

# Subsidy Contract

Subsidy Contract No <project number>-00  
on implementation of the Project [ACRONYM - Project title]

In accordance with the decision of the Monitoring Committee dated ..... within the framework of the Interreg V-A Poland – Denmark – Germany – Lithuania – Sweden (South Baltic) Programme 2014-2020

Between, on the one hand:

## THE MINISTER OF FINANCE, DEVELOPMENT FUNDS AND REGIONAL POLICY

**With the registered office at:** ul. Wspólna 2/4, 00-926 Warsaw, Poland,

Acting as the Managing Authority of the Programme Interreg V-A Poland - Denmark - Germany - Lithuania - Sweden (South Baltic) Programme 2014-2020

hereinafter referred to as „Managing Authority” or „Minister”,

**represented by:** [full name and function of a person representing the Minister] ..... on the basis of the power of attorney dated..... which constitutes Appendix No 1, and on the basis of § 15, section 1, point 2 of the Annex to the Ordinance of the Minister of Finance, Investment and Economic Development of 3 October 2019 on the Personal Data Protection Policy in the Ministry of Investment and Economic Development (Dz. Urz. Min. Fin. Inw. i Roz. poz. 5), and on the basis of the statement ..... constituting Appendix No 2

and, on the other hand

**[full name of Lead Partner]** .....

**located in:** [full address].....  
**[particulars identifying the Lead Partner<sup>1</sup>]**

name and address of the Bank: .....  
Bank code (BIC or SWIFT): .....  
IBAN: .....

hereinafter referred to as the „Lead Partner”

**represented by:** [full name and position of person representing the Lead Partner]..... based on ..... dated ..... attached hereto as Appendix No 3 to this agreement,

hereinafter referred to jointly as the „Parties”,  
hereinafter referred to as „agreement”.

The Parties hereby agree the following:

<sup>1</sup> identification numbers, as appropriate: Tax ID Number/NIP (or equivalent) or registration number/REGON, KRS (if the entity is subject to registration, or equivalent), VAT (or equivalent).

## § 1

### DEFINITIONS

For the purposes of this agreement the terms listed below shall have the following meaning:

1. "Application Form" – means an Application Form of a project under the Programme No <project number> together with all the Appendices, as approved by the Programme Monitoring Committee on .....-which constitutes an Appendix No 4 to the agreement, as amended;
2. "central ICT system" – means an ICT system which supports the implementation of the Programme, the development and operation of which is a responsibility of a minister competent for regional development in Poland;
3. "co-financing rate" – means a quotient of the value of funding allocated for the whole project and the total values of eligible expenditures of the project (defined in the Application Form) expressed in percentages accurate to the second decimal place. Co-financing rate may not exceed 85.00% of eligible expenditures for the Lead Partner and particular Partners;
4. "co-financing" – means funds originating from ERDF;
5. "Controller" – means the controller, referred to in Article 23.4 of ETC Regulation;
6. "current version of the Programme Manual" – means a document adopted by the Monitoring Committee, which amendments are adopted by the Monitoring Committee, providing the principles of preparing, implementing, monitoring and reimbursing a project and its durability. The Lead Partner shall have access to the current version of the Programme Manual and shall be informed immediately via the programme website about any amendments to the Programme Manual and about the date the new version of the Programme Manual is binding;
7. "de minimis aid" – means aid referred to in Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ EU L 352/1, 24.12.2013);
8. "direct staff costs" – means the costs of staff directly engaged in the project implementation, settled within the budget line: Staff costs;
9. "due co-financing" – ERDF funds eligible for payment to the Lead Partner on a basis of presented and approved eligible expenses;
10. "durability" – means a prohibition on introducing major modifications to the project within 5 years of the final payment to the Partner, as referred to in Article 71 of the General Regulation.;
11. "e-documents" – means documents which exist only in electronic version or copies thereof, original e-documents which also exist on paper, as well as scanned documents and photocopies of original paper documents, described by the Lead Partner or the Partner in accordance with the requirements defined in the current version of the Programme Manual;
12. "eligible expenditures" – means expenditures or costs duly incurred by the Lead Partner or Partner, in reference to implementation of a Project under the Programme, pursuant to an agreement, the EU regulations and national regulations of the Partner and pursuant to the current version of the Programme Manual;
13. "ERDF" - means European Regional Development Fund;
14. "ETC Regulation" – means Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional

Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, pp. 259-280);

15. "financial correction" – means an amount by which the co-financing for a project is decreased due to an irregularity detected in an approved Partner Progress Report or in Project Progress Report;
16. "flat-rate" – means a form of co-financing, referred to in Article 67.1 (d) of the General Regulation;
17. "General Regulation" – means Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ. L 347, 20.12.2013, pp. 320-469);
18. "indirect costs" – means costs which are necessary for a Project implementation, but which do not relate directly to its main subject; the costs are defined in the current version of the Programme Manual under the budget line: office and administration costs;
19. "ineligible expenditure" – means each and every expense or cost which cannot be deemed eligible expenditure;
20. "irregularities" – means irregularities, referred to in Article 2(36) of the General Regulation;
21. "irregularity" – means expense, referred to in Article 2(36) of the General Regulation;
22. "Joint Secretariat" – means an entity, referred to in Article 23(2) of the ETC Regulation;
23. "Lead Partner" – means an entity indicated in an Application Form, who has signed Subsidy Contract and who is responsible for financial and substantial implementation of the project;
24. "lump sum" – means co-financing in a form, referred to in Article 67(1)(c) of the General Regulation;
25. "Monitoring Committee" – means the Monitoring Committee, referred to in Article 47 of the General Regulation;
26. "national contribution" – means Lead Partner's and Partner's own contributions in the total cost of the Project, as provided for in the Application Form, which is a sum of national funds – both public and private ones;
27. "Partner Progress Report" – means an application for payment submitted by the Lead Partner or Partner to a competent Controller according to the principles defined in the current version of the Programme Manual and in the agreement, which describes progress in the implementation of the part of the Project to be implemented by a given Partner or by the Lead Partner;
28. "Partner" – means an entity indicated in an Application Form, who participates in the Project and who is bound to the Lead Partner by means of a partnership agreement concerning the project implementation;
29. "partnership agreement" – means an agreement concluded between the Lead Partner and Partner, defining joint rights and obligations concerning the project implementation.
30. "programme Account" – means the bank account in which the ERDF funds are gathered for the needs of the Programme, transferred by the European Commission;
31. "programme documents" – means documents approved by the Managing Authority or Monitoring Committee, which are applicable to the Programme implementation;

32. "programme website" – means [www.southbaltic.eu](http://www.southbaltic.eu);
33. "Programme" – means Interreg V-A Poland – Denmark – Germany – Lithuania – Sweden (South Baltic) Programme 2014-2020, approved by the Decision of the European Commission No CCI 2014TC16RFCB013 dated 23.09.2015;
34. "Project Progress Report" – means an application for payment submitted by the Lead Partner to the Joint Secretariat according to the rules specified in the current Programme Manual and in the agreement, presenting the progress in the performance of the whole project;
35. "project" – means an undertaking aiming at reaching an assumed goal defined by means of outcome indicators defined in the Application Form, implemented under the Programme based on an agreement;
36. "SL2014" – means the main application of Central ICT system, which fulfils the requirements set out in Article 122(3) and Article 125(2)(d) of the General Regulation and Article 24 of the Commission Delegated Regulation (EC) No 480/2014, and which supports the current process of the Programme management, monitoring and evaluation, in which data is collected and stored concerning projects implemented and which makes it possible for Partners and Lead Partner to reimburse the projects;
37. "state aid" – means aid referred to in Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ EU L 187/1, 26.6.2014 as amended);
38. "the Lead Partner's Account" – means the bank account to which the co-financing is transferred, indicated in the introduction of the agreement.

