

General Terms and Conditions

Part A – Basic Provisions

Article 1 *General Provisions*

1. The General Terms and Conditions are binding and enforceable against the parties to the Agreement on the Provision of Support for the implementation of the programme project (hereinafter “Agreement”).
2. The General Terms and Conditions are also binding and enforceable if the Beneficiary was granted the Decision on the Provision of Support, in which case they shall apply proportionately.
3. The provisions of specific terms of the Agreement may set forth, under the terms of public tender or public contract project terms, provisions different from the General Terms and Conditions.
4. If the General Terms and Conditions refer to processes (particularly, change management or evaluating and review processes) governed by the Provider’s internal regulations, such internal regulations are binding for the Parties. The internal regulations are available at <http://www.tacr.cz> under “Internal Regulations”.
5. The Provider reserves the right to make changes to the internal regulations and the Parties shall act according to the valid and effective version at the time of execution of the respective act. The Provider shall report any change to the internal regulation on its website immediately after such change becomes effective.
6. These internal regulations are particularly the following: SME-03 Opposition Procedure, SME-07 Project Change Management, SME-12 Submission and Processing of Reports Directive, SME-22 Public Financial Inspection and SME-27 Providing Support and Completion of Projects.

Article 2 *Definitions*

1. For the purposes of the Agreement, the following definitions apply:
 - a) “**Other Participant**” means a legal or natural entity, organisational unit of the state or ministry, interested in R&D, whose involvement in the project is defined in the project proposal and with which the main beneficiary concluded an Agreement on

Participation on Project Implementation, while such applicant or beneficiary has no general relation to the provider,

- b) **“Implementation Period”** means the time period from the day of the project implementation commencement by the beneficiary until the project implementation completion by the beneficiary, while the project implementation is considered completed even in case of premature discontinuance of the project in connection with the expiration of the Agreement/Decision on the Provision of Support.
- c) **“Confidential Information”** means information which is considered a trade secret within the meaning of the relevant provisions of Act No. 89/2012 Sb., Civil Code, or designated as confidential by one of the Parties, or any information the disclosure of which by one of the Parties may result in unfavourable conditions for the other Party, unless generally known to the public or designated as non-confidential by the Party,
- d) **“Main Beneficiary”** means the beneficiary which enters into a contractual relationship with the provider and is responsible for the fulfilment of all obligations against the Provider during the project implementation under the Agreement/Decision on the Provision of Support; both the Main Beneficiary’s obligations and the obligations of Other Participant,
- e) **“Implementation Plan”** means the plan submitted by the Main Beneficiary mapping the utilisation of Project Outcomes, their brief description, definition, degree of confidentiality, indication of costs etc.,
- f) **“RDI IS”** means the information system for research, experimental development, and innovation or the public administration information system ensuring the collection, processing, provision and use of data on research, development, and innovation supported by public funds; the IS content and procedure for transfer, classification, processing and provision of data is governed by Act on the Support of Research and Development, Government Regulation No. 397/2009 Sb. on the information system for research, experimental development and innovation, special legislation and the RDI IS operating regulations,
- g) **“Evaluation Process”** means the process defined by the Provider, usually in the internal regulation, in order to evaluate the fulfilment of the project objectives, achieved outcomes and their legal protection, particularly the opposition procedure, reporting, final evaluation and sustainability monitoring,
- h) **“Regulation”** means the Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty¹,
- i) **“Expert Guarantor”** means a government body which utilises the outcomes of the public contract in research, development and innovation,
- j) **“Enterprise”** means an entity engaged in an economic activity, regardless of its legal form within the meaning of Annex 1 to the Regulation, while this Annex and Article II(2 and 24) of the Regulation define the sizes of enterprises as large, medium, small and micro enterprises,
- k) **“Support/Aid”** means targeted funds for project implementation provided by the provider in the form of a subsidy following the outcomes of the public tender/contract

¹ Treaty on Functioning of the European Union.

in research, development, and innovation and under the Agreement/Decision on the Provision of Support.

