

**GENERAL CONDITIONS  
OF GRANT AGREEMENTS UNDER THE 2014 CALL FOR PROPOSALS**

**DEVELOPMENT OF POLISH HIGHER EDUCATION INSTITUTIONS  
SCHOLARSHIP AND TRAINING FUND**

PROJECT FINANCED BY THE FUNDS OF THE EEA FINANCIAL MECHANISM AND NORWAY FINANCIAL MECHANISM  
2009-2014 AND NATIONAL FUNDS

**PART A: LEGAL AND ADMINISTRATIVE PROVISIONS**

**ARTICLE 1 – LIABILITY**

- 1.1 The Project Promoter shall assume sole responsibility for fulfilling all requirements providing in the Agreement, including documents specified in the Article I and the national law of the Programme Operator.
- 1.2 The Programme Operator, National Focal Point (NFP), Financial Mechanism Office (FMO), Financial Mechanism Committee (FMC)/ Norwegian Ministry of Foreign Affairs (NMFA) shall not be liable for any damage occurring in the implementation of the action under in this Agreement, hereinafter referred to as “the action”. Therefore, the Operator and the above mentioned institutions shall allow neither compensation claims nor any resulting cost reimbursement.
- 1.3 The Project Promoter is obliged to repair any damage sustained by the Operator, NFP, FMO and FMC/NMFA as a result of the implementation or improper implementation of the action, unless such damage is caused by *force majeure*.
- 1.4 The Project Promoter shall assume sole responsibility to third parties, including liability for all kinds of damage sustained or incurred by them in the course of the action.
- 1.5 The Project Promoter shall immediately inform the Operator of any changes or anticipated delays, which may affect the implementation of the Project.
- 1.6 The Project Promoter shall immediately inform the Operator of any change to his legal, financial, technical, organizational situation, or ownership and of those concerning the name, address and / or legal representation.

**ARTICLE 2 – CONFLICT OF INTEREST**

- 2.1 The Project Promoter undertakes to take all the necessary precautions to prevent the risk of conflict of interest which could affect the impartial and objective implementation of the Agreement. In particular, the said conflict of interest could occur as a result of economic interest, political or national affiliations, family or emotional reasons or any other common interests.
- 2.2 The Operator shall be notified in writing and without delay of any situation constituting or giving rise to a conflict of interest, occurring in the course of the implementation. The Project Promoter shall take all necessary steps to remedy the situation immediately.
- 2.3 The Operator reserves the right to check that the steps taken are appropriate and it may demand, if necessary, additional steps taken by the Project Promoter within a particular time limit.

**ARTICLE 3 – OWNERSHIP TITLE**

- 3.1 Unless otherwise stated in this Agreement, the ownership of the results of the action, including industrial and intellectual property rights, as well as the right to reports and other documents linked to them, shall belong to the Project Promoter.

- 3.2 Without prejudice to the provisions of Article II.3.1, the Project Promoter confers on the Operator, NFP/, MFO, MFC and NMFA the right to use the results of the action free of charge in any way that they may deem appropriate, on the condition that they do not breach their obligations to keep confidentiality or that they do not breach the existing industrial and intellectual property rights.

#### **ARTICLE 4 – CONFIDENTIALITY**

The Operator and the Project Promoter undertake to maintain confidentiality of all documents, information or other materials directly linked to the subject of this Agreement, which shall be duly classified as confidential, if their disclosure could jeopardise the other Party. The Parties shall remain bound by this provision also after the action's completion date.

#### **ARTICLE 5 – INFORMATION PUBLISHING**

- 5.1 Unless the Operator requests otherwise, all communications or publications relayed or disseminated by the Project Promoter as part of the action, including those at conferences and seminars, shall indicate that the action is funded by grants awarded under the Scholarship and Training Fund programme.

Any communications or publications relayed or disseminated by the Project Promoter in any form and in any means of conveying shall indicate that the publisher assumes sole responsibility and that the Operator is not responsible for any case of taking advantage of the information contained therein.

- 5.2 The Project Promoter authorises the Operator, NFP, FMO and FMC/NMFA to publish the following information in any form and in any means of conveying, including on the Internet:

- the Project Promoter's name and address
- subject and purpose of the grant
- the grant amount awarded

The Project Promoter undertakes to obtain the Partner Institution's consent for the Operator, NFP, FMO and FMC/NMFA to publish, on principles identical to those described above, as to the way and contents, data belonging to the institutions with which the Project Promoter has signed inter-institutional partnership agreements.