## § 2

### SUBJECT OF THE CONTRACT

1. The subject of the agreement comprises the specification of the terms and conditions according to which the Managing Authority shall transfer co-financing to perform the project and the Lead Partner shall perform the project in accordance with the Application Form and the Monitoring Committee's decision.
2. In particular, the agreement shall specify the Parties' rights and obligations referring to the implementation of the project in the scope of the way and conditions according to which the co-financing is transferred and following activities are performed: monitoring, requests of payment, transfer of co-financing, control and audit, information and promotion as well as project management.
3. During the project implementation and during its durability, the Lead Partner shall act in accordance with:
  - 1) the EU law and domestic regulations binding on the Lead Partner, in particular:
    - a. ETC Regulation;
    - b. regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ EU L 347, 20.12.2013, pp. 289-302);
    - c. General Regulation;

- d. implementing Regulations of the European Commission which complement the General Regulation, ETC Regulation and the Regulation, referred to under letter 1(b);
  - e. Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ EU L 352/1, 24.12.2013);
  - f. Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ EU L 187/1, 26.6.2014), hereinafter referred to as "regulation 651/2014";
  - g. Regulation of the Minister of Infrastructure and Development of 20 October 2015 on granting de minimis aid and state aid under the European Territorial Cooperation programmes for 2014-2020 (Journal of Laws pos. 1760, of 02.11.2015, as amended);
  - h. national regulations concerning personal data protection;
  - i. national and EU public procurement law.
- 2) current versions of programme documents, in particular:
- a. Interreg V-A Poland – Denmark – Germany – Lithuania – Sweden (South Baltic) Programme 2014-2020 approved by the Decision of the European Commission No CCI 2014TC16RFCB013 dated 23.09.2015;
  - b. Programme Manual, posted on the programme website;
- 3) national and EU principles and guidelines, in particular:
- a. Commission interpretative communication on the Community law applicable to contract awards not or not fully subject to the provisions of the Public Procurement Directives (OJ C 179, 01.08.2006);
  - b. a document issued by the European Commission, concerning the determination of financial corrections.
4. The Lead Partner states that it has familiarised itself with the aforementioned documents, it acknowledges the way of presenting it the amendments of these documents as well as it acknowledges that the implementation of the project started before the conclusion of this agreement shall constitute the subject of verification mentioned in § 9 and 10 of this agreement.
5. The Lead Partner confirms the truthfulness of the data included in the agreement and Appendices constituting its integral part.
6. The Lead Partner shall provide that all Partners shall be obliged to adhere to the binding provisions of the European and national law, the current programme documents and the national and European rules and guidelines mentioned in section 3.
7. The agreement provides for a possibility of granting de minimis aid or state aid by the Lead Partner. In the partnership agreement, the Lead Partner can formally transfer the rights and obligations related to granting de minimis aid or state aid to a Partner, and this Partner – to another entity. However, it is the Lead Partner who remains obligated to ensure such provisions in the partnership agreement that will guarantee the correctness of granting aid.

8. In the case of occurrence of state aid in the project, the obligation of transparency referred to in Article 9 of regulation 651/2014 shall be fulfilled in the Member State relevant for the seat of the Managing Authority.
9. In the case of occurrence of de minimis aid or state aid in the project, to monitor, inform, including issuing certificates - and to report on granting aid or informing of not granting of aid, the legal provisions of a Member State relevant for the seat of the Managing Authority shall be applied.
10. In order to enable the implementation of entitlements and obligations related to granting de minimis aid or state aid, the Managing Authority transfers the reference number of the aid programme, i.e. SA. 52267(2018/X).

### § 3

#### **PARTNERSHIP AGREEMENT**

1. The Lead Partner shall regulate the mutual cooperation rules with the Partners, in particular it specifies the tasks and obligations arising from the project performance in the partnership agreement.
2. The Lead Partner shall submit the partnership agreement signed by all Partners to the Joint Secretariat until ..... not later than the date of filling the first Project Progress Report specified in the current Programme Manual.
3. The partnership agreement includes the provisions consistent with the *Minimal scope of the partnership agreement* drawn up by the Managing Authority and made available to the Lead Partner via the programme website. The partnership agreement may include additional provisions agreed between the Lead Partner and the Partners in order to implement the project.
4. In particular, the Lead Partner shall oblige the Partners in the partnership agreement to adhere to the provisions of the agreement in the following scope during the implementation and settlement of their part of the project:
  - 1) the subject of the agreement and getting to know and proceeding in accordance with the documents mentioned in § 2 section 3;
  - 2) obligations resulting from granting de minimis aid or state aid (§ 2 section 7 and § 8 sections 22-31);
  - 3) to abide by the period of the project implementation indicated in § 5 in connection with the part of the project performed by particular Partners;
  - 4) ownership rights (§ 7);
  - 5) obligations indicated in § 8;
  - 6) verification of the expenditures and filing Partner Progress Report in accordance with § 9;
  - 7) incur the exchange rate risk within payments for the project (§ 10 section 12);
  - 8) recovery of funds (§ 12);
  - 9) controls and audits (§ 13);
  - 10) information and promotion (§ 14);
  - 11) abiding by the procedure of introducing amendments in the agreement (§ 15);
  - 12) processing personal data (§ 21);
  - 13) using the central ICT system (§ 22, excluding section 3).

#### § 4

##### PROJECT BUDGET

1. The project co-financing amounts to no more than: ..... EUR (say: ..... EUR), whereas the co-financing rate for particular Partners shall be specified in the Application Form.
2. Maximum value of public aid for a project is no more than: EUR ..... (say: ..... EUR), and the value of eligible expenses and the aid intensity for individual Project Partners is set out in appendix no. ....
3. The maximum value of the de minimis aid awarded for individual Project Partners implementing the tasks financed from the funds that constitute de minimis aid is specified in appendix no. ....
4. Co-financing is intended to refund the eligible expenditures incurred in connection to the project implementation.
5. The Lead Partner at its name and in the name of all Partners shall contribute with the national co-financing aimed to the project implementation in the amount that is not smaller than the difference between the total eligible expenditures of the project and the project due co-financing.
6. The payment of the due co-financing for the project covers the refund of the real incurred eligible expenditures, the payment of the lump sum for the preparation costs, payment of the flat rate for the indirect costs or payment of the flat rate for the staff costs (delete inappropriate) – in accordance with the project budget presented in the Application Form.
7. In the case of reallocation of funds in the budget of the project, these reallocations cannot influence the amount and allocation of state aid or de minimis aid granted to individual partners within the project.
8. Appropriately, the Lead Partner or the Partners shall cover all ineligible expenditures or irregular expenditures within the project.
9. The project shall be implemented in accordance with the Application Form, including the specified project budget, as amended according to the provisions in § 15 of the agreement and current programme documents.

#### § 5

##### PROJECT IMPLEMENTATION PERIOD

The project implementation period is as follows:

- 1) Date of starting the factual activities in the project: [yyyy-mm-dd];
- 2) Date of ending the factual activities in the project: [yyyy-mm-dd];
- 3) Date of submission of the Final Project Progress Report is: [yyyy-mm-dd].

#### § 6

##### LEAD PARTNER'S LIABILITY

1. The Lead Partner shall be accountable to the Managing Authority for assuring correctness and timeliness of the implementation of the whole project. The Lead Partner shall be accountable for all actions taken by the Partners, the result of which shall be the infringement of the obligations under the agreement and the partnership agreement.

2. The Lead Partner shall bear exclusive liability towards the third party for the damage which has occurred in connection with the project implementation. The Lead Partner shall resign from all claims towards the Managing Authority for all damage caused by the Lead Partner or the Partners or any third party in connection with the implementation of this project.
3. Should the Managing Authority pursuant to the agreement demand the return of a part of or the entire co-financing, the Lead Partner shall be liable for the recovery of the appropriate amount of the co-financing from the appropriate Partner and the return of this amount in the term specified in the call to return funds issued by the Managing Authority according to the rules specified in § 12.
4. In the case of granting regional investment aid, if within 2 years from the completion of the initial investment, indicated within the Application Form, the project partner to whom the state aid was granted, will perform a transfer, referred to in Article 2(61)(a) of regulation 651/2014; the Lead Partner shall be liable for recovering the relevant amount of co-financing from the relevant Partner and for the reimbursement of the said amount by the deadline specified by the Managing Authority in the call for payment, in line with the principles specified in § 12.

