**(DRAFT)**

**Grant Contract**

Grant Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

on implementation of the Project **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

in accordance with the decision of the Monitoring Committee No. \_\_\_\_\_\_\_\_ of  *(date)* , a copy of which constitutes Annex No. 1 to this Grant Contract, within the Interreg NEXT Poland – Ukraine 2021-2027 Programme

concluded by and between:

**THE MINISTER OF DEVELOPMENT FUNDS AND REGIONAL POLICY** of the Republic of Poland,

**with its registered office in:** ul. Wspólna 2/4, 00-926 Warsaw, Poland,

acting as Managing Authority for the Interreg NEXT Poland – Ukraine 2021-2027 Programme, hereinafter referred to as the 'Managing Authority',

**represented by: …**

and

***name of the institution***

**with its registered office in: …**

NIP \_\_\_\_\_\_\_\_, REGON \_\_\_\_\_\_\_\_ / registration number\_\_\_\_\_\_\_\_

hereinafter referred to as 'SPF Beneficiary’,

**represented by: …**

hereinafter collectively referred to as ‘the Parties',

The Parties have agreed as follows:

**§ 1**

**DEFINITIONS**

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

**Application Form** – the application approved by the Monitoring Committee on  *(date)* for the co-financing of the implementation of the project numbered  *(full CST2021 number)* . Data from the Application Form, together with all annexes necessary to carry out verification of the correct project implementation is available and updated in CST2021.

**Beneficiary** - vide SPF Beneficiary.

**Beneficiary Bank Account** – a bank account held by the SPF Beneficiary in EUR, as indicated in the Financial Identification Form (Annex No.4 to the Grant Contract), to which the co-financing is transferred.

**Co-financing** – the European Union contribution to the eligible expenditure of a project granted by a Grant Contract.

**Co-financing rate** – the quotient of the project's co-financing value and the value of its total eligible expenditure, as stated in the Application Form, expressed as a whole percentage.

**Controller** – a body or a person responsible for the control of expenditures, incurred within the project.

**CST2021** – a central ICT system, the development and operation of which is the responsibility of the Minister in charge of regional development. The system collects and stores data on implemented projects. It enables the Beneficiary to settle the implemented project.

**CST2021 Beneficiary Manual** - a manual for working with CST2021 system in which the implemented project is settled. The current CST2021 Beneficiary Manual is available on the Programme website.

**De minimis aid** – aid regulated by the de minimis Regulation.

**De minimis Regulation** – 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, 24.12.2013, p. 1, as amended).

**Due co-financing** - a grant which the Managing Authority approves to the Beneficiary on the basis of eligible expenditures.

**Durability** – maintaining the investment for a period of five years from the day of the last payment to the Beneficiary or period defined within the de minimis aid requirements. This rule applies to projects involving infrastructure and productive investments. The following circumstances must not occur during the durability period:

a) the cessation or relocation of production activities outside the NUTS 2 region in which the project has been supported,

b) a change in the ownership of an item of infrastructure which gives an undue advantage to a company or a public body,

c) a substantial change affecting the nature of the project, its objectives or the conditions for its implementation which would undermine the original objectives of the project.

**Eligible expenditure** – an expenditure or cost properly incurred by the Beneficiary in connection with the implementation of the project, i.e. in accordance with the Grant Contract, the provisions of the European Union and national law and the Programme Manual.

**ERDF Regulation** – Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ EU. L 231, 30.06.2021, p. 60, as amended).

**Financial correction** – the cancellation of all or part of the co-financing for a project or Programme as a result of irregularities or serious misconduct;

**General Regulation** – Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ EU L 231, 30.06.2021, p. 159, as amended).

**Ineligible expenditure** – any expenditure or cost that cannot be considered eligible expenditure.

**Interreg Regulation** – Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (OJ EU L 231, 30.06.2021, p. 94).

**Irregularity** - any infringement of applicable law resulting from an act or omission by the Beneficiary which has, or may have, a detrimental effect on the budget of the European Union by charging an unjustified item of expenditure to it.

**Joint Secretariat** – a body appointed by the Managing Authority in agreement with the countries participating in the Programme to assist the Managing Authority and the Monitoring Committee in performing their functions.

**Monitoring Committee** - an independent body set up by the countries participating in the Programme in agreement with the Managing Authority to monitor the implementation of the Programme.

**Partial request for payment** – request for payment, including request for pre-financing or request of pre-financing settlement, that Beneficiary submits to controller under the terms and conditions of the Programme Manual;

**Pre-financing payment** – funds transferred by the Managing Authority to the Beneficiary’s bank account for the purpose of implementation of the project.

**Programme** – The Interreg NEXT Poland – Ukraine 2021-2027 Programme approved by the European Commission decision No. C(2022) 8930 of 30th November 2022.

**Programme bank account** – a bank account held by the Managing Authority to which the European Commission transfers funds and on which all operations related to the Programme are carried out.

**Programme documents** - documents approved by the Managing Authority or the Monitoring Committee that are used during the Programme implementation.

**Programme Manual** – a document approved by the Monitoring Committee of the Programme, which sets out the rules for the preparation, implementation, monitoring and settlement of the project as well as its durability. The current Programme Manual is available on the Programme website.

**Programme website** - www.pl-ua.eu.

**Project** – a series of activities implemented under the Grant Contract which aims to achieve the objectives set out in the Application Form for co-financing and the target values of the output and result indicators.

