

## **STANDARD TERMS AND CONDITIONS**

### **ON NORWAY GRANTS FROM INNOVATION NORWAY**

#### **1 Scope of the Project Contract**

The Grant to the Project Promoter is offered on the terms and conditions laid down in the Grant Offer Letter, these Standard Terms and Conditions, the Project Implementation Plan, Budget and the Disbursement Plan (hereinafter called the Project Contract).

#### **2 Conditions for the awarding of the Grant**

The Grant is awarded under the following general conditions:

1. Innovation Norway shall contribute to sustainable development, including greater corporate social responsibility on the part of Norwegian business and industry and society as a whole. It is a condition for both parties that the business shall be based on stringent ethical requirements, and that it does not contribute to corruption, the violation of human rights or poor working conditions, or have a harmful impact on local communities and the environment. Innovation Norway expects its clients and partners to have a code of ethics and guidelines for corporate social responsibility. If serious matters are uncovered that are in breach of the above-mentioned principles, this may constitute grounds for Innovation Norway to terminate the agreement.
2. The Project Promoter shall provide all information necessary for the good functioning of the Grant and to apply the highest degree of transparency and accountability as well as the principles of good governance, sustainable development and gender equality.
3. The Project Promoter shall promptly inform Innovation Norway of any circumstances that interfere or threaten to interfere with the successful implementation of the Project.

#### **3 Reservation relating to disbursement**

1. In the event that the investment/project requires less capital than originally anticipated, Innovation Norway may reduce the amount of the grant proportionately.
2. The offer will lapse if the Project Promoter applies for debt settlement proceedings, goes into liquidation or voluntarily winds up the entity prior to the grant being disbursed.

## 4 Repayment

Full or partial repayment of grant disbursements may be demanded if the entity, the property or the equipment, including intellectual property rights, is sold or transferred out of the Beneficiary State or from one regional policy target zone to another within five years of the disbursement date, unless otherwise stipulated by Innovation Norway. The Project Promoter is obliged to inform Innovation Norway in advance about any such sale or transfer.

If the Project Promoter provides incorrect information or the grant is not used in accordance with the conditions for its allocation, full or partial repayment of the grant may be requested. Repayment may also be requested of disbursed grants if the aid is found to be in violation of state aid rules in the EU or in the EEA Agreement. The following will apply:

- Innovation Norway will request further information.
- The Project Promoter shall provide information about other state aid.
- Innovation Norway is entitled to order any unlawfully disbursed aid to be repaid.
- Request to repay aid will be made by Innovation Norway pursuant to instructions from Norwegian authorities in each individual case. The rate of interest payable on such repayment shall be based on the market rate. Interest will normally accrue from the date the aid was received until the sum has finally been repaid.

## 5 Reporting

The Project Promoter shall provide Interim Project Reports, Final Project Report (last Interim Report), Annual Reporting on Project Indicators, and the Project Completion Report in accordance with the Project Contract and the relevant articles in Rules and Procedures.

## 6 Annual financial statements

From the date on which the offer is accepted and for five years after the final disbursement, Innovation Norway may demand that audited annual financial statements and annual reports be submitted to Innovation Norway. If the Project Promoter is not subject to a statutory audit obligation, the general trading statement submitted to the tax authorities shall be submitted to Innovation Norway.

## 7 Documentation of disbursement

1. Before disbursement can take place, a signed Project Contract must exist between the Project Promoter and Innovation Norway.
2. Disbursements are made pursuant to agreement with Innovation Norway and in accordance with the approved Project Implementation Plan based on requests for disbursements submitted by the Project Promoter.