- l) **“Provider”** means the Technology Agency of the Czech Republic (TA CR),
- m) **“Rules for Providing Aid”** means a set of rights and obligations set forth in the Agreement/Decision on the Provision of Support, General Terms and Conditions, Provider’s internal regulations and other documents referred to in the relevant programme and tender dossier and generally binding legal regulations (national and European), in particular, Act on the Support of Research and Development, budgetary regulations and public aid regulations,
- n) **“Rules for Public Aid”** mean a set of rights and obligations set forth in Articles 107 and 109 of the Treaty on the Functioning of the European Union and, for the purposes of research, development, and innovation, particularly by the Framework and Regulation,
- o) **“Programme”** means a programme within the meaning of Section 2(2f) of Act on the Support of Research and Development.
- p) **“Project”** means a project within the meaning of Section 2(2g) of Act on the Support of Research and Development.
- q) **“Subject of Intellectual Property”** means immaterial assets protected by the copyright and rights related to the copyright and subjects of industrial right protection, i.e. technical solutions (patents, utility models, or topographies of semiconductor products), subjects of industrial design and design (industrial designs), product labels and services (trademarks, designations of origin, geographical designation, company) and, above all, trade secrets and know-how (both written and unwritten production, commercial and other experience),
- r) **“Beneficiary”** means the applicant in favour of which the aid is granted by the Provider’s Decision, while the record date shall be the day of delivery of such Decision, and if the Beneficiary is subject to rights and obligations, they shall be set forth jointly to the Main Beneficiary and Other Participants,
- s) **“Framework”** means the Communication from the Commission – Framework for state aid for research and development and innovation (2014/C 198/01),
- t) **“Budgetary Regulations”** mean Act No. 218/2000, on budgetary regulations and amending certain related laws (budgetary regulations), as amended,
- u) **“Researcher”** means a natural entity responsible to the Beneficiary for the professional level of the Project,
- v) **“Agreement on Participation on Project Implementation”** means the agreement concluded between the Main Beneficiary and Other Participants under Section 2(2h) of Act on the Support of Research and Development,
- w) **“Recognised Costs”** mean costs within the meaning of Section 2(2l) of Act on the Support of Research and Development,
- x) **“Public Inspection”** means an inspection at the beneficiaries of the public financial aid or on the applicants for the public financial support performed by the Provider as the inspection body within the meaning of Section 3(1a) of Act No. 320/2001 Sb. on Financial Control,
- y) **“Public Aid”** means the support within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union,

- z) **“Public Tender”** means a public tender in research, development and innovation under Chapter V of the Act on the Support of Research and Development,
- aa) **“Public Contract in Research, Development, and Innovation”** means a contract for services in applied research, development, and innovations under Section 2(2e) of Act on the Support of Research and Development,
- bb) **“Project Outcome”** means an outcome within the meaning of Section 2(2i) of Act on the Support of Research and Development,
- cc) **“Research Organisation”** means an organisation for research and knowledge dissemination within the meaning of Article II(83) of the Regulation,
- dd) **“Act on the Support of Research and Development”** means Act No. 130/2002, on the support of research, experimental development and innovation from public funds and amending certain related laws (Support of Research and Experimental Development and Innovation Act),
- ee) **“Act on Public Procurement”** means Act No. 134/2016 Sb. on Public Procurement,
- ff) **“Eligible Costs”** mean costs within the meaning of Section 2(2k) of Act on the Support of Research and Development.

Part B – Rights and Obligations of Parties, Consequences of Violation and Termination of Agreement

Article 3 Providing Aid

1. The Provider provides the Main Beneficiary support under the Agreement and the terms and conditions set forth therein, including support intended for Other Participants.
2. Following the Public Tender or Public Contract, the Provider undertakes to provide support for implementation in the amount specified in the Binding Parameters of Project Implementation in a way defined in the specific provisions of the Agreement. The payment schedule is specified in the Binding Parameters of Project Implementation.
3. The prerequisite for granting the support is the following
 - a) no regulation of drawing state budget occurs as a result of budgetary provision or reduction of state funds and
 - b) no suspension of the provision of support is determined.
4. If the drawing of the state budget is regulated, based on the nature and extent of such a measure, the Provider shall
 - a) notify the Main Beneficiary in writing that the Provider will not provide the relevant part of the aid within the deadline and, if possible, specify a new deadline in which the Main Beneficiary shall receive the given part of the aid,

