach and requesting that the Beneficiary apply the instructed corrective actions and mitigating measures to eliminate the breach within thirty (30) days after the date of receipt of the notice.
- 8.2.3 In case that the Beneficiary does not eliminate the breach within the period of thirty (30) days, the Fund may terminate the Agreement by sending a termination notice to the Beneficiary.
- 8.2.4 In case of termination of the Agreement due to a breach caused by the Beneficiary acting in violation of this Agreement, the Beneficiary will be required to issue a Refund without delay, at the latest within the deadline stipulated under the termination notice.
- 8.2.5 If the Beneficiary abandons the Project, the Fund shall terminate the Agreement and the Beneficiary shall be obliged to return to the Fund the entire sum disbursed to the Beneficiary by the Fund under the Agreement.
- 8.2.6 If, upon the termination of the Agreement, for any reason the entire amount disbursed by the Fund has not been utilized or spent, the Beneficiary shall return to the Fund a *pro rata* share of such portion not spent, and if not returned or repaid without delay within the deadline set by the Fund, such sum shall incur and bear a statutory default interest.
- 8.2.7 Notwithstanding any other provision in the Agreement, if the funding of the Fund or its activities has been stopped or terminated for any reason, the Fund shall be entitled to terminate the Agreement and shall not have any liability whatsoever towards the Beneficiary or any third Party in connection with the Agreement.
- 8.2.8 The Agreement will be terminated automatically if the funds under the financing have not been disbursed within two (2) years of the Agreement Effective Date.

8.3 Consensual Termination

Notwithstanding any other provision in the Agreement, this Agreement may be terminated, and the Project contemplated under the Special Conditions may be cancelled, prior to the expiry of the Agreement term by a mutual written consent of the Fund and the Beneficiary only in case that the Project cannot be developed, finalized or carried out successfully, despite acting in full compliance with the Agreement terms. Only in case of such consensual termination, as envisaged under this article 8.3, the Beneficiary shall not be obliged to make a refund of the funds received under this Agreement.

9. SURVIVAL OF PROVISION

Notwithstanding the termination of the Agreement, the provisions of the Agreement regarding the protection of IP (as defined below) and confidentiality shall survive such termination.

10. SUITS AGAINST THE FUND

- 10.1 The Beneficiary is solely liable for any damages and/or injury sustained by the Beneficiary's personnel and/or property and/or third parties, during the implementation of, or in connection to the Project and the Agreement. The Fund shall not accept any claim for compensation or increase in payment of funds in relation to such damage or injury.
- 10.2 The Beneficiary shall defend the Fund, the Fund's officers and/or personnel, from all suits brought against them, as well as indemnify and keep them harmless against all claims, actions, suits, proceedings and the like, arising out of, or in connection to, or resulting from the performance of the Agreement by the Beneficiary, or from the manufacture, sales, distribution or use by the Beneficiary of the Product, whether such claims are brought by the Beneficiary or its personnel or third parties.
- 10.3 The Beneficiary agrees that the persons employed by it, or otherwise retained by the Beneficiary, in connection with the Project, shall be considered solely the Beneficiary's own employees or agents. No relationship of employer and employee or principal and agent shall be created between such employees or agents and the Fund, either for the purposes of tort liability, social benefits, or for any other purpose.
- 10.4 The Beneficiary shall indemnify the Fund and keep it harmless from court costs and legal fees, and for any payment the Fund may be obliged to make due to a cause of action based upon an employer-employee or principal-agent relationship as previously mentioned.

11. CONFLICT OF INTEREST AND CODE OF CONDUCT; FRAUD AND CORRUPTION

11.1 Conflict of interest and Code of Conduct

- 11.1.1 Each Beneficiary must adhere to, and abide by, the Fund's applicable and published Confidentiality Policy and Prevention of Conflict of Interest Policy.
- 11.1.2 The Beneficiary shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the Agreement. Such conflict of interests may arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest.
- 11.1.3 Any conflict of interests which may arise during performance of the Agreement must be notified in writing to the Fund without delay. In the event of such conflict, the Beneficiary shall immediately take all necessary steps to resolve it.
- 11.1.4 The Fund reserves the right to verify that the measures taken are appropriate and may require additional measures to be taken if necessary.
- 11.1.5 The Beneficiary shall ensure that its staff, including its management, is not placed in a situation which could give rise to conflict of interests. Without prejudice to its obligation under the Agreement, the Beneficiary shall replace, immediately and without compensation from the Fund, any member of its staff in such a situation.
- 11.1.6 The Beneficiary shall at all-time act impartially and as a faithful adviser in accordance with the code of conduct of its profession as well as with appropriate discretion. It shall refrain from making any public statements concerning the Project or the services without the prior approval of the Fund. It shall not commit the Fund in any way whatsoever without its prior consent and shall make this obligation clear to third parties.