3. Before disbursement can be made, Innovation Norway shall be provided with a Project Interim Report in accordance with the Rules and Procedures for the financial mechanism. The Project Interim Report shall cover a period of at least 3 calendar months and be related to expenditures from that period.
4. Disbursements will be made to a designated project account to be established by the Project Promoter. The cash co-financing should also be transferred to the project account unless otherwise stated in Grant Offer Letter.
5. Disbursement of the grant will take place upon documentation of compliance with any Special Conditions and account statements from the Project Promoter, signed by the Project Promoters Chief Financial Officer and Project Manager, and audited by an authorised auditor in accordance with auditing standard IRS 805 (auditor's statements relating to audits for a special purpose).
6. Requirements for auditor's statement:
  - a. Reference to the Project Contract and any amendments
  - b. The auditor is aware of Rules and Procedures and relevant guidelines at the programme dedicated website.
  - c. Reference to financial report from the Project Promoter
  - d. Confirmation of the eligible amount
  - e. Confirmation of any interest revenues on project accounts, both accounts in EUR and local currency.
  - f. Confirmation on co-financing
7. Innovation Norway may retain up to 10% of the grant until the Final Project Report (last Interim Report) has been approved by Innovation Norway.
8. In case of an error is made in relation to a disbursement resulting in a higher amount paid than required under the Grant, the Project Promoter shall, upon request from Innovation Norway, reimburse without delay the exceeded amount. Similarly, if an error results in a lower amount paid than required, Innovation Norway shall, as soon as possible after being made aware of such an error, disburse the missing amount.

## **8 Special provisions on procurement and awarding of contracts**

1. This article only applies to Project Promoters being "contracting authorities" pursuant to national, EU/EEA public procurement legislation and Rules and Procedures.
2. The Project Promoter shall ensure that public procurement principles and procedures following from national and EU legislation are applied at any level in the implementation of the Project Contract.

3. In cases where contracts concluded as part of the implementation of the project fall below the national or EU thresholds set for public procurement or outside the scope of the applicable public procurement laws, the Project Promoter shall ensure that the awarding of such contracts (including the procedures prior to the awarding) and the terms and conditions of such contracts comply with best economic practices, including accountability, allow a full and fair competition between potential providers, and ensure the optimal use of resources from the Norwegian Financial Mechanism.
4. The Project Promoter shall ensure that the highest ethic standards are observed during the procurement and execution of contracts, and shall ensure the application of adequate and effective means to prevent illegal or corrupt practices. No offer, gifts, payments or benefit of any kind, which would or could, either directly or indirectly, be construed as an illegal or corrupt practice, e.g. as an inducement or reward for the award or execution of procurement contracts, shall be accepted.
5. The Project Promoter shall ensure that records of the awarding and execution of contracts are kept and provided upon request by Innovation Norway.

## 9 Intellectual property rights

Any present or future intellectual property rights, such as patents, trademarks, designs, copyright etc., developed during the project or that constitute part of the project shall be the property of the Project Promoter or be at the Project Promoter's disposal under a licence or other right of use.

Innovation Norway is entitled to require the Project Promoter to have adequate descriptions, documentation, source codes etc. in respect of intellectual property rights, production methods/systems etc. that are developed during or constitute part of the project, and to require that they be stored in a secure manner. Innovation Norway may also demand that necessary declarations be issued in respect of intellectual property rights.

## 10 Increased cost

1. If the cost of the implementation of the Project should exceed the estimated eligible project cost or the estimated total project cost, Project Promoter shall ensure that any such additional funds are made available so as to ensure the full implementation of the Project. If the Project Promoter deems that additional funds cannot be made available or additional investments in the project are not advisable, it can instead, decide to cancel the Project and the Project Promoter shall refund the amount already disbursed. Article 18 on Reimbursement applies to the procedures to be followed.
2. The Project Promoter shall take on the obligation to provide additional funds if necessary unless the conditions as laid down in paragraph 1 above are met.
3. If the Project requires more capital than anticipated, it is a condition that the increased capital requirement is funded in a manner to be approved by Innovation Norway.