## § 7

### FORM OF OWNERSHIP

1. The ownership and other property rights resulting from the project shall belong to, respectively, the Lead Partner or the Partners.
2. The Lead Partner shall ensure that the products and results of the project are used in such a manner as to guarantee their wide dissemination and making them publicly available, in line with the Application Form.

## § 8

### DETAILED OBLIGATIONS OF THE LEAD PARTNER

1. The Lead Partner ensures that there is no double financing of eligible expenditure from the EU funds or other sources within the project under implementation.
2. The Lead Partner keeps separate accounting records or a separate accounting code for the purpose of implementation of the project, in a way which enables the identification of each financial operation carried out under the project<sup>2</sup>, under conditions set out in the current Programme Manual.
3. The Lead Partner presents in its own Partner Progress Reports and the Project Progress Reports only eligible expenditures and expenditures which are in line with the Application Form.
4. The Lead Partner ensures that the public is informed about the co-funding of the project, in accordance with the requirements referred to in Article 115(3) of the General Regulation in the Commission Implementing Regulation (EU) No 821/2014 of 28 July 2014 (OJ L 223, 29.7.2014, pp. 7-18), and in the current version of the Programme Manual.
5. The Lead Partner, under the pain of sanctions specified in § 16, monitors the progress of achieving the target values of the output indicators defined in the Application Form.

<sup>2</sup>Shall not concern expenditure settled using a flat rate method.



6. The Lead Partner regularly monitors the progress in the implementation of the project in relation to the content of the Application Form and other annexes to the Application Form and informs the Joint Secretariat of any irregularities, circumstances that delay or prevent the full implementation of the project, or of the intention to discontinue the implementation of the project.
7. The Lead Partner immediately informs the Joint Secretariat of the circumstances which influence the reduction of eligible expenditure of the project, especially of the possibility to reclaim VAT and of the net revenue which was not taken into account at the stage of granting the co-financing, as specified in § 4, in accordance with the specific rules laid down in the current version of the Programme Manual.
8. The Lead Partner immediately informs the Joint Secretariat of savings in the project, especially those resulting from the tender procedures which were conducted and completed with a signature of the award of the public procurement contract.
9. Public procurement procedures as well as award of public contracts under the project are implemented by the Lead Partner in accordance with the provisions of EU and national law or with the principle of competitiveness, described in detail in the current version of the Programme Manual.
10. The Lead Partner immediately informs the competent Controller of the conclusion of the award of the public procurement contract and any amendment made to this contract, concluded with the contractor in the framework of the project implementation.
11. The Lead Partner provides the competent Controller with the documentation concerning the public procurement in relation with the implementation of its part of the project immediately after awarding the public procurement contract.
12. The Lead Partner prepares and submits within 15 calendar days, after the end of the reporting period, its own Partner Progress Reports, referred to in § 9 section 1 and within 15 calendar days from the date of the certification of Partners Progress Reports of all Partners, the Lead Partner prepares and submits the Project Progress Reports, referred to in § 10 section 1, and corrects the errors found in them and explains or supplements respectively the Managing Authority, the Joint Secretariat or the appropriate Controller in the dates indicated by these institutions.
13. The Lead Partner makes available documents and provides the necessary explanations to the competent Controller, the Joint Secretariat or the Managing Authority, within the time-limits specified by these entities.
14. The Lead Partner cooperates with the external controllers, auditors and evaluators and submits to inspections or audits conducted by the authorized national and European services as well as monitors the implementation of the recommendations from these audits or inspections by the Partners.
15. The Lead Partner after receiving co-financing from the Managing Authority shall transfer to the other Partners, the corresponding part in the amount resulting from the Project Progress Report, as referred to in § 10 section 1, without undue delay and without any deductions.
16. The Lead Partner shall immediately inform the Managing Authority of a change of the Lead Partner's or Partner's legal status, which results in a failure to fulfil the requirements described in the Programme towards the Lead Partner or the Partner.
17. The Lead Partner shall immediately inform the Joint Secretariat and the Managing Authority of a bankruptcy, liquidation or bankruptcy of any of the Partners of the project.

18. The Lead Partner shall keep the documentation concerning the implementation of the project in line with Article 71 and Article 140 of the General Regulation. If the project will not include investments in infrastructure or productive investment all supporting documents shall be made available for a two year period from 31 December following the submission of the statement of expenditure to the European Commission, which includes the final expenditure concerning the completed project. In the case the project will include investments in infrastructure or productive investment, all supporting documents shall be made available for the period of at least five years from the date of the final payment for the project or for the period of two years from 31 December following the submission of the statement of expenditure to the European Commission, which includes the final expenditure concerning the completed project – depending on which time limit expires later. The Lead Partner shall keep the documentation concerning the *de minimis* aid or state aid granted within the project for the period of 10 years from the day of granting thereof, in a manner ensuring confidentiality and security, if *de minimis* aid or state aid was granted within the project by the Lead Partner or partners of the project. The Lead Partner shall keep the documentation concerning the *de minimis* aid or state aid granted within the project for the period of 10 years from the day of granting thereof, in a manner ensuring confidentiality and security, if *de minimis* aid or state aid was granted within the project by the Lead Partner or Partners of the project.
19. The Lead Partner, under the pain of sanctions specified in § 18 is responsible for maintaining the durability of the project for a period of five years from the date of final payment made by the Managing Authority and under the conditions specified in the provisions of the European law and the current Programme Manual.
20. If a Partner withdraws from the project, the Lead Partner ensures that the products being the project outcome shall be used in accordance with the agreement and shall be durable in the part of the project for which a given Partner was responsible.
21. In the event of the Lead Partner failing to comply with its obligations in terms of: applying for payment, information, promotion and submission to an inspection or audit, the Managing Authority may, regardless of the right of the Managing Authority to terminate the agreement in accordance with § 19, withhold the payments for the project until the Lead Partner fulfils its obligations.
22. The entity responsible for checking the admissibility for granting *de minimis* aid or state aid is the entity holding the rights to grant aid (in accordance with § 2 section 7).
23. The entity applying for *de minimis* aid shall attach the following documents to the application for aid:
  - i. copies of certificates of *de minimis* aid or certificates of *de minimis* aid in agriculture or *de minimis* aid certificates in fishery issued by a granting authority established in Poland, which it received in the year in which it applies for aid, and within 2 preceding years, or statements on the amount of such aid received during this period or a statement on not obtaining such aid during this period;
  - ii. an information form containing information necessary to grant *de minimis* aid, concerning in particular the applicant and its economic activity as well as the amount and purpose of state aid received with reference to the same eligible costs to be covered by *de minimis* aid is to be granted.
24. The entity applying for state aid attaches to the application for aid an information form containing information about the applicant and its economic activity and information on the received state aid, in particular indication of the day and legal basis of granting it, its form and purpose, or a statement of not obtaining such aid.