**Reimbursement** – payment of the co-financing due to the small project beneficiary from the SPF Beneficiary.

**Report for small project implementation** – report for financial and technical implementation of the small project, verified by the SPF Beneficiary;

**Request for payment for the project** – request for payment, including request for pre-financing or request of pre-financing settlement, that the SPF Beneficiary submits to the Joint Secretariat under the terms and conditions of the Programme Manual and the Contract;

**Small project** – separate undertaking implemented within the SPF project;

**Small project beneficiary** – an entity identified in the application for the small project co-financing, responsible for its financial and technical implementation;

**Small Project Fund project (SPF)** – an operation implemented in accordance with article 25 of the Interreg Regulation, in line with the Programme document and applicable Programme Manual(s).

**SPF Beneficiary, Beneficiary** – operator of the Small project fund, an entity identified in the Application Form, which signs the Grant Contract and is responsible for the financial and substantial implementation of the project.

**§ 2**

**SUBJECT MATTER OF THE GRANT CONTRACT**

1. The Grant Contract sets out the terms and conditions under which the Managing Authority shall conduct payments for the project and the Beneficiary shall implement it in accordance with the Application Form and the Monitoring Committee's decision.
2. The Grant Contract sets out the rights and obligations of the Parties with regard to the manner and conditions of implementation and monitoring of the project, including the application for co-financing and payment of co-financing, control and audit, information and publicity, and project management.
3. During project implementation and durability, the Beneficiary shall comply with:
	1. the binding provisions of the European Union and national law, in particular
		1. Interreg Regulation,
		2. ERDF Regulation,
		3. General Regulation,
		4. implementing regulations of the European Commission supplementing the General Regulation, the Interreg Regulation and the ERDF Regulation,
		5. *De minimis* Regulation,[[1]](#footnote-2)
		6. Regulation of the Minister of Development Funds and Regional Policy of 11 December 2022 on the granting of de minimis and state aid under the Interreg Programmes for 2021-2027 (Journal of Laws of Republic of Poland pos. 2755, of 23.12.2022, as amended),
		7. national and European Union de minimis regulations;
		8. national and European Union personal data protection regulations,
		9. national and European Union public procurement regulations,
		10. national and European Union regulations governing the implementation of the principle of equal opportunities and non-discrimination, including accessibility for persons with disabilities and the principle of equality between women and men,
		11. other, applicable national regulations (e.g., labour law, taxation, environmental protection, etc.);
	2. current Programme documents, in particular:
		1. the Interreg NEXT Poland – Ukraine 2021-2027 Programme,
		2. Programme Manual,
		3. CST2021 Beneficiary Manual;
	3. national and the European Union rules and guidelines, in particular:
		1. Commission interpretative communication of 1 August 2006 on the Community law applicable to contract awards not or not fully subject to the provisions of the Public Procurement Directives (OJ EU C 179, 01.08.2006, p. 2),
		2. Commission Decision C(2019)3452 final of 14 May 2019 laying down the guidelines for determining financial corrections to be made to expenditure financed by the Union for non-compliance with the applicable rules on public procurement.
4. The Beneficiary declare that they have familiarised themselves with the documents referred to in section 3 and acknowledge that the implementation of the project commenced prior to the conclusion of this Grant Contract shall be subject to verification referred to in § 8 of this Grant Contract.
5. The Beneficiary hereby confirm the accuracy of the data contained in the Grant Contract and in the Annexes which form an integral part thereof.

[**applicable only for the Grant Contract with the Polish SPF Beneficiary**

1. The Grant Contract foresees the possibility of granting de minimis aid by the SPF Beneficiary to the small project Beneficiary.
2. In the case of occurrence of de minimis aid, the Polish provisions shall apply to monitoring and information (including issuing certificates and reporting on granting the aid or informing on not granting the aid).
3. To enable the implementation of rights and obligations that relate to the granting of de minimis aid by the Beneficiary having registered office in Poland, the Managing Authority shall provide the reference number of the aid programme, i.e., SA.105830.]

**§ 3**

**PROJECT BUDGET**

1. The Managing Authority awards a maximum co-financing of EUR \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (in words: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ EUR, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ eurocent) for the project implementation.
2. The co-financing rate for Beneficiary amounts to 90,00 % of project eligible costs.
3. The budget is composed of two tasks:
	1. „SPF project management”;
	2. „Implementation of small projects”.
4. The maximum co-financing amount for the task „SPF project management” equals to EUR \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (in words: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ EUR, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ eurocent). The total value of co-financing for this task may not exceed 20% of due co-financing.
5. The co-financing granted is intended to cover the eligible expenditure incurred in connection with the implementation of the project.
6. The Beneficiary undertakes to provide funding for the project implementation in the amount of the difference between the total eligible expenditure of the project and due co-financing.
7. Payments for the project shall be done in the form of pre-financing payments basing on the requests for payment for the project, submitted within the CST2021 system.
8. Any ineligible or irregular expenditure shall be covered by the Beneficiary from their own resources.

**§ 4**

**PROJECT IMPLEMENTATION PERIOD**

1. Date of the commencement of the technical and financial implementation of the project: \_\_\_\_\_\_\_.
2. Date of completion of the technical and financial implementation of the project: \_\_\_\_\_\_\_.

**§ 5**

**THE BENEFICIARY’S LIABILITY**

1. The Beneficiary shall be accountable to the Managing Authority for the correct and timely implementation of the entire project
2. The Beneficiary shall be solely responsible towards third parties for damages caused in connection with the implementation of the project. The Beneficiary shall waive all claims against the Managing Authority for damages caused by them any third party, in connection with the implementation of the project.
3. In the event that the Managing Authority, in accordance with the provisions of the Grant Contract, requests the return of a part or the entire amount of the co-financing paid, the Beneficiary shall return the funds within the time limit and pursuant to the rules referred to in § 12.

**§ 6**

**OWNERSHIP**

1. Ownership and other property rights that result from the project shall belong to the SPF Beneficiary or Beneficiaries of the small projects, respectively.
2. The Beneficiary undertakes to use the project products in a way which ensures that the project results will be widely disseminated and made available to the society, in accordance with the Application Form.