## 11 Modification of the Project

1. With the exceptions stipulated in paragraph 3 of this article, any modifications of the Project shall be subject to Innovation Norway's prior written approval. Before the proposed modifications are implemented, Innovation Norway shall approve them.
2. Any such modifications may require a new appraisal prior to being accepted or rejected.
3. Modifications of the Project do not need an approval by Innovation Norway if they do not affect the scope, objectives, purpose, or outputs of the Project, and the financial impact is limited to:
  - a. Changes in any of the reporting periods for the Interim Project Reports scheduled in the Project Implementation Plan,
  - b. A transfer between budget headings involving a variation of 10% or less of the amounts in the latest approved Project Implementation Plan under each relevant heading, or,
  - c. A transfer between project activities involving a variation of 10 % or less of the amounts in the latest approved Project Implementation Plan for such activity.
4. Notwithstanding paragraph 3, modifications that result in an increase of management costs will always require a prior approval by Innovation Norway.

The Project Promoter must submit a revised Project Implementation Plan, Budget and Disbursement Plan to Innovation Norway when:

- Proposing modification which requires an approval by Innovation Norway according to this Article
- any of the reporting periods for the Project Interim Reports scheduled in the Project Implementation Plan are changed; a revised Project Implementation Plan shall be submitted no later than 60 days before the end of the first affected reporting period, or,
- Innovation Norway requests an updated Project Implementation Plan; a revised Project Implementation Plan shall be submitted no later than 30 days after such request is sent.

## 12 Monitoring

Innovation Norway is entitled to monitor the Project. The Project Promoter is obliged to cooperate and provide access and information to Innovation Norway or any one appointed by Innovation Norway to carry out such monitoring. On request by Innovation Norway, the Project Promoter is obliged to provide Innovation Norway, the Norwegian Ministry of Foreign Affairs, the Office of the Norwegian Auditor General and the relevant National Focal Point with summaries of all audit reports relevant to the Project. Project Promoter shall upon request provide Innovation Norway, the Norwegian Ministry of Foreign Affairs, the Office of the Norwegian Auditor General and the National Focal Point with any audit report relevant to the Project or its implementation, including auditing reports from the Supreme Audit Institution.

### **13 Immediate reporting on irregularities and other relevant developments**

The Project Promoter and Project Partners shall immediately inform Innovation Norway of any legal actions against the Project, including actions or decisions taken by EU/EEA institutions.

The grant will not be disbursed if Project Promoter, Partner(s) or other person(s) associated with the Project Promoter's business are suspected to be involved in offences referred to in national legislation on corruption in the relevant Beneficiary State.

### **14 Access**

1. The Project Promoter shall ensure that Innovation Norway, the Norwegian Ministry of Foreign Affairs or anyone mandated to perform tasks on their behalf, and the Office of the Auditor General of Norway, have upon request, prompt, full, and unimpeded access to all information, documents, persons, locations and facilities, public or private, relevant to the implementation of the Project Contract. Such access is subject to the applicable limitation under the national legislation of Beneficiary State.
2. The access does also include access to relevant information at the Project Partner, and the Partnership Agreement should ensure that such access will be facilitated.

### **15 Audit by Innovation Norway**

In accordance with the procedures as laid down in the Rules and Procedures, Innovation Norway may at any time arrange its own audits and inspections of the Project at all relevant locations.

### **16 Audit by the Office of the Auditor General of Norway**

In accordance with the procedures as laid down in the Rules and Procedures, the Office of the Auditor General of Norway may at any time conduct audits of the Project at all relevant locations.

### **17 Suspension of Disbursements**

1. Innovation Norway may decide to suspend disbursements of the Grant if:
  - a. the conditions for disbursement in accordance with Article 7 have not been met,
  - b. credible information indicates that the implementation or the progress of the Project does not correspond to the Project Implementation Plan or is not in compliance with the Project Contract,
  - c. reports referred to in Article 5 or any other information requested has not been provided or include incomplete information,
  - d. access required under Article 14 is restricted,
  - e. the financial management of the Project has not been in accordance with internationally recognised accounting principles,