25. In the case of granting *de minimis* aid or state aid within the project, the entity granting aid is obligated in particular to:
- i. issue a certificate for the beneficiary of the aid, stating that the aid granted is *de minimis* aid or *de minimis* aid in agriculture or fishery (the certificate is issued ex officio on the day the aid is granted) or inform the beneficiary of the state aid in writing about the lack of obligation of notifying it to the European Commission and of the reference number assigned by the Commission;
  - ii. prepare and submit a report on the granted state aid or *de minimis* aid, or information about not granting such aid.
26. In the event when the value of *de minimis* aid actually granted is different from the value of the aid indicated in the issued certificate referred to in section 25 item i, the entity granting the aid issues a new certificate on granting *de minimis* aid within 14 days from the date of stating this fact. The new certificate shall indicate the actual value of the aid and state the expiry of the previous certificate.
27. In the case when the entity authorised to grant *de minimis* aid or state aid is an entity established in Poland, the entity prepares and submits a report on the granted aid or information on not granting such aid through SHRIMP application to the President of OCCP<sup>3</sup> of the scope and date specified in the regulation issued on the basis of Article 35 item 1 of the Act of 30 April 2004 on proceedings in matters concerning state aid (OJ 2016.1808, as amended).
28. If the entity authorised to grant *de minimis* aid or state aid is an entity established in a country other than Poland, this entity prepares and transmits to the Joint Secretariat, via e-mail, in pdf format, a report on the granted aid within 2 days from the date of granting such aid.
29. If the entity authorised to grant *de minimis* aid or state aid with its registered office in a country other than Poland did not grant any aid in a given calendar year, it shall send to the Joint Secretariat, by e-mail, an information on not granting aid for a given calendar year, within 4 days from the end of the calendar year.
30. The project partner or other entity authorised to grant state aid or *de minimis* aid with its registered office in a country other than Poland shall provide a report on the granted aid or an information on not granting such aid also to the Lead Partner.
31. In the event of a change in the value of the granted aid indicated in the report on granted aid, the entity granting the aid prepares and submits an updated report.
32. In the event when the change concerns the value of granted *de minimis* aid, the obligation stipulated in section 31 applies to aid granted within the same year in which the entity granting the aid obtained information about the change, or during the 2 preceding years.
33. The provisions of sections 27-30 shall apply accordingly to the preparation and submission of the updated report on the granted aid.
34. Detailed information and the templates of documents in the scope of *de minimis* aid or state aid within the project are on the programme website.

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<sup>3</sup> Office of Competition and Consumer Protection (Urząd Ochrony Konkurencji i Konsumentów)

## § 9

### SUBMITTING A PARTNER PROGRESS REPORT AND VERIFICATION OF EXPENDITURE

1. The Lead Partner shall submit its Partner Progress Report from the implementation of the Lead Partner's part of the project along with Appendices to the competent Controller within the time-limits and under the conditions specified in the agreement and current version of the Programme Manual.
2. As a rule, a Partner Progress Report shall be submitted for the period of 6 consecutive months, in accordance with the 6-month reporting cycles: from 1 January to 30 June and from 1 July to 31 December/ from 1 April to 30 September and from 1 October to 31 March (delete if not applicable), while the beginning of the first reporting period begins on the day of the initiation of substantive actions in a project, defined in § 5 point 1.
3. The Controller shall verify the Partner Progress Report and the eligibility of the incurred expenditures declared therein. The verification shall be in line with the provisions, guidance or procedures specified in a given Member State with the account of rules established in the Programme.
4. Administrative verification of the Lead Partner's expenditure shall be with the use of SL2014, on the basis of the data recorded in it and documents submitted by the Lead Partner.
5. Should errors be found in a Partner Progress Report, the Controller:
  - 1) fills in the deficiencies or corrects errors, if they are obvious, and informs the Lead Partner;
  - 2) calls for the Lead Partner to correct or fill in the Partner Progress Report or to provide additional explanations.
6. Upon request of and within the deadlines specified by the Controller, the Lead Partner submits the documents required for the verification of the Partner Progress Report, corrects the Partner Progress Report, removes errors, and submits additional explanations as well as supplementary information.
7. If the indirect costs are calculated using a flat rate, their amount is approved by the Controller in each Partner Progress Report, considering the percentage rate defined in the Application Form and the value of approved direct costs of the Lead Partner, other than personnel costs.
8. If the direct personnel costs are calculated using a flat rate, their amount is approved in each Partner Progress Report by the Controller, considering the value of the percentage rate defined in the Application Form and the value of approved direct costs of the Lead Partner, other than direct personnel costs.
9. In the case of clearing preparation costs, the Controller approves their amount for the Lead Partner, in accordance with the lump sum indicated in the approved Application Form.
10. If during verification of a Partner Progress Report it is established that there has been a breach of national or Union regulations, or the principles concerning project implementation specified in the current version of the Programme Manual (in particular as regards public procurement or the need to safeguard the principle of competition, described in detail in the current version of the Programme Manual) then relevant expenditures may be found as fully or partially irregular, and reduced by the Controller in the Partner Progress Report. The above is applicable also to expenditures incurred prior to signing the agreement. The amount of irregular expenditures connected with public procurement or the need to safeguard the principle of competition shall be calculated in accordance with national regulations or principles. If in a given member state there

are no relevant regulations or rules, the amount of irregular expenditures shall be established using the current document on financial corrections, issued by the European Commission.

11. The rules of procedure in the case of finding irregular expenditures are regulated by the current Programme Manual or by national guidelines on correcting expenditures and imposing financial corrections, if such guidelines are established in a given member state.
12. The net revenue generated in a given accounting period in result of project implementation, in its part implemented by the Lead Partner that had not been accounted for at the stage of allocating the amount of co-financing for the project, reduces the amount of eligible expenditures and the amount of due co-financing for the Lead Partner.
13. The result of the verification of the Partner Progress Report, including the amount classified as eligible and the amount of due co-financing, is forwarded by the Controller to the Partner, in compliance with the principles specified in the current version of the Programme Manual.

## § 10

### TRANSFER OF THE CO-FINANCING FOR THE PROJECT

1. The Lead Partner draws up a Project Progress Report based on the Partners Progress Reports and through SL2014 submits it to the Joint Secretariat on the terms specified in the agreement and the current Programme Manual.
2. As a rule, a Project Progress Report shall be submitted for the period of 6 consecutive months, in accordance with the 6-month reporting cycles: from 1 January to 30 June and from 1 July to 31 December/ from 1 April do 30 September and from 1 October to 31 March (delete if not applicable), while the beginning of the first reporting period begins on the day of the initiation of substantive actions in a project, defined in § 5 point 1.
3. In justified cases, especially if the Programme faces the risk of decommitment, the Joint Secretariat may request the Lead Partner to submit an additional Project Progress Report, covering the reporting period which is different from the standard reporting period. In this case, the Lead Partner shall submit a Project Progress Report under the conditions set by the Joint Secretariat.
4. In justified cases related to the most efficient implementation of the project, the Lead Partner may ask the Joint Secretariat for the opportunity to make an additional Project Progress Report covering different than the standard reporting period.
5. The Lead Partner shall submit to the Joint Secretariat the Final Project Progress Report within the period specified in § 5 point 3 under the terms of the current Programme Manual.
6. When the project is completed during one reporting period from the date of signing the agreement, the Lead Partner shall submit exclusively the Final Project Progress Report to the Joint Secretariat.
7. The Joint Secretariat, using SL2014, verifies the Project Progress Report and the documents submitted by the Lead Partner.

8. Should errors be found in a Project Progress Report, the Joint Secretariat:
  - 1) fills in the deficiencies or corrects errors, if they are obvious, and informs the Lead Partner;
  - 2) calls for the Lead Partner to correct or fill in the Project Progress Report or to provide additional explanations in the time period specified by the Joint Secretariat.
9. After approval of the Project Progress Report and based on the payment order prepared by the Joint Secretariat, the Managing Authority transfers the due co-financing regarding the Project Progress Report from the account of the Programme to the account of the Lead Partner.
10. The payment order may be reduced if there is a need for a recovery of a principal amount or the interest referred to in § 12 section 8, in reference to the notice to return the funds, referred to in § 12 section 1 in accordance with the rules described in § 12 sections 4, 6, 7 and 9.
11. The due co-financing arising from the approved Project Progress Report is transferred to the account of the Lead Partner, subject to the availability of funds in the account of the Programme.
12. The due co-financing arising from the approved Project Progress Report is transferred to the account in EUR. The currency exchange rate risk is borne by the Lead Partner.
13. The transfer of the due co-financing shall be made within 90 calendar days of the receipt of the Project Progress Report by the Joint Secretariat, subject to section 11. The payment term may be interrupted by the Managing Authority as the Lead Partner is informed in writing including giving reasons, if:
  - 1) the amount included in the Project Progress Report is undue or the relevant supporting documents have not been submitted or
  - 2) the proceeding concerning possible irregularities affecting the expenditure has been initiated.
14. The total amount of the co-financing transferred to the Lead Partner in respect of all Project Progress Reports cannot exceed the amount of the co-financing and of the co-financing rate level referred to in § 4 section 1.