**§ 7**

**DETAILED OBLIGATIONS OF THE BENEFICIARY**

1. The Beneficiary shall use non-discriminatory and transparent procedure and criteria of the small projects selection.
2. The Beneficiary shall be responsible for performance of its tasks, specified in Art. 25 section 3 of Interreg Regulation and accountable for their incorrect implementation, in accordance with the rules, defined in the Programme documents.
3. The Beneficiary shall present in requests for payment for the project only eligible expenditure and the expenditure which is in line with the Application Form current as of the date of incurring the expenditure. For this purpose the Beneficiary shall ensure correctness and eligibility of costs, submitted by the small project beneficiaries for settlement, via:
	1. verification of correct lump sum calculation in draft budgets of the small projects;
	2. verification of achievement of the indicators, being the condition for lump sum settlement by the small project beneficiaries;
	3. conduction on-the-spot verifications of small projects.
4. The Beneficiary shall monitor the progress in achieving the target values of the output and result indicators, which are defined in the Application Form.
5. The Beneficiary shall regularly monitor the technical implementation of the project and shall immediately inform the Managing Authority and the Joint Secretariat of any irregularities, circumstances delaying or preventing its full implementation as set out in the Application Form, or of any intention to discontinue the project.
6. The Beneficiary shall immediately inform the Joint Secretariat about the circumstances that influence the reduction of eligible expenditures of the project.
7. The Beneficiary shall prepare and then submit for the verification of the relevant controller partial requests for payment, a and to the Joint Secretariat – requests for payment for the project within the terms, set in the Programme Manual.
8. The Beneficiary shall provide documents, correct shortcomings in partial requests for payment or requests for payment for the project and give necessary clarifications to the relevant controller or to the Joint Secretariat within the terms, defined by these bodies.
9. The Beneficiary shall cooperate with external controllers, auditors, evaluators and submits to checks or audits carried out by authorised national and European Union services.
10. The Beneficiary shall immediately inform the Joint Secretariat of any change in their legal status resulting in a failure to comply with the requirements set out in the Programme.
11. The Beneficiary shall keep the documents which relate to the implementation of the project in a manner that ensures their confidentiality and security. All documents shall be made available for five years from 31 December of the year of the settlement of the project. In the case of projects in which the Beneficiary provides de minimis aid, the provisions of section 14(1) shall also apply.
12. The Beneficiary shall, under pain of sanctions as indicated in § 18, be responsible for maintaining the durability of the project for five years from the date of the of the settlement of the project and under terms and conditions which are specified in the provisions of the European Union legislation and the Programme Manual. Beneficiary shall ensure durability of the infrastructure investments, implemented within the small projects.
13. Should the Beneficiary fail to comply with their obligations to submit request for payment, or to submit to inspection or to undergo an audit, the Managing Authority may, notwithstanding their right to terminate the Grant Contract in accordance with § 19, withhold payments to the project until the Beneficiary has complied with their obligations.
14. Should de minimis aid be granted to the small projects beneficiaries:

1) the Beneficiary shall keep the documentation relating to the aid granted for the period of 10 years, counting from the date of granting thereof, in a manner ensuring confidentiality and security;

2) it shall be the responsibility of the body which, in accordance with § 2(6), has the authority to grant the aid to verify the conditions of admissibility of the aid granted;

3) the small project Beneficiary that applies for de minimis aid from the Beneficiary, registered in Poland, shall attach the following documents to the application for aid:

a) copies of de minimis aid certificates issued by the entity granting the aid which has its registered office in Poland, or de minimis aid certificates in agriculture or fisheries, which it received in the year in which it applied for aid as well as within 2 preceding years, or statements of the amount of such aid received during that period, or statements of not receiving such aid during that period,

b) a form which contains information necessary for granting de minimis aid;

4) the Beneficiary that grants de minimis aid shall be in particular responsible for:

a) issuing to the aid beneficiary a certificate that the aid provided is de minimis aid,

b) issuing to the aid beneficiary a new certificate, when the real value of the de minimis aid granted differs from the one, indicated in the certificate, mentioned under letter a), within 14 days from the date of statement of such fact. The new certificate shall indicate the actual value of the aid and state that the previous certificate has expired.

c) preparing and submitting a report on the de minimis aid granted or information that such aid was not granted;

5) the Beneficiary as an entity authorised to grant the aid and having registered office in Poland:

a) shall prepare and submit to the President of the Office of Competition and Consumer Protection a report on the aid granted or information on non-award of such aid in accordance with Article 32(1) of the Act of 30 April 2004 on the procedural issues concerning State aid (Journal of Laws of 2023, item 702),

b) shall prepare and submit an updated report if the value of the granted aid shown in the report referred to in letter a) has changed;

6) the Beneficiary granting the aid shall prepare and submit an updated report if the value of the de minimis aid granted has changed. This obligation applies to aid granted in the same year in which the entity granting the aid obtained information about the change, or within the 2 preceding years;

7) the provisions of points 5 to 6 shall apply accordingly to the preparation and submission of an updated report on the aid granted;

8) detailed information and the template documents on de minimis are available on the Programme website.