On the Project Promoter's well-founded and justified request, the Operator may withdraw from publishing the above information, if its disclosure is to jeopardise the Project Promoter's safety or interest.

#### **ARTICLE 6 – FORCE MAJEURE**

- 6.1 Force majeure shall mean any unforeseeable exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations under this Agreement, is not attributable to error or negligence on their part and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available (unless due to force majeure), labour disputes, strikes or financial difficulties cannot be invoked as force majeure by the defaulting party.
- 6.2 The Party facing force majeure shall immediately notify of it the other Party by registered mail with delivery confirmation or in an equivalent way, describing the nature of the event and its probable duration as well as the possible consequences.
- 6.3 Neither Party shall be held liable for breaching their obligations under this Agreement, if their discharge has been rendered impossible by force majeure. The Parties shall use their best efforts to minimise damage inflicted by force majeure.

## **ARTICLE 7 – CONCLUDING CONTRACTS WITH SUBCONTRACTORS AND AWARDING PUBLIC PROCUREMENT CONTRACTS**

- 7.1 If the implementation of the action under the Agreement with the Operator requires the Project Promoter to conclude contracts with subcontractors, which generate action costs constituting the eligible costs of the grant, the Project Promoter, when choosing an offer, shall be guided by the value for money principle, while respecting the principle of competition, transparency and equal treatment of potential subcontractors, in order to avoid any conflict of interest of parties participating in the selection process of the best offer and, when applicable, shall be guided by the Act adopted on 29 January 2004 – Public Procurement Law (consolidated text of 2010, O.J. Nr.113, item 759, as amended).
- 7.2 The justification for concluding a contract under Article II.7.1 must take into consideration the nature of the action and the things that are indispensable for its implementation.
- The Project Promoter shall be solely responsible for the implementation of the action and its compliance with the provisions of the Agreement with the Operator. The Project Promoter is obliged to include indispensable provisions as part of contracts with subcontractors to ensure that they will waive all the rights resulting from signing the contracts in relation to NFP, FMO and FMC/NMFA as well as the Operator as far as the execution of the Agreement between the Project Promoter and Operator is concerned.
- 7.3 The Project Promoter is obliged to include indispensable provisions as part of contracts with subcontractors to ensure that the General Conditions applicable to this Agreement with the Operator are also applicable to the contracts concluded with the subcontractors.

## **ARTICLE 8 – TRANSFER OF RIGHTS**

Any and all claims resulting from this Agreement that the Project Promoter might have against the Operator, cannot be transferred onto third parties.

## **ARTICLE 9 – TERMINATION OF THE AGREEMENT**

### **9.1 Termination by the Project Promoter**

In duly justified cases, the Project Promoter may withdraw its application for a grant and terminate the agreement at any time by giving 30 days' written notice stating the reasons, without being required to furnish any indemnity on this account. If no reasons are given or if the Operator does not accept the reasons, the Project Promoter shall be deemed to have terminated this agreement improperly, with the consequences set out in Article II.9.4.3.

### **9.2 Termination by the Operator**

The Operator may decide to terminate the Agreement, without the Project Promoter's being entitled to an indemnity, if at least one of the following circumstances occurs:

- a) in the event of a legal, financial, technical, organisational or ownership change in the Project Promoter's situation, liable to affect the Agreement in a substantial way or to call into question the decision to award the grant;
- b) if the Project Promoter fails to fulfil a substantial obligation incumbent on it under the terms of the Agreement, including its Annexes;
- c) in the event of force majeure, information of which has been passed in accordance with Article II.6;
- d) if the Project Promoter is declared bankrupt, is being wound up or is the subject of bankruptcy proceedings open to arrangements or will be subject to any other proceedings of a similar nature;
- e) if the Operator has evidence or has a good reason to suspect that the Project Promoter or an *entity* or *person related* to him is guilty of grave professional misconduct;