- f. it becomes aware of suspected or actual cases of irregularities, fraud or corruption, or if such cases have not been adequately reported, investigated or remedied,
  - g. the implementation of the Project is deemed to be in violation of Community/EEA, local and/or national legislation,
  - h. a fundamental change of circumstances occurs and said circumstances constitute an essential basis for the Project Contract or the contribution from the Norwegian Financial Mechanism,
  - i. it becomes aware of any misrepresentation of facts in any information given by or on behalf of the Project Promoter affecting, directly or indirectly the implementation of the Project Contract,
  - j. an adjustment of the Grant is required in order to comply with the grant rate referred to in the Project Contract or the requirements referred to in the eligibility provisions in Rules and Procedures,
  - k. any other obligation stipulated in the Project Contract is not complied with by the Project Promoter.
2. If possible, the Project Promoter shall be given an opportunity to provide its views prior to Innovation Norway making a decision to suspend disbursements.
  3. The decision to suspend disbursements shall be reasoned and immediately effective. The Project Promoter shall be notified as soon as possible but no later than 10 working days from the date of the decision.
  4. The Project Promoter can at any time present documents or other evidence showing that the conditions in paragraph 1 (a) to (k) no longer apply or do not justify suspension of disbursements, and request that Innovation Norway reviews its decision to suspend payments.
  5. When the Innovation Norway finds that the conditions described in paragraph 1 (a) to (k) above no longer apply or justify suspension of disbursements, it shall take a decision to continue disbursements.

## 18 Reimbursement

1. In case of serious non-compliance with the Project Contract, or if suspension of payments is not feasible or likely to be sufficient, Innovation Norway may, after having consulted the Project Promoter with a view to reaching a solution, decide to demand reimbursement if any of the conditions referred to in litra (b) to (k) of Article 17 apply.
2. Innovation Norway may decide to demand reimbursement if it becomes aware of any conviction of or fines for irregularities, fraud or corruption, or if such cases have not been adequately reported, investigated or remedied.
3. Prior to making such a decision, Innovation Norway shall notify the Project Promoter of its intention to demand reimbursement. The notification shall outline the reason for the proposed measures. The Project Promoter can within 45 working days from the date of the notification provide any documents relevant to the decision and/or provide its views.

4. The Project Promoter shall be notified of a decision referred to in paragraph 1 of this article as soon as possible but no later than 10 working days from the date of the decision. The notification shall outline the reason for the decision.
5. Within three months from the decision of Innovation Norway, the Project Promoter shall reimburse the requested amount to Innovation Norway, subject to the specifications detailed in the decision.
6. If a request for reimbursement to Innovation Norway is not complied with by the Project Promoter, or a dispute related to such a request arises that cannot be solved, the Parties may bring the dispute before Oslo Tingrett in accordance with Rules and Procedures. The disputed amount shall be transferred to a designated bank account.

## 19 Waiver of Responsibility

1. Any appraisal of the Project undertaken before or after the approval of the Project by Innovation Norway does not in any way diminish the responsibility of the Project Promoter to verify and confirm the correctness of the documents and information forming the basis of the Project Contract.
2. Nothing contained in the Project Contract shall be construed as imposing upon Innovation Norway any responsibility of any kind for the supervision, execution, completion, or operation of the Project.
3. Innovation Norway does not assume any risk or responsibility whatsoever for any damages, injuries, or other possible adverse effects caused by the Project, including, but not limited to inconsistencies in the planning of the Project, other project(s) that might affect it or that it might affect, or public discontent. It is the full and sole responsibility of the Project Promoter to satisfactorily address such issues.
4. The Project Promoter or any other party shall not have recourse to Innovation Norway for further financial support or assistance to the Project in whatsoever form over and above what has been provided for in the Project Contract.
5. Innovation Norway cannot be held liable for any damages or injuries of whatever nature sustained by the Project Promoter or any other third person, being indirect or indirect, related to the Project Contract.

## 20 Language

All communication shall take place in the English language.

To the extent that original documents are not available in the English language, the documents shall be accompanied by full and accurate translations into English.

The Project Promoter shall bear the responsibility for the accuracy of the translation and the possible consequences that might arise from any inaccurate translations.

## **21 Representations and Warranties**

The Project Promoter represents and warrants that the information provided by, through, or on behalf of the Project Promoter in connection with the application for funding, and the conclusion and implementation of the Project Contract is authentic, accurate and complete.

*Oslo, 18<sup>th</sup> October 2011*