## § 11

### **REDUCTIONS AND IMPOSITION OF CORRECTIONS BY THE MANAGING AUTHORITY**

1. If the Managing Authority, before payment of co-financing, finds in a Project Progress Report that there have been ineligible expenditures, irregular expenditures or the agreement has been violated, the Managing Authority may reduce the value of the due co-financing. The findings may concern expenditures incurred before the signing of the agreement. In such case, Managing Authority sends a written information about the findings to the Lead Partner.
2. If the Managing Authority finds, after the payment of the co-financing, that there have been ineligible expenditures, irregular expenditures or the agreement has been violated, or the funds were unduly paid or overpaid, the Managing Authority may impose a financial correction and institute the recovery procedure. The findings may concern expenditures incurred before the signing of the agreement. In such case, the Managing Authority sends a written information about the findings to the Lead Partner.
3. If the Lead Partner disagrees with the Managing Authority's findings, referred to in sections 1 or 2, it may raise objections as defined in § 20 sections 2-3 and 6-8.
4. After having exhausted the actions defined in section 3 and after confirmation of the findings referred to in section 1 by the Managing Authority, the Managing Authority reduces the value of eligible expenditures and the due co-financing. After having exhausted the actions defined in

section 3 and confirmation of findings referred to in section 2, the Managing Authority issues a call for payment of funds referred to in § 12 section 1.

## § 12

### RECOVERY OF FUNDS

1. If the co-financing has been paid for ineligible expenditures, irregular expenditures or the agreement has been violated, or the funds were unduly paid or overpaid, the Managing Authority issues a call for payment of funds, and the Lead Partner returns the wrongly paid co-financing as applicable. This also applies to expenditures incurred before the signing of the agreement.
2. The Managing Authority, in connection with Art. 122(2) of the General Regulation, may waive the recovery of the co-financing if the principal amount due does not exceed 250 EUR in the project.
3. The Lead Partner returns the funds in accordance with the call for payment of funds issued by the Managing Authority. The call for payment contains the amount to be reimbursed and the justification, the deadline for reimbursement and bank account number to which the funds should be reimbursed. In justified cases, the Managing Authority may extend the deadline for reimbursement of funds.
4. If within the specified period the Lead Partner does not make the reimbursement based on the call for payment referred to in section 1, the Managing Authority reduces the amount of due co-financing from the subsequent Project Progress Report by the amount payable for reimbursement together with the interest referred to in section 8, subject to section 7. If the amount due exceeds the amount of the due co-financing on accounts of the subsequent Project Progress Reports, the Managing Authority may take further actions against the Lead Partner to recover the missing funds, subject to section 7.
5. If the recovery of the co-financing on accounts of the expenditures referred to in section 1 is necessary, the Managing Authority indicates in the call for payment of funds, as referred to in section 1, the Partner, from whom the Lead Partner should recover the funds.
6. If the Lead Partner fails to recover the funds from the partner until the deadline specified in the call for payment, it shall inform the Managing Authority electronically or in writing and re-issue the call for payment to the partner. The due date set in total for both call for payments of funds submitted to the partner, counting from the date of receipt of the call for payment from the Lead Partner, shall not be shorter than 20 days. If the Lead Partner fails to recover the funds from the partner after the due date specified in the second call for payment, the Lead Partner shall notify the Managing Authority of this fact electronically or in writing.
7. If the Lead Partner submits to the Managing Authority the notifications referred to in section 6, the Managing Authority can withdraw from the activities referred to in section 4. In this case, the Managing Authority is reducing the payment of co-financing under the subsequent Project Progress Reports by the amount due, along with interest referred to in section 8. This reduction can be made to the amount due in respect of subsequent Partner Progress Reports for the partner that the call for payment of funds concerns.
8. Interest is calculated on a daily basis, starting from the day following the day on which the deadline specified in the call for payment referred to in section 1 expires and ending on the day on which the funds from the Lead Partner are credited to the programme Account or, if the due co-financing for subsequent Project Progress Reports is reduced by the amount owed with interest - until the day when the reimbursement of the reduced Project Progress Report is paid out. The interest rate is 1.5 percentage points above the rate applied by the European Central



Bank in its main refinancing operations on the first working day of the month in which the payment is due.

9. Upon the request of the Lead Partner the due co-financing for the project may be reduced by the amount corresponding to the due amount to be reimbursed.
10. If the recovery of VAT which is classified in the project as eligible is possible, the Lead Partner reimburses the amount of VAT refunded thus far.

### **§ 13**

#### **CONTROLS AND AUDITS**

1. The Lead Partner is subject to verifications and audits within the scope of correctness of implementation of the project and maintaining its durability. The controls and audits shall be conducted by entities authorised to carry out control-related activities in accordance with national and EU laws and the current programme documents.
2. The Lead Partner shall give access to all documents on project implementation, in particular the electronic versions of documents and documents used to create them, to the entities referred to in section 1, throughout the entire period when such documents are kept, referred to in § 8 section 18.
3. The Lead Partner shall take corrective action within the deadlines specified in the recommendations resulting from verifications and audits.
4. The Lead Partner shall provide the entities carrying out verifications and audits with the information on former controls of the project, carried out by other authorised entities.

### **§ 14**

#### **INFORMATION AND PROMOTION**

1. All project's information and promotional activities shall be carried out in compliance with the rules specified in subparagraph 2.2 of Annex XII to the General Regulation, in Commission Implementing Regulation (EU) No 821/2014 of 28 July 2014. (OJ L 223, 29.7.2014, pp. 7-18), and in the current version of the Programme Manual. In particular, the Lead Partner and the other Partners are required to:
  - 1) mark with the Programme logo and the European Union symbol the following: all information and promotional activities concerning the project; all documents related to project implementation made publicly available as well as all documents and materials for people and entities participating in the project;
  - 2) place at least one poster with a minimum format of A3 or an information board and/or memorial board at the site of the project implementation;
  - 3) place a description of the project on the website - if a website is held;
  - 4) informing people and entities participating in project implementation about the co-financing obtained for the project;
  - 5) document the information and promotional activities carried out under the project.
2. The Lead Partner shall ensure that if the Lead Partner or the partners publish, in any form, any information on the project which has not been agreed upon or consulted with the Managing



Authority or the Joint Secretariat, that all such information and publications include a statement that the Managing Authority is not responsible for their contents.

3. The Lead Partner will ensure the submission of the written information about the achievements of the project to the Joint Secretariat on behalf of itself and the partners.
4. The Lead Partner shall submit to the Managing Authority, via the Joint Secretariat, the audio-visual documentation from project implementation and shall give their consent for the use of such documentation by the Managing Authority or the Joint Secretariat.
5. The Lead Partner gives permission to the Managing Authority and institutions that it specified for publication of information referred to in Article 115(2) of the General Regulation and audiovisual documentation of the implementation of the project in any form and through any media.