- f) if the Project Promoter does not meet its obligation related to payment of social insurance contributions or taxes;
- g) if the Operator has evidence or has a good reason to suspect that the Project Promoter or an *entity* or *person related* to him has connections with a criminal organization or has a good reason to suspect other illegal dealings detrimental to the financial interest of the EEA Financial Mechanism, Norwegian Financial Mechanism and the budget of the Republic of Poland;
- h) if the Operator has evidence or has a reason to suspect that the Project Promoter or an *entity* or *person related* to him has committed a grave error or substantial irregularities or fraud in the procedure of awarding or spending the grant;
- i) if the Project Promoter is guilty of misrepresentation or submits reports inconsistent with reality to obtain the grant provided for in the Agreement;
- j) if the Operator has evidence that the Project Promoter has committed systemic or repetitive errors, irregularities, fraud or breaches of obligations under other agreements financed by the EEA Financial Mechanism and the Norwegian Financial Mechanism, European Union or the European Atomic Energy Community whose grants have been awarded on similar conditions as the ones under the Agreement and the above mentioned errors, irregularities, fraud or breaches of obligations would substantially affect the grant awarded under this Agreement.

Persons authorized to represent the Project Promoter, make decisions on its behalf or inspect it are to be understood as other *related persons* as specified in points e), g) and h). In particular, any entity meeting the requirements of Article 1 of the Seventh Council Directive No. 83/349/EEC of 13 June 1983 shall be understood as other *related entities*.

### **9.3 Agreement Termination Procedure**

The termination of the Agreement shall take effect at the end of the notice period, indicated in a written notification of the Operator's decision on the case, by way of a registered letter with delivery confirmation or in an equivalent way, whereas the date of its receipt by the Project Promoter is decisive.

In the cases described in points (a), (b), (d), (e), (g) and (h) of Article II.9.2 the Project Promoter has 15 calendar days to present its position on the case and to take any necessary steps to guarantee the continuity of the execution of its duties under the Agreement. If the Operator does not accept the Project Promoter's position within 15 calendar days of its receipt, the procedure shall be continued.

In the cases described in points (c), (f), (i) and (j) of Article II.9.2 the termination of the Agreement shall take effect without giving notice, that is on the day following the date on which the Project Promoter receives the Operator's notice of termination of the Agreement.

### **9.4 Agreement Termination Results**

- 9.4.1 In the event of termination of the Agreement, payments by the Operator shall be limited to eligible costs actually incurred by the Project Promoter up to the date when termination takes effect, in accordance with Article II.14. The Project Promoter shall have 10 working days of the date of Agreement termination, as notified by the Operator, to present its Completion Report accompanied by a final payment request in accordance with Article II.12.2. If the Completion Report is not submitted within this time limit, the Operator shall not reimburse the expenditure incurred by the Project Promoter up to the date of termination and it shall recover any advance payments released.
- 9.4.2 By way of exception, at the end of the notice period referred to in paragraph II.9.3, where the Operator terminates the Agreement on the grounds that the Project Promoter has failed to produce the Completion Report within the deadline stipulated in the Special Conditions, and the Project Promoter does not fulfil this requirement within the time limit given in a written reminder sent by registered mail or in an equivalent way, the Operator shall not pay the remaining amount and shall recover any advance payments.

- 9.4.3 In the event of improper termination by the Project Promoter or termination by the Operator on the grounds set out in Article II.9.2, points (a), (e), (g), (h), (i) or (j), the Operator may require the partial or total repayment of sums already paid under the Agreement in proportion to the gravity of the failings that have caused the termination.

#### **ARTICLE 10 – CONTRACTUAL PENALTIES**

- 10.1 The Operator may decide to impose a financial penalty consisting in cancelling the whole grant under this Agreement or in cancelling a part thereof in the cases described in Article II.13.1 and in Art. 207 of the Act on Public Finance.
- 10.2 The Project Promoter shall be immediately informed about the decision to impose a financial penalty, however, not later than 5 working days of making the decision. The reasons of the decision shall be given in the notification.
- 10.3 In the case of making a decision described in Article II.10.1 or II.10.2 the Project Promoter shall repay the Programme Operator the amount demanded, in the way, within the time limit and on the principles indicated in Art. 207 of the Act on Public Finances.
- 10.5 If the amount demanded exceeds the amount remaining to be paid in subsequent instalments or when no deductions are possible and the Project Promoter has failed to make the repayment as described in Article II.10.3 within the time limit, the Programme Operator shall take steps to recover the amount due, using all available legal remedies and in particular the security interest described in Article II.12.1. The costs of recovering the amount shall be paid by the Project Promoter.