- 11.1.7 Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited. The Beneficiary shall also inform the Fund of any breach of ethical standards or code of conduct as set in the present Article. In case the Beneficiary is aware of any violations of the abovementioned standards it shall immediately report them to the Fund in writing.
- 11.1.8 The Beneficiary shall replace any number of its personnel under a conflict of interest, without any compensation from the Fund.
- 11.1.9 The Beneficiary and its/their staff shall respect human rights, applicable data protection rules and environmental legislation applicable in the Republic of Serbia and internationally agreed core labour standards, e.g. the ILO core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation, and the abolition of child labour.
- 11.1.10 The Beneficiary or any related person shall not abuse of its entrusted power for private gain. The Beneficiary or any of its subcontractors, agents or staff shall not receive or agree to receive from any person or offer or agree to give to any person or procure for any person, gift, gratuity, commission or consideration of any kind as an inducement or reward for performing or refraining from performing any act relating to the performance of the contract or for showing favour or disfavour to any person in relation to the contract. The Beneficiary shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption.
- 11.1.11 The payments to the Beneficiary under the contract shall constitute the only income or benefit it may derive in connection with the contract, with the exception of revenue generating activities. The Beneficiary and its/their staff must not exercise any activity or receive any advantage inconsistent with their obligations under the contract.
- 11.1.12 The execution of the Agreement shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the Agreement or not stemming from a properly concluded contract referring to the Agreement, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company. The Fund may carry out documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses.
- 11.1.13 The respect of the Confidentiality Policy and Prevention of Conflict of Interest Policy of the Fund, and as set out in the present Article, constitutes a contractual obligation.
- 11.1.14 Failure to comply with the (i) Confidentiality Policy and Prevention of Conflict-of-Interest Policy of the Fund, and the (ii) terms set in this Article 11, shall amount to a breach of Agreement.

11.2 Fraud and Corruption

- 11.2.1 The Fund adopts an anti-bribery policy and it has obtained ISO 37001 certification for establishing, implementing, maintaining, reviewing and improving an anti-bribery management system.
- 11.2.2 The Beneficiary is obliged to adhere to the highest ethical standards throughout the execution of the Agreement and implementation of the Project and to undertake all necessary actions in order to prevent possible fraud and corruption activities during the implementation of the Project.
- 11.2.3 In pursuance of this policy, the practices constituting "Fraud and Corruption" are defined as follows:

- a) "*corrupt practice*" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of another party;
- b) "*fraudulent practice*" is an act or omission, including misrepresentation, by a party, that knowingly or recklessly misleads, or attempts to mislead another, with the aim of obtaining financial or other benefit, or avoiding an obligation;
- c) "*collusive practices*" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- d) "*coercive practices*" is impairing or harming, or threatening to impair or harm, directly or indirectly, persons or their property, with the aim of influencing their participation in a procurement contract or affect the execution of a contract;
- e) "*obstructive practice*" includes acts:
 - i. of deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, collusive or coercive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation: or
 - ii. intended to impede the exercise of inspections and audit rights in a material way.

11.2.4 The Fund is entitled to suspend the disbursement of funds and/or to terminate the Agreement, if the Fund finds (at its own reasonable judgement) that the Beneficiary is engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in execution of the Agreement and implementation of the Project.

11.2.5 The Beneficiary shall allow the European Commission, the European Anti-Fraud Office and the European Court of Auditors to:

- a) access the sites and locations where the Project is implemented;
- b) examine its accounting and information systems, documents and databases concerning the technical and financial management of the Project;
- c) take copies of documents;
- d) carry out on-the-spot-checks;
- e) conduct a full audit based on all accounting documents and any other document relevant to the financing of the Project.