- b) propose to the Main Beneficiary a change in the Binding Parameters of Project Implementation, or
 - c) terminate the Agreement.
5. The Provider reserves the right not to provide the aid within the deadline under Par. 2 if it has doubts of fulfilment of any and all obligations of the Main Beneficiary, while the verification of which requires another Evaluation Process or Public Inspection. The deadline shall be extended for the duration of the Evaluation Process or Public Inspection.
6. The Main Beneficiary's obligations are deemed fulfilled for the purposes of providing support unless, based on the ongoing Evaluation Process or Public Inspection and within the deadline of providing support, the Provider
- a) notifies the Main Beneficiary in writing of the commencement of another Evaluation Process or Public Inspection,
 - b) invites the Main Beneficiary in writing to fulfil additionally all of its obligations,
 - c) sends the Main Beneficiary its termination of or withdrawal from the Agreement or
 - d) initiates a procedure on the violation of budgetary discipline with the local financial authority or submits a criminal complaint related to the alleged offence committed in connection with the Project implementation to the local and responsible law enforcement authority.
7. The Provider provides support to
- a) public university or public research institution by transfer from the Provider's bank account to the CNB bank account specified in the agreement,
 - b) other natural and legal entities by transfer from the Provider's bank account to the bank account specified in the agreement and
 - c) organisational unit of state or ministry by transfer of state budget funds using a budgetary measure.
8. The relevant part of the support is deemed as provided on the day the funds thus determined are released from the Provider's bank account or by the approval of the budgetary measure by the Czech Ministry of Finance.
9. All activities for which the support is granted must be oriented towards achieving the Project objectives, or the fulfilment of the purpose of the support, i.e. the Beneficiary created prerequisites for achieving these goals.
10. If the entire aided granted is not drawn during the Project implementation, the Main Beneficiary shall return the unused portion of the aid back to the Provider's current expense account stated in the Agreement within the deadline set below within the Main Beneficiary's obligations. The Beneficiary is obliged to transfer the unused portion of the aid back to the Provider's current expense account no later than within 14 calendar days after the Beneficiary learns it will not use this portion for any reason or after it was asked to do so by the Provider. This returned aid shall be credited to the Provider's current expense account by 31 December of the year of the Project implementation completion.

Maximum of 5% of the aid granted for the last year of the implementation shall be returned until 15 February of the year following the Project implementation completion to the account No. 6015-3125001/0710. The Beneficiary is also obliged to present a statement of the provided support for the entire duration of the Project Implementation Period and perform a financial settlement in accordance with Budgetary Regulations.

Article 4
Main Beneficiary's Obligations

1. The Main Beneficiary is obliged to
 - a) draw on and use the aid in accordance with the Rules for Providing Aid and Binding Parameters of Project Implementation, in particular, to use the aid for Recognised Costs in accordance with Part E and follow Section 8(4) of Act on the Support of Research and Development pursuant to Act on Public Procurement,
 - b) pay for the part of the aid used by other participant in violation with the Rules for Providing Aid and Binding Parameters of Project Implementation consisting mainly of not using the aid by the Other Participant for Recognised Costs in accordance with Part E and non-compliance with Section 8(5) of Act on the Support of Research and Development pursuant to Act on Public Procurement,
 - c) achieve all project objectives declared in the Binding Parameters of Project Implementation within the project implementation,
 - d) perform transfer from its bank account to the bank accounts of Other Participants of the relevant part of the aid according to the Binding Parameters of Project Implementation within deadlines set forth in the Agreement on Participation on Project Implementation,
 - e) reimburse the Provider on its regular expense account for the part of the aid not used according to Article 3(11),
 - f) keep separate accounts of Recognised Costs and provided Project support financed from funds targeted for the project implementation for each individual project and separate records of Project incomes and costs in case of tax records,
 - g) pay contractual penalty set forth in accordance with Article 5(3),
 - h) conclude in writing the Agreement on Participation on Project Implementation with all its mandatory requirements according to Article 6 if there are several Beneficiaries involved in the Project implementation,
 - i) with the exception of Public Contract in Research, Development, and Innovation, together with the final report, submit the Agreement on Utilisation of Outcomes concluded with the user of the outcomes or proper statement (sworn statement on the utilisation of outcomes), especially if the Beneficiary is the only user of the Project Outcomes,
 - j) provide the outcomes in accordance with rules set forth in Article 15,
 - k) without undue delay upon the Provider's request, present the Provider with the outcome of the Public Contract in Research, Development, and Innovation amended by the protocol.