#### **ARTICLE 11 – ANNEXES TO THE AGREEMENT**

- 11.1 On pain of nullity any amendment to the terms and conditions of this agreement must be concluded in writing in the form of an Annex.
- 11.2 Any amendment to the terms and conditions of the Agreement may not be intended to or result in such modifications of the contents of the Agreement which would be contrary to the principles, conditions and purposes of awarding the grant to the Project Promoter or which might cause unequal treatment of applicants.
- 11.3 Should the Project Promoter make an application to amend the conditions of the Agreement, it will be obliged to send a chart of changes to the Operator not later than 90 calendar days prior to the end of the action, containing a description of the changes proposed and their impact on the substantive content of the project, with the exception of cases duly justified by the Project Promoter and accepted by the Operator. Amendments to the terms and conditions of the Agreement require the Operator's written consent for the change proposed.

### **PART B - FINANCIAL PROVISIONS**

#### **ARTICLE 12 – PAYMENT REQUESTS**

Payments shall be effected in accordance with the payment conditions set out in the Special Conditions.

##### **12.1 Advance payments**

Advance payments are intended to enable the Project Promoter to commence the action.

If a grant is in excess of EUR 25,000, the Operator may demand an appropriate security interest guaranteeing proper performance of the Agreement. The Project Promoter shall provide the Operator with a bank

guarantee or a guarantee of another institution authorised to issue such guarantees, or with its own blank promissory note (security), in this case guarantee private property of natural persons indicated by the Operator which are members of governing bodies of the Project Promoter or any other organization indicated by the latter and accepted by the Operator.

In the event advance payment is conditioned by financial guarantee, the latter should meet the following conditions:

- (a) is issued by a bank or financial institution authorized to do so or at the request of the Project Promoter, by a third party, subject to approval by the Operator for this kind of solution;
- (b) the Operator will be able to realize guarantee directly from the issuer, without having recourse to the principal debtor, i.e. the Project Promoter;
- (c) the guarantee will remain in force until the settlement of advance payments before the final payment made by the Operator, and in the case of the final payment, up to three months from the date of notification the Project Promoter by the Operator of its intention to recover sums unduly paid, specifying the amount and proper justification;
- (d) the Project Promoter will have 15 days from date of receipt the aforementioned notice to present the position;
- (e) in the event the Project Promoter will present the position on the amount due to the repayment within the date specified in the notification, the Operator will send a letter notifying the Project Promoter: the final amount of the grant, the amount due for repayment and instruction to make the return;
- (f) the Operator will return guarantee over the next month from the date of its expiry in the case of a refund due from the Project Promoter;
- (g) if the operator does not receive from the Project Promoter a refund due, under the above conditions, the Operator will recover this amount by using a financial guarantee as security .

To secure funds the Operator can also set an individual schedule of payments. Should the Project Promoter fail to satisfy the whole or a part of conditions imposed by this Agreement, the Operator shall have the right to take steps aimed at enforcing the security.

## **12.2 Balance Payment**

The balance payment shall be effected by the Operator on the basis of the actual implementation of the action under this Agreement, after its completion. The above payment may be in the form of requesting the Project Promoter to repay the amount due to the Operator, if the amount of the advance payments released exceeds the final grant amount described in Article II.14.

Within the time limit specified in the Special Conditions the Project Promoter shall submit the Completion Report accompanied by a request for a balance payment.

As of receiving the Completion Report, the Operator shall be bound by time limits set out in the Special Conditions, including time limits for:

- Approving or rejecting the Completion Report covering the Action;
- Demanding that the Project Promoter submits additional documents or/and explanations deemed necessary for approving the Completion Report.

Requests for additional documents or/and information, including the re-submission of the Completion Report, if rejected, shall be communicated to the Project Promoter in writing. The Project Promoter shall be given the time limit set out in the Special Conditions to submit the documents or/and explanations.

## **12.3 Eligibility of the costs**

**Eligible costs** shall include indispensable costs and those directly linked to the implementation of a project, as well as those incurred within period indicated in the Article III.2 of the Agreement.

The costs eligibility period is dependent on the schedule given in the application form, i.e. in the Annex I of the Agreement:

- starting date of eligibility - starting date of the action, but not earlier than 1<sup>st</sup> January 2015;
- final date for eligibility - the closing date of the action, but not later than 31<sup>st</sup> May 2016.