12. CONFIDENTIALITY

- 12.1 Subject to provisions of the Agreement stipulating otherwise, the Fund and the Beneficiary undertake to preserve the confidentiality of any information, notwithstanding its form, disclosed in writing or orally in relation to the implementation of the Agreement and of information identified in writing as confidential until at least 5 (five) years after the payment of the balance.
- 12.2 The Beneficiary shall not use confidential information for any aim other than fulfilling its obligations under the Agreement unless otherwise agreed in writing by the Fund.

13. VISIBILITY AND PUBLICATIONS

- 13.1 The support of the Fund shall be acknowledged in all scientific and/or technical publications that contain data or other information derived from the work hereunder, or any publication related to the work, but not including product literature or manuals.
- 13.2 To the extent required to permit the Fund's free dissemination of such publications and/or information, which the Fund is privileged to disseminate, subject to limitations under this Article 13, the Beneficiary shall be considered to have waived any claim for infringement of any copyright it may have or may obtain, in relation to such dissemination.
- 13.3 The Beneficiary shall furnish to the Fund 2 (two) copies of all publications resulting from the Fund's supported work, as soon as possible after publication.
- 13.4 Unless requested otherwise, the Beneficiary shall publicise that the Project is funded by the European Union and co-financed by the Government of the Republic of Serbia, with the purpose of raising awareness of audiences of the reasons for the European Union's support, as well as the results and the impact of this support.
- 13.5 In particular, the Beneficiary shall mention the Project and the financial contribution of the Government of the Republic of Serbia and the European Union in all relations with the media, and display the Project logo strip wherever appropriate and possible.
- 13.6 Any notice or publication made by the Beneficiary about the Project, including those given at conferences or seminars, shall state that the Project is supported by the joint investments of the Republic of Serbia and the European Union.
- 13.7 Any publication by the Beneficiary, in whatever form and by whatever medium, including the internet shall contain the following statement:
- "This material/publication has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of [Beneficiary name] and can under no circumstances be regarded as a reflection of the position of the European Union."*
- 13.8 The Beneficiary authorizes the European Commission to publish its name and address, nationality, the purpose of the financing, duration and location, as well as the maximum amount of Financing. Derogation from publication of this information may be granted if it could endanger the Beneficiary or harm its interests.
- 13.9 Up to five (5) years upon completion of the Project, the Beneficiary is obliged to attend, and shall respond to any call or request by the Fund or the European Union asking it to attend the conferences or seminars related to the Project.
- 13.10 The Beneficiary must comply with the objectives and priorities and guarantee the visibility of EU financing.

14. PROPRIETARY INFORMATION

- 14.1 Proprietary information delivered to the Fund by the Beneficiary shall be considered confidential in accordance with the Confidentiality Policy and Prevention of Conflict-of-Interest Policy of the Fund.
- 14.2 Nothing contained in these General Conditions shall restrict the right of the Fund to make public the fact of the Fund's support for the Project, and the identification of the Beneficiary therein, in accordance with the Fund's obligation under Article 10 of the applicable Innovation Act regarding public nature of the Fund's work.



15. INTELLECTUAL PROPERTY

- 15.1 The Beneficiary confirms that it has all Intellectual Property (hereafter "**IP**"), and all know-how rights to the Product being developed and to the finished technology/product/service, and that no third party has, or can claim these IP rights.
- 15.2 Furthermore, the Beneficiary undertakes to submit proofs regarding the IP and know-how rights, including but not limited to: licensing agreements and other arrangements, agreements on in-kind contribution into the Beneficiary, options or commitments giving anyone a right to acquire any right, title or interest in any of the related IP and know-how rights.
- 15.3 The Beneficiary agrees that any new IP and know-how that may be created during the implementation of the Project shall belong to the Beneficiary, and that the Beneficiary will keep these IP rights secure, when entering into agreements with any third Party.
- 15.4 The Beneficiary confirms that no IP related to the Project proposal infringes the IP rights of any third party, and that it has all the rights to use any pre-existing IP and IP rights necessary to implement the Agreement.
- 15.5 The Beneficiary shall be obliged: (i) to notify the Fund about the existence of any invention and/or innovation, without delay, and such notice shall be considered confidential in accordance with the Confidentiality Policy and Prevention of Conflict-of-Interest Policy of the Fund, and (ii) not to publicly disclose any information of any invention and/or innovation until this invention and/or innovation is registered before the competent authorities and/or protected to the maximum possible extent.
- 15.6 The Beneficiary Agrees that the Fund and the European Commission may use, store, modify, translate, display, reproduce by any technical procedure, publish or communicate by any medium all documents deriving from the Project, regardless of their form, provided however, that such actions do not breach existing IP rights of the Beneficiary or any third party.