## § 15

### AMENDMENTS TO THE AGREEMENT

1. The amendments to the agreement and its Appendices which constitute its integral part may be introduced only during the implementation of the project activities, i.e. until the date specified in § 5 point 2 and in accordance with the principles described in the current Programme Manual, subject to § 22 section 8 point 1, otherwise shall be null and void.
2. Making changes in the agreement requires the following rules:
  - 1) The amendments in the assumed project indicators cannot result in changes to the project's objectives.
  - 2) Any amendment to the agreement must be in writing, otherwise shall be null and void, subject to sections 3-5.
  - 3) The amendments in the Appendices to the agreement do not require the amendment to the agreement in the form of an annex, unless they have a direct impact on the content of its provisions.
  - 4) Changes of the project bank account and SWIFT or IBAN code, as well as a change of the name and address of the bank in which the account was opened, do not require the amendment to the contract in the form of an annex, however they are reported by the Lead Partner to the Managing Authority in writing or using the SL2014. In case where the Lead Partner does not inform the Managing Authority of the change of the bank account, the Lead Partner shall bear all related costs.
  - 5) The change of the date of the Final Project Progress Report, as defined in § 5 point 3, does not require an amendment to the contract in the form of an annex, however, it requires the approval of the Joint Secretariat.
3. Requests for changes shall be submitted not later than two months before the end of the factual activities in the project, as defined in § 5 point 2. Failure to meet this deadline may result in refusal to examine the request for changes.

## § 16

### INADEQUATE PROJECT IMPLEMENTATION

1. If target values of the output indicators identified in the Application Form were not achieved, the Managing Authority:

- 1) may adequately reduce the value of funding;
- 2) may request reimbursement of a part or the total of the paid amount of the co-financing to the Lead Partner.
2. If the Lead Partner documents the independent causes of the failure properly to achieve the declared in the proposal target values of output indicators and shows its efforts or the efforts of the partner aimed at achieving the indicators, the Managing Authority may waive the imposition of sanctions referred to in section 1.
3. If the objective of the project was achieved and the Lead Partner or partner breached the due diligence during the project implementation, the Managing Authority may demand the reimbursement of the part of the project co-financing paid to the Lead Partner. The amounts in all budget lines of the project related to measures implemented not in line with assumptions presented in the Application Form, may be reduced in an appropriate manner.

#### **§ 17**

##### **FAILURE TO REACH TARGET VALUES OF FINANCIAL INDICATORS**

If it is found that the project expenditures do not meet at least 80% of the cumulative financial goal for the first three reporting periods, the Managing Authority has the right to reduce the co-financing, in accordance with the procedure and methodology described in the current Programme Manual.

#### **§ 18**

##### **FAILURE TO MAINTAIN THE PROJECT DURABILITY**

If the durability of the project is not maintained, the Lead Partner shall return the co-financing in accordance with § 12 of the Agreement.

#### **§ 19**

##### **TERMINATION OF THE AGREEMENT**

1. The Managing Authority shall have the right to terminate the agreement with ..... month(s) notice period, if the Lead Partner:
  - 1) received a co-financing on the basis of false or incomplete declarations, statements or documents;
  - 2) received a co-financing on the basis of non-disclosure of information, despite the existing obligation of their disclosure, with the purpose of misappropriation or wrongful retention of received funds;
  - 3) the implementation of the agreement did not comply with national or European legislation or the provisions of the documents referred to in § 2 section 3 points 2 and 3;
  - 4) used all or part of the awarded co-financing not according to its purpose or violating the European and national legislation, the current programme documents and the national and European rules and guidelines or contrary to the provisions of the agreement or used all or part of the awarded co-financing unduly or in excessive amounts;

- 5) is not able to complete the implementation of the project within the period specified in § 5 point 2 and when the delay is greater than 6 months in relation to the activities planned in the Application Form and its Appendices;
  - 6) due to reasons attributable to him did not start the project implementation within 3 months from the date of the project implementation as defined in § 5 point 1;
  - 7) ceased the project implementation or implements the project in a manner inconsistent with the agreement;
  - 8) due to reasons attributable to him did not achieve the intended project objectives;
  - 9) due to reasons attributable to him did not achieve the intended project products;
  - 10) failed to provide all Project Progress Reports, required under the agreement;
  - 11) refuses to submit to an inspection or audit of the authorized institutions;
  - 12) failed to introduce countermeasures against the established irregularities within the specified period;
  - 13) failed to submit the required information or documents despite a written request from the Managing Authority and other bodies authorised to control, in which the due date and the legal consequences of failure to comply with the request of the Managing Authority and other authorities responsible for inspections were given;
  - 14) is not able to prove that the Project Progress Report includes complete and accurate data, and that the reported expenditures are eligible;
  - 15) is in liquidation or when subject to receivership or when its business activities are suspended or is subject to similar proceedings;
  - 16) did not inform the Managing Authority of the change of its legal status or the legal status of any of the project partners, which results in a failure to meet the requirements of the Lead Partner and the partner specified in the Programme;
  - 17) there is a criminal proceeding against the Lead Partner or the partner in a corruption case affecting the financial interests of the European Union.
2. In the event of the agreement termination for the reasons referred to in section 1, the Lead Partner shall reimburse the co-financing in accordance with § 12 of the agreement.
  3. In the event of failure to provide by the European Commission the funds from the ERDF for reasons independent of the Managing Authority, the Managing Authority reserves the right to terminate the agreement. In this case, the Lead Partner is not entitled to any claims against the Managing Authority under any legal title.
  4. As a result of the circumstances which prevent further performance of the obligations under the agreement, it may be terminated by the unanimous will of the Parties. In the event of the termination by mutual consent, the Lead Partner has the right to retain the awarded co-financing only in that part of the expenditures which correspond to the correctly implemented part of the project. The agreement may be terminated at the written request of the Lead Partner, if the Lead Partner returns the awarded co-financing in accordance with § 12 of the agreement, subject to §16 section 2.
  5. Regardless of the reasons for termination of the agreement, the Lead Partner shall submit a Final Project Progress Report within the period specified by the Managing Authority and is obligated to archive documents that are related to its implementation in the period referred to in § 8 section 18.

## § 20

### COMPLAINTS

1. The Lead Partner is entitled to file complaints regarding findings resulting from the controls referred to in Article 23 of the ETC Regulation according to the national legislation. Respective acts of national legislation are described in the current Programme Manual.
2. The Lead Partner is entitled to file complaints to the Managing Authority regarding the Managing Authority decisions regarding the implementation of the agreement, other than these related to the results of controls referred to in Article 23 of the ETC Regulation, and resulting in termination of the agreement, the reduction of the level of co-financing or the need to recover the funds paid by the Managing Authority as part of the agreement.
3. The complaints referred to in section 2, shall be made by the Lead Partner in writing to the Managing Authority within 14 calendar days. The time limit begins from the day following the date of receipt by the Lead Partner of the written information from the Managing Authority.
4. The complaints made after the deadline specified in section 3 or the complaints which do not meet the requirements referred to in section 2 are left unexamined. The information about leaving the complaints without examination is submitted to the Lead Partner within 7 calendar days. The due date is calculated from the day following the date of the receipt of the complaints by the Managing Authority.
5. The complaints may be withdrawn at any time by the Lead Partner. The withdrawn complaints shall not be examined.
6. The complaints made within the period specified in section 3 and those which meet the requirements referred to in section 2, are examined by the Managing Authority, no later than within 14 calendar days. The term is calculated from the day following the date of the receipt of the complaints by the Managing Authority, subject to section 7.
7. During the examination of complaints, the Managing Authority may carry out any additional steps or require the production of documents or submission of the additional clarification in the manner specified by the Managing Authority. The taking of additional tasks or activities by the Managing Authority during the examination of the complaints interrupts the period referred to in section 6. The information about the interruption of the time period shall be notified immediately to the Lead Partner. After conducting the additional tasks or actions the time period runs anew.
8. The Managing Authority shall inform the Lead Partner on the result of the complaints examination, stating the reasons for its position. The position of the Managing Authority is final.

## § 21

### PROCESSING OF PERSONAL DATA

The processing of personal data is entrusted on the basis of a separate agreement, which constitutes Appendix **no. ....** to this Agreement.

## § 22

### CENTRAL ICT SYSTEM

1. To settle the project under implementation the Lead Partner will use the main application of the central ICT system – SL2014.