Expenses shall be deemed to have been incurred if the costs have been invoiced, paid and the object has been delivered to a Project Promoter or other institutions forming a given project group (for goods) or rendered (for works and services). General costs and equipment depreciation shall be deemed to have been incurred the moment they are entered in the accounts by Project Promoters.

In exceptional circumstances costs covered by invoices issued in the last month of eligibility shall also be deemed to have been incurred within the eligibility period, if they are paid within 30 days of the last day of eligibility (the date of submitting the *Completion Report* set out in the *Financial agreement*, not later than on 30<sup>th</sup> June 2016).

Moreover, costs shall be deemed eligible only if:

- they are included in the project budget;
- they are reasonably calculated and based on market prices;
- they are calculated in proportion to STF co-financed projects;
- they have been actually incurred by Project Promoters or a Partner/Partners;
- they are supported by appropriate financial documents, entered into project accounts and established in accordance with relevant standards of accounting in the country where a given Project Promoter is seated;
- for invoices issued for an amount that does not constitute 100% of an eligible project expense, it is necessary to describe such documents in an appropriate way, that is to determine which amount was incurred as part of STF programme and which amount is a contribution from different sources;
- they are incurred in accordance with the Public Procurement Law (if applicable);
- they comply with the current tax and social legislation.

In the case of expenses incurred by a Partner, a report of an external auditor/expert auditor should confirm that the expenses incurred comply with the above mentioned requirements.

The justification of expenses complying with the Programme requirements should explicitly result from documents lodged by Project Promoters and expenditure relating to the implementation of a project should be adequate to expected outcomes.

#### **12.4 Ineligible costs**

The following costs incurred in carrying out actions under the Agreement will be deemed ineligible:

- expenditure relating to cooperation with countries not participating in STF;
- expenditure incurred outside the cost eligibility period indicated in the Article III.2 of the Agreement;
- costs not linked directly to the project being implemented;
- expenditure already being co-financed, e.g. by the funds from another programme;
- loss resulting from exchange differences, foreign exchange commissions, charges for financial transaction debit rate;
- rewards, bonuses or other forms of financial gratification or gratification in kind for persons involved in the implementation of a project, other than those due under the appropriate law or remuneration rules applicable in Project Promoters' or Partner's institutions for a period of at least 12 months prior to the date of lodging a given grant application;

- individual grants, fellowships and scholarships;
- costs of higher education of people involved in the implementation of a project;
- non-evidenced expenditure;
- indemnity against damages and potential future liability (contractual liability, civil liability, economic penalties, legal fees);
- interest generated in bank accounts where SFT funds are deposited;
- debts, fines, tickets, financial penalties and court costs;
- loan and its servicing costs;
- tax on goods and services and other taxes and fees which can be legally recovered;
- excessive or imprudent spending;
- income from capital;
- in the cases of equipment hire or lease – costs of any purchases at the end of the hire or lease period;
- costs of financial transactions covered from accounts other than the accounts of Project Promoters and Partners;
- costs related to general account servicing;
- own contribution in kind (e.g. voluntary service)
- expenditure listed in a category not mentioned in the grant application;
- documents without a proper description.

**Ineligible costs cannot be treated, either, as the total or part of Project Promoters' required own contribution to the implementation of a project.**

Project activities cannot generate any profit.

Moreover, charging payments and fees from project recipients (e.g. fees for participation in training organised under a project, fees for publications financed by project funds) is prohibited.

### **The No-Double Funding Rule**

Within the frame of the Agreement double funding, in this event understood as unauthorised partial or total double reimbursement of an expense from public funds – EU or national ones, is strictly forbidden.

In particular, double funding occurs when:

- the same expense is reimbursed under two different projects co-financed by the Scholarship and Training Fund;
- VAT costs are refunded from STF funds, and then the same tax is recovered from the State budget under the Act on goods and services tax of 11 March 2004 (Official Journal No. 54, item 535 as amended);
- an expense is reimbursed from STF funds, having previously been financed by a preferential loan from public funds and the refunded part of the loan is not immediately returned;

For actions relating to new fields of study and/or courses – financing the same expenses by STF fund and own contributions, e.g. in the form of tuition fees charged from students by HEIs. In such cases agreements/contracts signed with students should contain a detailed list of costs to be covered from funds paid by them into the HEI's bank account and of expenses to be financed by STF funds.