2. The Main Beneficiary is further obliged to

- a) commence the Project implementation within the deadline set in the Binding Parameters of Project Implementation, but no later than in 60 calendar days of the date the Agreement becomes effective,
 - b) achieve results throughout its Project implementation activities within the deadline specified in Binding Parameters of Project Implementation,
 - c) inform the Provider in writing of any change concerning its own person or Other Participant, of any change of facts specified in Binding Parameters of Project Implementation and of any other change and situations which could affect the project implementation and objectives, which could affect the Project implementation and objectives or of change of details published in the RDI IS and to report that the Beneficiary in its own person or Other Participants ceased to fulfil the qualification obligations effective since the day the Agreement came into effect and in accordance with **SME-07 Project Change Management Directive** while such notification can be made directly in the form of a request for change under the Directive,
 - d) follow the document “**Rules for Publicity of Project Supported by TA CR Funds**”,
 - e) submit complete reports and other relevant information in accordance with the Agreement and relevant Evaluation Processes related to the Project implementation and the Implementation Plan,
 - f) provide clear information and ensure that all information contained in the reports or other submitted documents are not in contradiction with the current state, in particular, the financial statements included in the final report correspond with the actual amount of the returned part of the unused aid,
 - g) provide all necessary cooperation with the evaluation and review processes other than the cooperation defined in letter e), provide, upon the Provider’s request, any information related to the Project implementation process, its outcomes, and the necessary information on the Implementation Plan progress as well as provide the Provider with all necessary information for the purposes of their disclosure in RDI IS, all within the deadline defined by the individual Evaluation Processes, legal regulation or the Provider’s requests,
 - h) upon the Provider’s request, prove its fulfilment of obligations set forth in the Rules for Providing Aid within the deadline set by such request,
 - i) provide all necessary cooperation under **SME-07 Project Change Management Directive**, in particular, to provide the necessary information and documents within the deadlines so the process under the Directive may be properly completed, including the conclusion of an amendment to the Agreement/Decision on the Provision of Support, if so stipulated by the Directive and
 - j) calculate and pay the Provider all Project revenues under Article 9 and not to prevent obtaining them.
3. The Main Beneficiary is also obliged to ensure that the Other Participant also complies with the obligations above, or provides all necessary cooperation in order for the Main Beneficiary to comply with the obligations.
 4. The Main Beneficiary is obliged to deliver all documents to the Provider in writing within the set deadline and if it does not use the electronic submission option (signature container

information system or e-mail with certified electronic signature to posta@tacr.cz), to deliver such documents by the end of the TA CR Mailroom office hours on the last day of the deadline at the latest. The office hours of the TA CR Mailroom are listed on the Provider's website.

5. The Beneficiary is obliged to take measures to remedy the imperfections identified during the Public Inspection without undue delay, but no later than within the deadline set by the inspection body, and to inform the Provider of the measures taken, while the Provider reserves the right to inspect the Beneficiary's fulfilment of the imposed remedies.

Article 5

Consequences of Violation of Conditions for Providing Aid

1. If the Main Beneficiary violates its obligations, the Provider is entitled to suspend the provision of support and not to grant the relevant part of the support within the specified deadline.
2. Violation of the Main Beneficiary's obligations set forth in Article 4(1) is deemed as a violation of budgetary discipline and shall result in the initiation of proceedings on the violation of budgetary discipline while the following applies
 - a) under a), 100% of the support used without authorisation is paid,
 - b) under b), 100% of the aid not returned is paid,
 - c) under c), if such violation results in non-fulfilment of the Project objective, 100% of the aid granted to achieve such not fulfilled objective is paid,
 - d) under d), 5% of the relevant part of the support not transferred to the Other Participant is paid,
 - e) under e), 100% of the relevant part of the support not returned and its part returned in the next calendar year upon the Project implementation completion, exceeding the permitted percentage limits under Article 3(12), is paid,
 - f) under f), 100% of the entire aid granted so far is paid,
 - g) under g), 100% of the amount matching the contractual penalty is paid,
 - h) under h), 100% of the aid granted so far is paid,
 - i) under i), 5% of the aid granted so far is paid,
 - j) under (j), 100% of the total aid is paid,
 - k) under k), 100% of the total aid is paid.
3. The Main Beneficiary's violation of obligations defined in Article 4(2) shall result in
 - a) under a), a contractual penalty of CZK 5,000 for each commenced month of delay, but no more than CZK 50,000,
 - b) under b), a contractual penalty of CZK 5000 for each commenced month of delay,
 - c) under c), the obligation to settle the contractual penalty of CZK 5,000 for each such violation,
 - d) under d), the obligation to settle the contractual penalty of CZK 5,000 for each such violation.,