2. By means of the SL2014 the Lead Partner shall:
  - 1) draw up and send Partner Progress Reports to the competent Controller;
  - 2) record information about the payment schedule under the project;
  - 3) record information on planned and carried out public procurement procedures, planned and awarded contracts in accordance with the competitiveness principle described in detail in the current version of the Programme Manual, as well as information on concluded contracts and selected contractors and project personnel;
  - 4) corresponds with the competent Controller on the project under implementation and provides, upon request of the Controller, necessary information and electronic versions of documents.
3. In addition, the Lead Partner:
  - 1) prepares and sends a Project Progress Reports to the Joint Secretariat;
  - 2) corresponds with the Joint Secretariat on the implemented project and provides, upon request of the Joint Secretariat, necessary information and electronic versions of documents.
4. Providing electronic versions of documents via the SL2014 system does not relieve the Lead Partner from the obligation of storing them. The Lead Partner shall also store the original versions of documents used to create electronic versions. During on-the-spot checks carried out by authorised institutions, the Lead Partner shall make available both original and electronic versions of documents.
5. The detailed description of the Lead Partner's tasks as regards working within the SL2014 system and deadlines set for their completion are included in the updated versions of the Programme Manual and/or the Partner's Manual for SL2014, which are available on the programme website.
6. The Lead Partner being involved in the implementation of the project shall designate persons authorised to perform actions related to project implementation on its behalf to work in the SL2014 system. Designation of the above-mentioned persons, changing their powers or cancelling access to SL2014 shall be carried out based on request to grant/change/cancel access for an authorised person in line with the *Procedure for notification of authorised persons under the project*. Updated versions of these documents are available on the programme website. The list of persons authorised to work within the SL2014 system along with requests to grant/change/cancel access for an authorised person constitute an annex to the agreement. Amendments to the annex (i.e. changes in the list of authorised persons) do not require drawing up an annex to the agreement.
7. Any activities of authorised persons carried out in the SL2014 system will be understood in terms of law as activities of the Lead Partner.
8. Any correspondence between the Lead Partner and the competent Controller as well as between the Lead Partner and the Joint Secretariat is conducted via SL2014, excluding correspondence on:
  - 1) amendments to the content of the agreement requiring the signing of an annex to the agreement;
  - 2) requests to grant/change/cancel access to the SL2014 system for an authorised person;
  - 3) on-the-spot check;
  - 4) seeking the reimbursement of funds referred to in § 12.
9. The Lead Partner and the Managing Authority shall consider as legally binding the adopted in the agreement solutions applied with respect to communication and data exchange in SL2014, without any possibility of opposing the effects of their application.

10. To authenticate the actions performed within the SL2014 system, persons authorised by the Lead Partner established in the Republic of Poland shall use the ePUAP trusted profile or safe electronic signature verified using a valid eligible certificate under SL2014. If, for technical reasons, the ePUAP trusted profile cannot be used, the authentication shall take place using the login and password generated by the SL2014 system, where the PESEL number of a given authorised person is used as a login.
11. To authenticate the actions performed within SL2014, persons authorised by the Lead Partner not established in the Republic of Poland shall use the safe electronic signature verified using a valid eligible certificate under SL2014 or their e-mail addresses and passwords.
12. In justified situations, e.g. in the case of failure of the application, when the time for restoring the normal operation of the SL2014 system does not allow to submit a Partner Progress Report or Project Progress Report on time, the Lead Partner shall submit the applications on paper, using the template available on the programme website. The Lead Partner shall undertake to complete in the SL2014 system data as regards documents provided in writing within 5 working days from the date of receipt of an information on failure removal.
13. Individuals authorised by the Lead Partner shall undertake to observe the *Regulations concerning the security of information processed in the main application of the central ICT system*, and to work in the SL2014 system in line with the principles defined in the current versions of the Programme Manual and the Partner's Manual in the SL2014 system.
14. The Lead Partner shall immediately notify the Joint Secretariat of a malfunction of the SL2014 system which prevents or hampers working within the SL2014 system and which in particular results in the impossibility to send the Partner Progress Report via the SL2014 system to the Controller or the Project Progress Report to the Joint Secretariat.
15. The Lead Partner shall notify the Joint Secretariat each time about an information on a breach of security, incidents and vulnerabilities related to processing data in the SL2014 system by the Lead Partner, including in particular information on unauthorised access to data processed in the SL2014 system by the Lead Partner.

## § 23

### FINAL PROVISIONS

1. If any provision of the agreement is invalid, infeasible or unlawful, the agreement will be amended to replace or remove the invalid, infeasible or unlawful provisions. The other provisions of the agreement remain in force.
2. To all matters not settled herein, the provisions specified in § 2 section 3 and consistent with them the national law of the Managing Authority shall apply.
3. The decision shall enter into force on the day of its signing by the last Party.
4. The agreement is valid until all obligations of the Lead Partner, including taking into account the responsibilities associated with maintaining the durability of the project and archiving responsibilities described in § 8 section 18 are fulfilled.
5. The agreement is drawn up in the English language in four counterparts. The Lead Partner receives one copy of the agreement; the Managing Authority receives three copies of the agreement.

**§ 24**

**CORRESPONDENCE**

1. All correspondence connected with the implementation of this agreement should be prepared in English language and sent to the following addresses:

**Managing Authority**

Minister of Finance, Development Funds and Regional Policy  
Territorial Cooperation Department  
ul. Wspólna 2/4  
00-926 Warsaw  
Poland

**Lead Partner**

[Name and address of the Partner].....

**Joint Secretariat**

Al. Grunwaldzka 186 (GARNIZON)  
80-266 Gdańsk  
Poland

2. The changes to the addresses listed in the section 1 do not require amendments to the agreement in the form of an annex.

**§ 25**

**CONCLUSIVE LAW AND JURISDICTION**

1. The agreement is subject to Polish law with respect to § 23 section 2.
2. In the event of a dispute, the Parties shall settle a dispute amicably. Unless the Parties agree otherwise, the conciliation proceedings shall be conducted in English.
3. If no agreement can be reached, the dispute shall be resolved by the common court competent for the registered office of the Managing Authority.

**§ 26**

**APPENDICES TO THE AGREEMENT**

The following Appendices constitute integral parts of the agreement:

1. Power of attorney for the person representing the Minister of Finance, Development Funds and Regional Policy;
2. Statement of the Minister of Finance, Development Funds and Regional Policy confirming the validity of previously granted authorizations and powers of attorney;
3. The document confirming the power of attorney to sign the agreement for the person representing the Lead Partner;
4. The current Co-financing application with schedule of project work and expenditures;
5. The decision of the Monitoring Committee regarding the Application Form approval;
6. List of authorised persons to work in the SL2014;

7. Requests to grant/change/cancel access for an authorised person;
8. Agreement entrusting the processing of personal data.
9. De minimis/state aid financial table.

**On behalf of  
Managing Authority,**

**On behalf of  
Lead Partner**

First name and surname

.....

Position

.....

Signature and stamp  
(if applicable)

.....

.....

Place, date

.....



## APPENDIX No 8: Agreement entrusting the processing of personal data

# AGREEMENT

Entrusting the processing of personal data  
concluded on ..... [yyyy.mm.dddd] in Warsaw  
between

### Minister of Finance, Development Funds and Regional Policy

Hereinafter referred to as "**Administrator**",

and

the Lead Partner [Full name of Lead Partner] \_\_\_\_\_,

hereinafter referred to as "**Processor**",

hereinafter referred to jointly as the "**Parties**",

hereinafter referred to as "**agreement**",

### §1

1. The Parties conclude the agreement in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, pp. 1–88), hereinafter referred to as "GDPR".
2. The agreement is concluded for the duration of the Subsidy Contract no ..... .
3. The termination of the Subsidy Contract mentioned in paragraph 2 above results in an automatic dissolution of the Agreement, without the need for additional statements in this regard.