**§ 8**

**VERIFICATION OF EXPENDITURE**

1. The Beneficiary shall submit to the relevant controller partial progress report for the implementation of the project with attachments in accordance with the rules referred to in § 22 and the Programme Manual.
2. The Controller shall verify the partial request for payment and the eligibility of the expenditure declared therein. This verification shall be carried out in accordance with the rules, guidelines or procedures established in the state concerned and in accordance with the Programme rules.
3. The verification of the Beneficiary's expenditure shall be carried out on the basis of the data contained in the request for payment and the documents provided by the Beneficiary.
4. If, during the verification of the partial request for payment, the Controller finds that the national or European Union rules or project implementation rules referred to in the Programme Manual have been breached, they may consider the relevant expenditure in whole or in part as irregularly incurred and reduce the partial request for payment accordingly. This shall also apply to expenditure incurred prior to signing the Grant Contract. If in a given state of the Beneficiary there are no rules or principles which determine the amount of expenditure incurred in violation of public procurement or principle of competition rules, the Controller shall apply the rates of financial correction specified in the Commission’s decision referred to in § 2(3)(b).
5. The rules of procedure in the case of finding irregular expenditure are regulated by the Programme Manual, Rules and procedures on management verifications in Interreg NEXT Poland – Ukraine 2021-2027 Programme, by national guidelines on the correction of expenditure and the imposition of financial corrections, if such guidelines exist.
6. The Controller shall communicate to the Beneficiary the result of the verification of the partial progress report in accordance with the rules that are set out in the Programme Manual.

**§ 9**

**TRANSFER OF THE CO-FINANCING TO THE PROJECT**

1. Co-financing for a project shall be paid in the form of a pre-financing payments.
2. The Managing Authority will conduct the first pre-financing payment basing on the request for payment for the project, submitted after the Grant Contract signature, in amount of: EUR \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (in words: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ EUR, \_\_\_\_\_\_\_\_\_\_\_\_\_ eurocent), being 10% of the co-financing amount, defined in § 3 (1).
3. Further payments will be made to the Beneficiary in amount, equal to the value of expenditures, settled within the submitted request for payment for the project.
4. Regardless of payments, defined in section 3, if the Beneficiary proves through bank statements that at least 70% of amount, defined in section 2, has been transferred as co-financing to the small projects Beneficiaries, and these co-financing sums were not settled yet, the Beneficiary may submit additional request for payment in amount of EUR \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (in words: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ EUR, \_\_\_\_\_\_\_\_\_\_\_\_\_ eurocent), being 20% of the co-financing amount, defined in § 3 (1).
5. Cumulative pre-financing payments to the project cannot exceed the co-financing specified in § 3(1).
6. The final settlement of the project is the difference between the pre-financing payments and the co-financing due. If, after the approval of the last payment application for the project, the pre-financing payments exceed the co-financing due, § 12 shall apply.
7. In duly justified cases, in particular when liquidity in the Programme bank account is at risk, the Joint Secretariat or Managing Authority may request the Beneficiary to submit an additional request for payment for a project that covers a reporting period other than the standard one, foreseen by the Programme Manual. In such a case, the Beneficiary shall submit a request for payment for a project under the terms and conditions set out by the Joint Secretariat.
8. The Joint Secretariat shall verify the request for payment for a project on the basis of the data contained therein and the documents provided by the Beneficiary.
9. The Managing Authority shall pay the co-financing for the project from the Programme’s bank account to the Beneficiary’s bank account, subject to the availability of funds in the Programme account.
10. The payment of co-financing to the project may be reduced by the amounts to be reimbursed in connection with recovery order, defined in in § 12, in accordance with the rules set out in § 12 (3, 4).
11. The Managing Authority shall pay the funds in EUR. The Beneficiary shall bear the exchange rate risk.
12. The Managing Authority shall pay the funds within 80 calendar days from the date of submission of the request for payment for a project to the Joint Secretariat, subject to section 9. The Managing Authority may interrupt the above-mentioned deadline, of which the Beneficiary shall be informed with the reasons, if:
13. clarifications or amendments to the request for payment for a project are required,

or

1. amount indicated in the request for payment for a project is incorrect or relevant supporting documents have not been submitted,

or

1. an investigation has been launched because of possible irregularities affecting the expenditure concerned.

**§ 10**

**PAYMENT OF CO-FINANCING TO THE SMALL PROJECTS BENEFICIARIES**

The Beneficiary shall pay to the small projects beneficiaries the co-financing in a form of pre-financing or reimbursement after verification of the small project implementation report, according to terms and conditions set in the Programme manual.

**§ 11**

**REDUCTION**

1. If, prior to the approval of the request for payment for a project, the Managing Authority finds that there is non-eligible expenditure, expenditure incurred incorrectly, or that the contractual provisions have been breached, it may reduce the amount of eligible expenditure. In such a case the Joint Secretariat or the Managing Authority shall inform the Beneficiary about the arrangements that have been made.
2. If the Beneficiary does not agree with the findings of the Managing Authority referred to in section 1, they may raise objections in accordance with the procedure set out in § 20 sections 2-8.
3. Once the actions referred to in section 2 have been completed and the Managing Authority has confirmed the arrangements referred to in section 1, the Joint Secretariat shall reduce in the request for payment for a project the value of eligible expenditure and the amount of due co-financing.

**§ 12**

**RECOVERY OF FUNDS**

1. The Managing Authority shall recover funds which previously approved if it will identify the ineligible expenditure, expenditure incurred incorrectly, breach of Grant Contract provisions, or if co-financing has been paid unduly or in an excessive amount.
2. The Managing Authority may not recover an amount unduly paid that does not exceed EUR 250 in a project, in accordance with the rules laid down by the Managing Authority.
3. Once the actions referred to in § 20 have been used up, the Managing Authority deduct from the amount of the next pre-financing payment the amount to be recovered. The Joint Secretariat shall inform the Beneficiary about the reduction of the payment and its reasons.
4. When the deduction from next pre-financing payment is not possible, the Managing Authority issue the Beneficiary the recovery order for the recovery of the relevant amount. Recovery order shall specify the amount to be return together with justification, the deadline for the return and the bank account number the return should be made. In justified cases the Managing Authority may postpone the repayment deadline.
5. Bank charges incurred by the repayment of amounts due to the Managing Authority shall be borne entirely by the Beneficiary.