- e) under a), a contractual penalty of CZK 1,000 for each commenced month of delay, but no more than CZK 50,000,
 - f) under f), the obligation to settle the contractual penalty of CZK 5,000 for each such violation.,
 - g) under g), the obligation to settle the contractual penalty of CZK 10,000 for each such violation,
 - h) under h), the obligation to settle the contractual penalty of CZK 10,000 for each such violation,
 - i) under i), the obligation to settle the contractual penalty of CZK 5,000 for each such violation.
 - j) under j), the obligation to settle the contractual penalty of CZK 5,000 for each such violation.
4. A violation of any of the obligations by Other Participant results in the exercise of relevant provisions of this Article against the Main Beneficiary, including the provision on violating the budgetary discipline.
 5. Withdrawal from the Agreement shall not affect the exercise of other relevant provisions of this Article.
 6. The Main Beneficiary acknowledges that if it consistently violates its obligations, including those imposed on the Beneficiary after the Project implementation completion, in particular, submission of reports on implementation, or the Provider considers a violation as serious, the Provider is entitled to exclude the Project proposals submitted by the Main Beneficiary (regardless of the fact if it submits them to the Public Tender as the applicant or Other Participant) to the Public Tenders or the proposals submitted to the Public Contracts in Research, Development, and Innovation for up to 3 years of the date of proof of the Main Beneficiary's violation or of its own written acknowledgment of such violation. If this violation of obligation is committed by the Other Participant, the exclusion of the Projects shall be applied against this entity in the future and Par. 4 does not apply.
 7. This Article is without prejudice to the Provider's claim for damages arising out of violating any of the obligations. The specified contractual penalties do not include the compensation for damages and are applied in addition to the sanctions under the legislation or under the Rules for Providing Aid.
 8. The individual contractual penalties specified in this Article shall be added up, but to the maximum amount of the maximum amount of aid for the Project for the entire duration of the Implementation Period set forth in the Agreement.
 9. If the Main Beneficiary expects not to be able to meet any of the obligations above, it is entitled within the deadline of its fulfilment to request a change in accordance with **SME-07 Project Change Management Directive** for those changes permitted by the Directive, or to provide the Provider with a written statement on the default on its fulfilment due to force majeure or suspected violation of the Provider's obligations. The Provider reserves

the right to insist on the compliance with this obligation within the set deadline or to stipulate a deadline for its fulfilment based on the evaluation of the request or statement pursuant to the previous sentence. Should its decision be positive, the Provider may require the Beneficiary to return the relevant part of the support under the Directive (e.g. based on the request for reduction of the expected outcomes).

10. The request or statement under the preceding Paragraph submitted later sets the deadline for the calculation of the contractual penalties by days, weeks, or months, or the set deadline for remedy.
11. The Parties shall act in the interest of preserving the Project implementation and in order to prevent the premature termination of or withdrawal from the Agreement, if possible with respect to the Project's nature and if its implementation is purposeful; in particular, they shall seek to terminate the involvement of the Other Participant in the Project implementation which violates or is likely to violate its obligations, or ceases to fulfil the qualification obligation under Section 18(2) of Act on the Support of Research and Development. The Provider also reserves the right to negotiate with Other Participant on the continuation of the Project implementation, if the Main Beneficiary violates or is likely to violate its obligations, or ceases to fulfil the qualification obligation under Section 18(2) of Act on the Support of Research and Development. This Paragraph is without prejudice to the Main Beneficiary's obligation to bear the consequences of violating the obligations under this Article.
12. If the Main Beneficiary violates any of the obligations above, the Provider shall promptly request the Main Beneficiary to remedy such situation, if possible with respect to the nature of the violation, and stipulates a reasonable time limit to do so. The Provider may also notify the Beneficiary in writing of the commencement of the Evaluation Process or Public Inspection to prove the current state of the matter; in the case of a suspected violation of the budgetary discipline, the Provider will usually carry out a Public Inspection. In the latter case, the request to remedy is replaced by the appropriate remedy. This Paragraph is without prejudice to the obligations to pay the charges for violating the budgetary discipline, contractual penalties and damages.