### §2

1. The processing of personal data is entrusted with the aim to perform the Subsidy Contract mentioned in § 1 section 2 of the agreement. The personal data covered by the entrusting is processed with the use of SL2014 system.
2. The Processor is aware that it is an administrator within the meaning of GDPR in relation to personal data processed by the Processor for the purpose of implementation of the project, and which has not been entered into SL2014 system.
3. The entrusting concerns the following categories of persons:
  - a. persons representing partners or beneficiaries of the project and the institutions involved in the implementation of the Programme,
  - b. project personnel,
  - c. participants of activities carried out within the framework of the project,
  - d. contractors applying for execution of the contract or executing the contract in the project, which are visible after logging in to the SL2014 system.

4. Categories of data are precisely connected with the purpose of processing and include, depending on the categories of persons, in particular: first name, surname, date of birth, place of birth, address of place of residence, PESEL identification number, Tax ID No, workplace, occupation, education, series and number of ID, telephone number, e-mail address, login, role in the Programme, role in the project, bank account number and other data visible after logging in.
5. The entrusting does not include data of special categories.
6. In the event of controls referred to in § 13 of the Subsidy Contract, the Processor shall authorize the persons entitled to carrying out a control to access to the data for which the Processor is an administrator within the meaning of GDPR and which is processed in connection with the implementation of the project.

### §3

1. The Administrator authorises the Processor to:
  - a. further entrust personal data to the project partners, with a possibility of further entrusting of these data to Controllers (applicable to partners from outside Sweden and Poland),
  - b. further entrust personal data to a selected Controller (applicable to Lead Partners from outside Sweden and Poland).  
– hereinafter referred to as „postprocessors“.
2. The Processor is obliged to conclude agreements with postprocessors, which will ensure at least the same level of protection as resulting from this agreement, in particular the obligation to ensure sufficient guarantee of implementation of adequate technical and organizational measures, so that the processing is in line with the requirements of GDPR. If the postprocessor does not comply with the imposed obligations of data protection, full responsibility towards the Administrator for the fulfillment of duties of that other entity processing the data shall lie on the Processor.
3. The Processor ensures the processing of personal data exclusively in the area of EEA, in line with the rules laid down in the provisions on personal data protection applicable to him as well as the appropriate protection of personal data.
4. The Administrator obliges the Processor to perform informational duties, mentioned in Articles 13 and 14 of GDPR, towards the persons to whom the personal data relates to. The Processor shall undertake adequate technical and organizational measures in order to document the performance of this duty, in line with the accountability principle.

### §4

1. The Processor declares that it ensures the sufficient guarantee of implementation of adequate technical and organizational measures so that the processing meets the requirements of GDPR and protects the rights of persons to whom the data relates to. The Processor also commits that it:
  - a) processes personal data according to the conditions stipulated in this Agreement;
  - b) ensures that the persons authorized to process personal data are obliged to secrecy or are subject to an adequate obligation to maintain secrecy on the basis of a legal act;
  - c) will keep a record of processing activities, referred to in GDPR;
  - d) undertakes all measures required on the basis of Article 32 of GDPR;

- e) keep the conditions of engaging other processors, referred to in Article 28(2) and (4) GDPR and in line with this Agreement,
  - f) taking into account the character of processing, assists the Administrator through adequate technical and organizational measures, to comply with the obligation of answering to the request of the person, to whom the data refers to, in the scope of execution of his/her rights laid down in Chapter III of GDPR;
  - g) taking into account the character of processing and the information available to the Processor, assists the Administrator to comply with the obligations laid down in Articles 32-36 GDPR;
  - h) after the completion of data processing, loses the access to data, and in case of making copies, they will be deleted, unless this will be necessary to establish, assert or defend legal claims;
  - i) shares with the Administrator any information necessary to demonstrate the compliance with the duties stipulated in Article 28 GDPR and allows the Administrator or a body acting on its behalf the performance of audits, including inspections, and contributes to them.
2. The Processor commits that during the agreement, in the framework of its organization, it will process the entrusted personal data in accordance with the provisions of law on protection of personal data (GDPR and provisions of a Member State appropriate for the seat of the Processor), including processing it with the use of adequate technical and organizational measures providing the protection of personal data processing adequate to the threats and categories of data protected and against the sharing thereof to unauthorized persons, it will keep records of the persons authorized to process personal data and commit them to secrecy.
  3. The Processor also commits that it will process the personal data exclusively in accordance with the agreement and the instructions which the Administrator may give if necessary, including that it will not use the personal data for the purpose, in a manner and for a period other than as specified in the agreement, in particular to obtain benefits for itself or for a third Party.

## 55

1. The Processor shall make all efforts, to undertake adequate technical and organizational measures against the loss or any form of unlawful processing, including breach of security of data – accidental or illegal destruction, loss, modification, unauthorized disclosure or access to personal data sent, stored or processed in any other way – in relation to the processing of personal data under this agreement.
2. The Processor commits to make every effort so that the security measures are at reasonable level, taking into account the current state of knowledge, sensitivity of personal data and costs related to the security measures.
3. The Processor manages the risk in the process of processing of the entrusted data and implements the security measures based on the results of risk analysis.
4. In case of breach of security or personal data breach referred to in Article 4(12) of GDPR, the Processor shall:
  - a) notify the Administrator of this fact, without undue delay, in no more than 24 hours. The notification of breach of security of personal data contains the information referred to in Article 33(3) of GDPR;

- b) perform an initial risk analysis of infringement of rights and freedoms of persons that the data relates to and submits the results of this analysis to the Administrator within 48 hours from the detection of the breach;
  - c) provide the Administrator – upon its request – with any information necessary to inform the person, to whom the data relates to, in accordance with Article 34(2) of GDPR, within 48 hours from the detection of the breach.
5. If it is required by provisions of law, the Processor collaborates in the scope of notifying the appropriate authorities or subjects of data.
6. In the case of the Processor using an approved code of conduct or an approved certification mechanism, the Processor shall notify the Administration thereof.
7. The Processor is obliged to inform the Administrator without any delay of any proceedings in relation to the Processor, in particular administrative or judicial proceedings, concerning the data entrusted to processing, as well as complaints or notions lodged by natural persons related to processing of entrusted personal data, as well as controls performed by the supervisory authority.
8. The Processor shall inform the Administrator without any delay of any circumstances influencing the security of processing of entrusted personal data.
9. The Processor is responsible for the damages caused by its actions connected with a failure to fulfil the obligations imposed directly on the Processor by GDPR or when the Processor was acting outside the lawful instructions of the Administrator or against these instructions. The Processor is responsible for the damages caused by the application of security measures or failure to apply the appropriate security measures.
10. The Processor keeps the list of systems, programs or other tools taking part in the processing, for which the Processor is responsible. In the case of usage of tools requiring legal protection (e.g. licenses), the Processor shall have an adequate document, confirming the right to use the system and shall ensure that the personal data is not processed in any other way than in accordance with this agreement.

## §6

1. The Parties shall communicate in the following way for the implementation of the agreement:
  - a) on the side of the Administrator: iod@miir.gov.pl
  - b) on the side of the Processor: .....
2. In the event of change of contact details listed in section 1 by any of the Parties, it is required to inform the other Party without delay of this event and provide new contact details. The changes to the addresses listed in section 1 do not require amendments to the agreement in a form of an annex.
3. The Parties commit to consult on an ongoing basis in all important matters for the implementation of the agreement and related to the protection of personal data.

## §7

1. Amendments to the agreement are made in a form of annexes in writing, otherwise shall be null and void.
2. In the event of a dispute, the Parties shall settle a dispute amicably.
3. The agreement shall enter into force on the day of its signing by both Parties.

4. The Agreement is drawn up in four counterparts. The Lead Partner receives one copy of the Agreement; the Managing Authority receives three copies of the agreement.

	<b>On behalf of Managing Authority,</b>	<b>On behalf of Lead Partner</b>
First name and surname	.....	.....
Position	.....	.....
Signature and stamp (if applicable)	.....	.....
Place, date	.....	.....