## **ARTICLE 13 – GENERAL PROVISION RELATING TO PAYMENTS**

13.1 Payments shall be effected in PLN by the Operator. The payment date is the date of submitting a payment order to Bank Gospodarstwa Krajowego.

13.2 The Operator may suspend advance payments, interim payments or balance payments made to the Project Promoter at any time of the execution of the Agreement, if:

- a) The Operator has evidence that the Project Promoter has committed grave errors, irregularities and fraud in the selection and recruitment procedure or in the course of the Agreement execution, or when the Project Promoter has not met the requirements of the Agreement;
- b) The Operator has evidence that the Project Promoter has committed systemic or repetitive errors, irregularities, fraud or breaches of obligations under other agreements financed by the EEA Financial Mechanism and the Norwegian Financial Mechanism, European Union or the European Atomic Energy Community whose grants are awarded on similar conditions as the ones under the Agreement and the above mentioned errors, irregularities, fraud or breaches of obligations would substantially affect the grant awarded under this Agreement;
- c) The Operator has a reason to suspect the Project Promoter of committing grave errors, irregularities, fraud and of breaching its obligations in the course of awarding the grant or in the course of the implementation of the action and when the Operator is compelled to verify their actual existence.

Before suspending payments the Operator shall inform the Project Promoter in writing about the decision to suspend payments, giving reasons for it and in the cases described in the above points (a) and (b) it shall present the conditions of payment resumption. The Project Promoter shall be requested to present its position on the case within 10 working days of receipt of the above notification.

Having taken note of the Project Promoter's position on the issue of payment suspension, the Operator may decide to stop the suspension and notify the Project Promoter of it in writing.

If the Project Promoter fails to present its position on the issue of payment suspension or if despite presenting that position the Operator decides to continue the suspension, it may do it by sending a notification with reasons for the continuation and in cases relating to the above points (a) and (b) it shall indicate conditions for payment resumption or in case (c) the Operator shall indicate the time limit for making final arrangements.

The suspension of payment takes effect on the date when the Operator sends the notification to the Project Promoter.

To resume payment, the Project Promoter shall fulfil without delay, however, not later than within 10 working days, the requirements specified in the notification and deliver updates on its progress.

Having made sure that the Project Promoter has fulfilled the requirements for payment resumption and having performed an on-the-spot check, the Operator shall without delay, however, not later than within 10 working days, notify the Project Promoter of the fact in writing.

Under Articles II.9.1 and II.9.2 the Project Promoter shall not be obliged to lodge a payment request and additional documents within the period of payment suspension, without prejudice to its or the Operator's right to terminate the Agreement.

Such a request and additional documents can be submitted as soon as possible after payment resumption and they can be included in the first payment request, as a consequence of payment resumption and in accordance with the time limits set out in Article I.5.

13.3 The Project Promoter shall inform the Operator about the total amount of interest or equivalent benefits resulting from the advance payments received from the Operator. Information about the amount of generated interest in the Project Promoter's bank account shall be given in the Completion Report. The Operator shall issue a request for such interest to be repaid in accordance with the provisions of Article II.15.

## **ARTICLE 14 – DETERMINATION OF THE BALANCE PAYMENT AMOUNT**

- 14.1 Taking into consideration Article II.16 the Operator shall determine the amount of the balance payment to be made to the Project Promoter, on the basis of documents described in Article II.12.2 and accepted by the Operator.
- 14.2 Under no circumstances may the amount paid to the Project Promoter by the Operator exceed the maximum total grant amount as set out in the Special Conditions.
- Lump sums are limited to the amounts specified in the Special Conditions. The grant amount based on the scale of unit costs shall be determined through the application of provisions contained in the Special Conditions, on the basis of the actual implementation of the action and caps set out in the Special Conditions.
- If the requirements set out in the Special Conditions are not fulfilled at all or they are partly fulfilled at the time of the action completion, the Operator shall withdraw or reduce its contribution in accordance with the actual degree to which the requirements or conditions have been fulfilled.
- 14.3 If the action has not been implemented or only part of it has been implemented, including failure to achieve the intended objectives and breaching the provisions of the Agreement, under the conditions and provisions of this Agreement the Operator may reduce the grant amount awarded to reflect the actual degree of implementation.
- 14.4 On the basis of the final grant amount thus determined and taking into consideration all the advance payments effected, the Operator shall determine the amount of the balance payment. Should the total amount of advance payments exceed the final grant amount calculated on the basis of the Completion Report, the Operator shall demand that the excess amount be repaid.