16. WARRANTIES

- 16.1 The Beneficiary warrants that:
- 16.1.1 That there are no threatening or ongoing liquidation or bankruptcy proceedings against the Beneficiary;
- 16.1.2 It has paid all due taxes, contributions and other levies in accordance with the national legislation;
- 16.1.3 It has not been banned, permanently or temporarily, from running its business operations and that there are no threatening or ongoing court or administrative proceedings that might result in such a ban;
- 16.1.4 It will spend the Project funds as defined in the Approved Project Budget and in accordance with the Agreement;
- 16.1.5 It will not spend the Project funds for taxes, including VAT payments, duties and charges;
- 16.1.6 It will deposit the amounts for mandatory co-financing set forth in the Schedule for Payments at the dates specified in the Schedule of Payments;
- 16.1.7 It will provide the Semi-annual Financial Reports, the Semi-annual Progress Reports, the final progress report, and/or any other report regarding the implementation of the Project required by the Fund, promptly as required;

- 16.1.8 The Semi-annual Financial Report will be in line with the Semi-annual Progress Report for each Semi-annual reporting segment;
- 16.1.9 It will not implement any changes to the Project (e.g. regarding Project implementation, timelines, Project budget, deliverables, Project staff, etc) without prior written consent by the Fund;
- 16.1.10 It will not provide false or fabricated information during any stage of the Project implementation;
- 16.1.11 All agreements with third parties shall contain the provision that the Beneficiary retains ownership of all new IP and know-how information created during the implementation of the Project;
- 16.1.12 It will refrain from other instances of gross misconduct or fraud.
- 16.2 The Beneficiary represents and warrants that, to the best of its knowledge, information, and belief, the Beneficiary has good, valid, and enforceable title to all of the IP necessary for the purposes of the implementation of the Project, and that said IP is free and clear from all third-party interests. In any case, the Beneficiary warrants that it has adequate rights to use the IP.
- 16.3 To the best of the Beneficiary's knowledge, information and belief, no IP used or proposed to be used with respect to the Project proposal infringes upon any IP rights of others, and the use of such IP with respect to the Project Proposal does not constitute an infringement, misappropriation, or misuse of any intellectual property rights of any third party.
- 16.4 The Fund makes no representation, by virtue of its funding of the work hereunder, as to the safety, value or utility of the Product or the work undertaken. The Fund's participation, its funding and exercise of its rights hereunder shall not be construed as endorsement of the Product or the Beneficiary, nor shall the name of the Fund be used for any commercial purpose or be publicized in any way by the Beneficiary except within strict limits defined by the Agreement.

17. PROCESSING OF PERSONAL DATA

- 17.1 Any personal data included in the Agreement must be processed in accordance with the applicable Data Protection Act (*Zakon o zaštiti podataka o ličnosti*) and related regulation in the Republic of Serbia.
- 17.2 Such data must be processed by the Fund solely for implementing, managing and monitoring the Agreement or to protect the financial interests of the Fund, including checks, audits and investigations in accordance with these general conditions.
- 17.3 The Fund will limit access and use of personal data to that strictly necessary for the performance and monitoring of the Agreement, in order to preserve the confidentiality of this data.
- 17.4 The Beneficiary shall have the right to access or rectify their own personal data in accordance with the law.
- 17.5 The Fund will notify the Beneficiary in case any personal data is requested to be shared with a third party and obtain a written consent from the relevant person(s) within the Beneficiary, prior to sharing any such data.
- 17.6 The Beneficiary may grant their personnel access only to data that is strictly necessary for implementing, managing and monitoring the Agreement. The Beneficiary must ensure that the personnel authorised to process personal data has committed itself to confidentiality or is under appropriate statutory obligation of confidentiality.
- 17.7 The Beneficiary must adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature, scope, context and purposes of processing of the personal data concerned.