**§ 13**

**IMPOSING FINANCIAL CORRECTIONS**

1. If, after the expenditure has been included in the progress report to the European Commission, the Managing Authority finds an irregularity, it may impose a financial correction. The correction shall be imposed on the task „ SPF project management”. In such a case the Joint Secretariat or the Managing Authority shall inform the Beneficiary of the arrangements made. The Beneficiary shall not have the possibility to object to this decision according to the procedure defined in § 20 sections 2-8.
2. The value of the financial correction shall be equal to the amount of expenditure incurred incorrectly in the proportion corresponding to the amount of the co-financing.

**§ 14**

**CONTROLS AND AUDITS**

1. The Beneficiary shall be subject to controls and audits with regard to the correct implementation of the project as well as its durability. Controls and audits shall be carried out by entities authorised to carry out, in accordance with applicable national and the European Union rules and the current Programme documents.
2. The Beneficiary shall make available all the documents related to the project implementation to the entities referred to in section 1 for the entire duration of their storing referred to in § 7, sections 11 and 14(1), and, if it is necessary in order to determine the eligibility of expenditures incurred under the project implementation, is also obliged to make available to the controlling institution the documents not directly related to the project implementation.
3. The Beneficiary shall take corrective action within the timeframes set out in the post-control recommendations that are issued during controls and audits.
4. The Beneficiary shall provide the entities that carry out the controls with information on the results of the previous controls and audits carried out, within the framework of the implemented project, by other authorised entities.

**§ 15**

**INFORMATION AND PROMOTION**

1. The basis for the visibility, transparency and communication of the project is the project communication plan attached to the Application Form.
2. The Beneficiary shall implement at least the following actions from the project communication plan:
3. post a short description of the project, information about its objectives and results and about the financial support from the Programme on their official website or social media sites, if such sites exist;
4. post information in a visible way about the support from the Programme in project documents and information materials for the general public or participants;
5. post information in a visible way about the support from the Programme in project documents and information materials for the society or participants;
6. immediately after the project implementation start place in public places permanent information boards or commemorative plaques which include the Programme logo;
7. organise an information event involving the Joint Secretariat, Managing Authority and the European Commission,
8. use the Programme logo, which includes the symbol of the European Union, when carrying out activities with regard to visibility, transparency and communication;
9. document the communication activities carried out under the project;
10. provide the Joint Secretariat with information on planned and on-going activities with regard to visibility, transparency and communication of the project and small projects, including their outputs and results.
11. The Beneficiary shall make available to the Managing Authority and the Joint Secretariat, free of charge, existing photographic and audio-visual documentation of the project implementation as well as agree to use this documentation by the Managing Authority or the Joint Secretariat in their information and promotion activities. The transfer of such documentation shall take place under separate, royalty-free licence agreements.
12. The obligation to make the documentation referred to in section 3 available free of charge shall also apply where such material is requested by the Union institutions, bodies of the European Union or its organisational units.
13. The Beneficiary shall ensure that each Beneficiary of the small project implements the information and promotion activities in line with sections 3 and 4 as well as recommendations set in the Programme Manual.
14. If the Beneficiary does not fulfil its obligations referred to in section 2 points 1-5, the Managing Authority shall reduce the co-financing according to the rules laid down in the Programme Manual.

**§ 16**

**AMENDMENTS TO THE GRANT CONTRACT**

1. Amendments to the Contract and its Annexes, which are an integral part thereof, may only be made, under pain of nullity, during the project implementation period as referred to in § 4 and in accordance with the rules referred to in the Programme Manual.
2. Amendments to the Grant Contract shall be subject to the following rules:
3. all changes to the Grant Contract require concluding and signing an addendum to the Grant Contract under pain of nullity, subject to points 2) and 3),
4. changes to the Annexes to the Grant Contract do not require concluding and signing an addendum to the Grant Contract, as long as they do not directly affect the content of the Grant Contract's provisions;
5. changes to the Beneficiary's registered office address, changes to the Beneficiary's bank account and SWIFT or IBAN code, and changes to the name and address of the bank where the account is established do not require concluding and signing an addendum to the Grant Contract. They shall be notified by the Beneficiary to the Joint Secretariat. If the Beneficiary does not notify the Joint Secretariat about the change of their account, the Beneficiary shall be liable for all costs incurred as a consequence of the lack of such notification;
6. The Beneficiary shall submit amendment requests to the Joint Secretariat within the deadlines set out in the Programme Manual. Failure to meet these deadlines may result in the amendment request being left unprocessed

**§ 17**

**INADEQUATE PROJECT IMPLEMENTATION**

1. The Beneficiary shall make every effort to achieve the target values of the product indicators, defined in the Grant Contract. If these values have not been reached, the Beneficiary shall:
2. duly documents the reasons which were beyond Beneficiary’s control and due to which the Beneficiary did not achieve the target values of the indicators declared in the Application Form,

and

1. demonstrate that it has made all efforts to achieve the target values of the indicators declared in the Application Form.
2. If the Beneficiary has not exercised due diligence during project implementation, the Managing Authority may claim reimbursement of part of the co-financing amount paid to the Beneficiary. The Managing Authority may then appropriately reduce the amounts, which are related to activities carried out not in accordance with the Application Form.

**§ 18**

**FAILURE TO MAINTAIN PROJECT DURABILITY**

If the durability of the project is not maintained, the Beneficiary shall reimburse the co-financing received in accordance with § 12.