#### **ARTICLE 15 – REPAYMENT OF FUNDS**

- 15.1 If – in accordance with the Agreement – the Operator sets an amount to be repaid, the Project Promoter shall be obliged to repay the amount as set by the Operator.
- Prior to recovering the amount due, the Operator shall notify the Project Promoter in writing of the decision made, giving its reasons and information about appealing against that decision, within the time limit set out in the Special Conditions.
- If the Project Promoter fails to present its position on the issue of repayment or if despite presenting its position the Operator decides to continue the debt recovery, it may do it by sending an appropriate debit note containing the conditions and due date of payment.
- 15.2 Should the Project Promoter fail to repay the amount within the time limit specified by the Operator, interest shall be charged for late payment in accordance with the rate quoted in the Civil Code. Late payment interest shall cover the period from the date of payment excluding that date, to the date when the Operator receives the full amount due, excluding that date.
- 15.3 Each partial payment shall first go towards covering charges and interest linked to late payment and then towards covering the principal.
- 15.4 If payment is not effected within the time limit, amounts due to the Operator may be subject to repayment by way of setting off any amounts due to the Project Promoter who shall be duly informed about it in a letter sent by registered mail with delivery confirmation or in an equivalent way, or by way of calling upon the financial guarantee provided under Article II.12.1. In exceptional circumstances justified by the necessity to protect the financial interest of the Norway Financial Mechanism, the Operator may recover the amounts dues by way of a set-off prior to the payment date. No prior consent of the Project Promoter's is required.
- 15.5 Bank charges relating to the repayment of the amounts due to the Operator shall be borne solely by the Project Promoter.
- 15.6 The Project Promoter understands that failure to repay an amount may result in the Operator's taking legal action against it in accordance with national laws.

## **ARTICLE 16 – AUDITS, CHECKS, MONITORING AND EVALUATION**

- 16.1 In the scope and for the purposes of checks and audits performed by the Operator, NFP, FMO, FMC/NMFA, EFTA Committee of Auditors and the Bureau of Norwegian General Auditor or a body authorised to act on their behalf, on the request of the Programme Operator, NFP, FMO, FMC/NMFA or other body authorised to perform checks or audits, the Project Promoter undertakes to provide immediate, full and unimpeded access to any and all documents and information, including those in electronic form, concerning the implementation of the action, its results and the use made of the grant.
- 16.2 Checks and audits are performed at the Project Promoter's seat or in the places where the project is implemented.
- 16.3 Checks and audits can be performed throughout the whole period of project implementation or after its completion, until 31 December 2020.
- 16.4 For the duration of checks and audits the Project Promoter shall ensure the presence of persons competent to give information and explanations of issues linked to the project implementation.
- 16.5 Throughout the period till 31 December 2020 and at the disposal of the Operator, NFP, FMO and FMC/NMFA the Project Promoter shall keep any original copies of documents relating to the Agreement, in particular ledgers, tax records or, in exceptional and duly justified cases, certified copies of original documents relating to the Agreement, in any appropriate means of conveying which ensures their integrity, in accordance with the applicable national laws.
- 16.6 The Project Promoter acknowledges that the Operator, NFP, FMO or FMC/NMFA may instruct their own staff or any other external body authorised to perform such actions on their behalf, to perform an audit of the use made of the grant. Such audits can be performed in the course of the execution of this Agreement and after the completion of the project, until 31 December 2020. In appropriate cases audit findings may lead to the Operator's making a decision to recover the amounts paid.
- 16.7 Should the audit show that an activity subject to lump sum clearing has not taken place, but the Project Promoter has received the resulting amounts, the Operator shall have the right to demand repayment of those amounts.
- 16.8 The Project Promoter undertakes to allow the Operator's staff, NFP, FMO or FMC/NMFA and external staff authorised by the Programme Operator, NFP, FMO or FMC/NMFA, the appropriate right to access to sites and premises where the action shall be carried out and to all information required for the purposes of performing such audits.
- 16.9 In each case when the Operator, NFP, FMO, FMC/NMFA or any authorised external body shall perform an interim or final evaluation of the action against the programme objectives, the Project Promoter undertakes to make available to the authorised persons all documents and information facilitating a successful evaluation and to allow them the right to access set out in Article II.16.