**§ 19**

**TERMINATION OF THE GRANT CONTRACT**

1. The Managing Authority shall have the right to terminate the Grant Contract with one month's notice if the Beneficiary:
2. received co-financing based on:
	* 1. false or incomplete declarations or documents,
		2. non-disclosure of information, despite the obligation to disclose it, with the aim of misappropriating or unlawfully retaining the grant received;
3. while executing the Grant Contract, has not complied with the national or European Union regulations or the provisions of the documents referred to in § 2 section 3 points 2 - 3;
4. has used all or part of the allocated co-financing for an improper purpose, or in breach of the European Union and national law, current Programme documents and the national and the European Union rules and guidelines, or in breach of the contractual provisions, or has taken all or part of the allocated co-financing unduly or in excess,
5. for reasons for which it is responsible:
	* 1. has not commenced the technical and financial implementation of the project within the term referred to in § 4(1),
		2. has not announced the call of small projects within 60 days from the date of grant contract signature,
		3. has not achieved the intended project objectives,
		4. has not achieved the intended project outputs,
6. is not able to complete the technical and financial implementation of the project within the time limit referred to in § 4(2), and if the delay exceeds 6 months in relation to the activities planned in the Application Form,
7. has ceased to implement the project or is executing the project in a manner inconsistent with the Grant Contract,
8. has not submitted all the required progress reports for a project,
9. refuses to submit to a control or audit by authorised institutions,
10. has not remedied the irregularities identified within the specified period,
11. has failed to submit the required information or documents despite a written request from the Managing Authority or other bodies entitled to carry out inspections, which specified the deadline and the legal consequences of failing to comply with the request of the Managing Authority or other bodies entitled to carry out checks,
12. is not able to prove that the requests for payment for a project contain complete and true data and that the reported expenditure is eligible,
13. is in liquidation or subject to receivership or has suspended its business activities or is the subject to similar proceedings,
14. has not informed the Managing Authority of such a change in its legal status, which results in their failure to comply with the requirements set out in the Programme,
15. the Beneficiary is subject to criminal proceedings for fraud of a corrupt nature to the detriment of the European Union's financial interests.
16. In the event of the Grant Contract termination for the reasons referred to in section 1, the Beneficiary shall return the co-financing paid in accordance with § 12.
17. In the event when the European Commission does not provide the European Union funds for the Programme for reasons beyond the control of the Managing Authority, the Managing Authority reserves the right to terminate the Grant Contract. In this case, the Lead Partner is not entitled to any claim against the Managing Authority, for any reason whatsoever.
18. Regardless of the reasons for termination of the Grant Contract, the Beneficiary shall submit the final progress report for a project by the date specified by the Managing Authority and shall be obliged to archive documents relating to its implementation within the period referred to in § 7 sections 11 and 14(1).

**§ 20**

**RESERVATIONS/OBJECTIONS**

1. The detailed rules which relate to reservations concerning the results of the controls referred to in Article 46 of the Interreg Regulation, if any, shall be governed by the national provisions indicated in the Programme Manual.
2. The Beneficiary shall have the right to object to the findings of the Managing Authority, other than those indicated in section 1, which result in termination, reduction of the co-financing rate or the need to recover funds paid by the Managing Authority under the Grant Contract.
3. The Beneficiary shall submit the reservations referred to in section 2 to the Managing Authority within 14 calendar days. The deadline runs from the day following the day of receiving the information from the Managing Authority by the Beneficiary.
4. Reservations which are submitted by the Beneficiary after the deadline indicated in section 3 or which do not meet the requirements referred to in section 2 will be left without examination. The Managing Authority shall inform the Beneficiary about leaving the reservations unprocessed within 7 calendar days. The deadline runs from the day following the day of receipt of the objections by the Managing Authority.
5. The Beneficiary may withdraw its objections at any time. Reservations that have been withdrawn shall be left unprocessed.
6. The Managing Authority shall consider the reservations referred to in section 2 within a time limit not exceeding 14 calendar days. This time limit runs from the day following the day on which the reservations have been received by the Managing Authority, subject to section 7.
7. The Managing Authority, in the course of examining the reservations, has the right to carry out additional activities or to require the submission of documents or additional explanations. In any such case, the time limit referred to in section 6 shall be interrupted and the Managing Authority shall immediately inform the Beneficiary thereof. Completion of the additional activities or actions shall resume the running of the deadline.
8. The Managing Authority shall inform the Beneficiary on the outcome of the examination of the reservations together with the reasons for its position. The Managing Authority's position is final.

**§ 21**

**PRINCIPLES FOR SHARING PERSONAL DATA**

1. In connection with the implementation of the Project, for the purposes and under the conditions set out in Article 4 of the General Regulation, the Parties, the Joint Secretariat and the Controllers process personal data collected directly from data subjects and from ICT systems, including CST2021.
2. The Beneficiary is aware that it is the Controller, within the meaning of Article 4(7) of the GDPR[[2]](#footnote-3), in relation to personal data collected in connection with the implementation of the project, including, in particular, personal data provided to it by the small projects beneficiaries.
3. The Beneficiary is responsible for the processing of personal data and its protection in accordance with personal data and privacy legislation, including in particular the GDPR[[3]](#footnote-4) and the regulations of the country of its registered office.
4. In connection with the project, the Beneficiary shall make the personal data collected available to the Managing Authority, the Joint Secretariat and the relevant Controller.
5. Sharing of personal data shall take place in writing on paper or electronically, using the method of communication agreed by the Parties as set out in § 24 of the Grant Contract, including the use of CST2021.
6. The scope of categories of personal data provided - as indicated in Attachment No. 5 to the Grant Contract - has been established taking into account the data minimisation principle referred to in Article 5(1)(c) of the GDPR. Changes to Attachment No. 5 do not require an addendum to the Grant Contract, but only the notification of their introduction together with the reasons for such changes.
7. As a result of the Beneficiary 's sharing of personal data, the institutions referred to in section 4 receiving these data shall become independent controllers of the shared data, separate from the Beneficiary.
8. The institutions referred to in section 4 may share data with other entities and bodies of the European Union to the extent necessary for the performance of tasks connected with the implementation of the Programme as provided for by law or by the Grant Contract.
9. The institutions referred to in section 4 shall not transfer the personal data provided to a third country and international organisation other than the European Union.
10. The Beneficiary shall fulfil the information obligation referred to in Articles 13 and 14 of the GDPR towards the persons whose data it collects, including the partners involved in the Project. The Beneficiary shall fulfil the information obligation both on their own behalf and on behalf of the institutions referred to in section 4 to which they make the data available. The information obligation may be performed based on the form of information section constituting Annex No. 4 to the Grant Contract or any other form of information clause used by the Beneficiary, provided that it contains all the elements and information included in Annex No. 6. Changes to Annex No. 4 do not require an addendum to the Grant Contract, but only notification of their introduction with reasons for their introduction.
11. In the event of an incident suggesting the probability of a personal data breach as referred to in Article 33 of the GDPR with respect to personal data shared in connection with the Project and which affects the data flow in the CST2021 ICT system, or the occurrence of which at one Party will adversely affect the processing of data at the other Party, the Parties undertake to inform each other of such probable breach in order to clarify it and take remedial measures.
12. In the event of a personal data protection breach and information security events and incidents, each Party shall handle them in accordance with the applicable internal regulations. To communicate information related to events and incidents and breaches in the area of personal data protection in an efficient and timely manner, the Parties hereby establishing the following contact points:
13. on the part of the Managing Authority: iod@mfipr.gov.pl and sekretariatdwt@mfipr.gov.pl,
14. on the part of the Lead Partner: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
15. The mutual information referred to in section 11 should concern at least the extent of the information referred to in Article 33(3) of the GDPR.
16. Each controller shall handle and report personal data protection breaches and notify affected persons/entities.
17. The Parties shall inform each other immediately, to the email addresses indicated in section 12, of the following situations arising in relation to the personal data provided, which may adversely affect their processing in connection with the implementation of the project:
18. any failure to comply with the controller's obligations, any breach of personal data confidentiality or misuse thereof,
19. any actions or proceedings conducted, in particular by a supervisory authority, state offices, the police or a court.
20. The Parties undertake to inform each other of requests for the exercise of data subjects' rights under Articles 15-22 of the GDPR, in particular in relation to personal data uploaded to the CST2021, affecting the processing of the data made available by the other Parties under the Grant Contract, and, if necessary, to exchange information on the handling of requests related to Articles 15-22 of the GDPR. This obligation applies to requests that affect the limitation or impossibility of processing the data shared by the Grant Contract.
21. The Parties hereby declare that they have implemented appropriate technical and organisational measures to ensure an adequate level of security appropriate to the risks involved with the processing of personal data, as referred to in Article 32 of the GDPR.
22. Each Party shall be fully responsible for its data processing operations and for the proper implementation of the Grant Contract in accordance with its terms and conditions. Nevertheless, the Parties undertake to assist each other, as far as necessary, in the performance of their obligations under the Law and the Grant Contract, in particular those indicated in Articles 35 and 36 of the GDPR.
23. All data and information provided to the Party in connection with the performance of the Grant Contract, both during and after the termination of it, shall be treated as confidential and may only be used by the Party to perform its obligations under the Grant Contract.
24. In particular, all information relating to the infrastructure (including, inter alia, ICT) and the technical, technological, legal and organisational solutions of the devices, systems and ICT networks of the Managing Authority, obtained in connection with the conclusion and implementation of the Grant Contract, regardless of the form of recording, the method of transmission or obtaining and their source, shall be protected.
25. The Managing Authority or the Joint Secretariat may transfer data to the competent authority on the territory of Ukraine. Such transfer shall be made by means of a separate agreement, in accordance with the Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council (OJ EU L 199, 07.06.2021, p. 31).

**§ 22**

**CENTRAL ICT SYSTEM (CST2021)**

1. The Beneficiary shall settle the ongoing project in CST2021 and follow the current CST2021 Beneficiary Manual provided by the Managing Authority.
2. In CST2021, the Beneficiary shall:
3. prepare and send to the relevant Controller partial payment requests from the project implementation;
4. record information about the payment schedule of the project;
5. keep a register of grants awarded;
6. correspond with the relevant Controller for the implemented project and provide the necessary information and documents upon request of the Controller.
7. In addition, the Beneficiary shall:
8. prepare and send requests for payment for a project to the Joint Secretariat,
9. maintain all correspondence with the Joint Secretariat and, where appropriate, with the Managing Authority in relation to the implemented project and provide upon request the Joint Secretariat and, where appropriate, the Managing Authority with the necessary information and documents,
10. manage changes to the ongoing project.
11. The Beneficiary shall appoint persons authorised to act on their behalf in connection with the implementation of the project, hereinafter referred to as the 'authorised persons', including, the person(s) authorised to manage user rights on the Beneficiary's side, for the project in question. All actions in CST2021 by the authorised persons shall be treated in a legal sense as an action of the Beneficiary.
12. Persons authorised by the Beneficiary with a registered office on the territory of the Republic of Poland shall use a qualified electronic signature to authenticate activities performed in CST2021. When, for technical reasons, the use of electronic signature is not possible, authentication is performed using a non-qualified CST2021 certificate (authorisation code is sent to the e-mail address of a given authorised person).
13. Persons authorised by the Beneficiary not having a registered office on the territory of the Republic of Poland shall use a non-qualified CST2021 certificate (authorisation code is sent to the e-mail address of a given authorised person) to authenticate actions performed under CST2021.
14. Submission of documents in electronic form in CST2021 does not relieve the Beneficiary from the obligation to store them. The Beneficiary shall also keep the originals of documents from which electronic copies (e.g., scans, photos) have been created. The Beneficiary shall make available during on-the-spot checks carried out by authorised institutions both the original documents and their electronic versions.
15. All correspondence between the Beneficiary and the relevant Controller, the Joint Secretariat and the Managing Authority shall be carried out exclusively in CST2021, subject to section 9.
16. The following categories of matters cannot be the subject of communication exclusively in CST2021:
17. Grant Contract amendments requiring the conclusion of an addendum to the Grant Contract,
18. on-site inspections of the project,
19. recovery of funds from the Beneficiary,
20. reservations and objections to the findings of the Managing Authority,
21. termination or withdrawal from the Grant Contract.
22. The Beneficiary and the Managing Authority recognise the legal effectiveness of the communication and data exchange carried out via CST2021 without the possibility of questioning its effect.
23. In justified situations, e.g., in case of failure of the CST2021, when the time of restoring the proper functioning of the system will not allow to submit a partial payment request or a progress report for a project on time, the Beneficiary shall submit the applications in paper version according to the template available on the Programme website. The Beneficiary undertakes to complete the data in CST2021 for the documents submitted in writing within 5 working days of receiving information about the failure recovery.
24. Persons authorised by the Beneficiary shall comply with the Security Rules for information processed in CST2021.
25. The Beneficiary shall immediately report to the Joint Secretariat any CST2021 failures that prevent or hinder work in the system, resulting in particular in the inability to send via CST2021 a partial payment request to the Controller or a progress report for a project to the Joint Secretariat.
26. The Beneficiary is obliged to inform the Managing Authority of any unauthorised access to the Beneficiary's data in CST2021 system.
27. A detailed description of the Beneficiary's responsibilities when using CST2021 system and the deadlines for tasks are set out in the Programme Manual or CST2021 Beneficiary Manual available on the Programme website.

**§ 23**

**FINAL PROVISIONS**

1. If any provision of the Grant Contract proves to be invalid, unenforceable or illegal, the Grant Contract shall be amended to replace or remove such invalid, unenforceable or illegal provision. The remaining provisions of the Grant Contract shall remain in force.
2. In matters not covered by the Grant Contract, the provisions set out in § 2(3) and not conflicting with them, as well as the relevant national legislation of the Managing Authority shall apply.
3. The Grant Contract shall enter into force on the date of its signature by the last of the Parties.
4. The Grant Contract shall remain in force until all the Beneficiary's obligations have been fulfilled, including those relating to the durability of the project and the archiving obligations described in § 7 sections 11 and 14(1).[[4]](#footnote-5)
5. The Grant Contract shall be drawn up in English and concluded [electronically by affixing of qualified electronic signatures by both Parties on a single pdf document / in written from].
6. The provisions of section 5 shall apply mutatis mutandis to the amendment of the Grant Contract in the form of an addendum.
7. The Beneficiary acknowledges that information on the contracted project, within the scope of Article 49(3) of the General Regulation, will be made public. The publication will take place by placing the list of selected and supported projects on the Programme website as well as on the website of the minister responsible for regional development.

**§ 24**

**CORRESPONDENCE**

1. All correspondence relating to the performance of the Grant Contract shall be handled using CST2021 subject to section 2.
2. With regard to the categories of cases referred to in § 22(9), correspondence shall be handled using CST2021 and one of the following forms of communication:

a) registered letter,

b) courier service,

c) ePUAP inbox.

1. Correspondence in paper form shall be forwarded to the following addresses:

**Managing Authority**

Ministry of Development Funds and Regional Policy

Territorial Cooperation Department (Departament Współpracy Terytorialnej)

ul. Wspólna 2/4, 00-926 Warsaw, Poland

**Beneficiary**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Joint Secretariat**

Interreg NEXT Poland – Ukraine 2021-2027 Programme

Center of European Projects

ul. Puławska 180, 02-670 Warsaw, Poland

1. Changes to the addresses referred to in section 3 do not require an amendment to the Grant Contract in the form of an annex.

**§ 25**

**GOVERNING LAW AND JURISDICTION**

1. In the event of a dispute, the Grant Contract shall be governed by Polish law with respect to § 23(2).
2. The Parties shall seek an amicable settlement. Unless the Parties agree otherwise, the conciliation proceedings shall be conducted in Polish, with the participation of an interpreter if the Lead Partner is an entity of the Ukrainian nationality.
3. If a dispute is not resolved by amicable negotiation, it shall be settled by the ordinary court having jurisdiction over the registered office of the Managing Authority.

**§ 26**

**ANNEXES**

The following Annexes form an integral part of the Grant Contract:

1. Annex No. 1 – a copy of the Monitoring Committee’s decision
2. Annex No. 2 – a copy of the authorisation/power of attorney for the person representing the Managing Authority
3. Annex No. 3 – Legal Entities Form
4. Annex No. 4 – Financial Identification Form
5. Annex No. 5 – scope of categories of shared personal data
6. Annex No. 6 – information section

|  |  |
| --- | --- |
| **In the name and on behalf of** **the Beneficiary** | **In the name and on behalf of****the Managing Authority** |

1. Letters e-g shall apply when Beneficiary grants de minimisaid to the small projects Beneficiaries*.* [↑](#footnote-ref-2)
2. 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, GDPR) (OJ EU L 119, 04.05.2016, p.1, as amended). [↑](#footnote-ref-3)
3. Does not apply to non-EEA beneficiaries. [↑](#footnote-ref-4)
4. Applies to projects where de minimis aid is granted. [↑](#footnote-ref-5)