Article 6

Agreement on Participation on Project Implementation

1. The Agreement on Participation on Project Implementation functions as a tool of the Main Beneficiary to ensure compliance with the above-mentioned obligations by Other Participants as well.
2. The Agreement on Participation on Project Implementation must be in writing and contain, in particular
 - a) the allocation of rights to the Outcomes based on the Binding Parameters of Project Implementation (access to the Project Outcomes and the capacities and allocation of

- rights to the Project Outcomes) while following the ban on indirect Public Aid under the Framework, i.e. the determination of the co-ownership considers the ratio of costs of the individual Beneficiaries in order to prevent the banned indirect Public Aid,
- b) definition, management and supervision of rights introduced and acquired or created during the project implementation which are necessary for the Project implementation,
 - c) obligation to comply with the obligations under Article 4 by Other Participants as well, or to provide all necessary cooperation to comply with the Main Beneficiary's obligations, including the Main Beneficiary's responsibility for violating of the budgetary discipline by Other Participant,
 - d) the Main Beneficiary's obligation to transfer the relevant part of the support from its own bank account to the bank accounts of Other Participants, including the designation of the transfer deadline and
 - e) the Parties' confidentiality obligation on all data related to the Project implementation, including its proposal, in order not to jeopardise the outcomes and objectives of its implementation,
 - f) commitment to cooperate on the Implementation Plan for implementation outcomes.
3. The Agreement on Participation on Project Implementation may be subject to evaluation within an Evaluation Process or inspection under the Public Inspection. In the appropriate remedial measure, the Provider shall define that the Main Beneficiary is to ensure the Agreement on Participation on Project Implementation, if it is in contradiction to the Rules for Providing Aid or the approved project proposal.

Article 7 ***Termination***

1. The Provider is entitled to terminate the Agreement if
- a) the Main Beneficiary or the Other Participant ceases to be eligible under Section 18(2) of Act on the Support of Research and Development, with the exception of effective conviction for an offence affecting the eligibility to fulfil the obligations for the aid,
 - b) if further continuation in Project implementation becomes ineffective, particularly due to the existence of a parallel implementation of the same or similar project by another beneficiary with better outcomes even under different programme or for different provider, or if the Project Outcomes become outdated due to the existence of another, more applicable, methods and procedures, and if the Main Beneficiary has not been aware of or could not know of such facts,
 - c) it is clear the project implementation procedure does not produce the expected outcomes due to events not caused by the Main Beneficiary,
 - d) regulation of drawing state budget occurs as a result of budgetary provision or reduction of state funds or
 - e) the Main Beneficiary's performance under the Agreement becomes otherwise impossible and the performance obligation thus ceases to exist and such inability is not caused by the violation of its obligations, while the performance is not considered

impossible if it may be done under difficult conditions or after the performance deadline.

2. The Parties are obliged to mutually settle each other's rights and obligations, in particular, to perform all necessary activities related to the early completion of the Project implementation (e.g. if efficient, to submit final reports, perform the final evaluation, perform sustainability monitoring etc.).
3. The termination becomes effective on the date of delivery of the written and justified notice of termination to the Main Beneficiary.

Article 8 **Withdrawal**

1. The Provider may withdraw from the Agreement if
 - a) the Main Beneficiary or Other Participant acts (including when it fails to act under an obligation to act) in violation to the Rules for Public Aid or commits an action resulting in a violation of the Rules for Public Aid by the Provider,
 - b) the Main Beneficiary provides incomplete, inaccurate or false details or other facts in the Public Tender/Contract in Research, Development, and innovation while concluding the agreement or under its obligation to provide information during the Project implementation or after its completion with the intention of obtaining support or another advantage,
 - c) the Main Beneficiary violated any of its obligations under Article 4, while the Provider, which requested the Main Beneficiary to take remedial measure, shall withdraw from the Agreement only after the expiry of the set deadline for remedies,
 - d) the Main Beneficiary repeatedly (3 times) violates any of its obligations without set deadlines for their fulfilment but their fulfilment is conditioned by other facts,
 - e) the Main Beneficiary or Other Participant is effectively convicted of an offence affecting the eligibility to fulfil the obligations for the aid,
 - f) further continuation in Project implementation becomes ineffective, particularly due to the existence of a parallel implementation of the same or similar project by another beneficiary with better outcomes even under different programme or for different provider, or if the Project Outcomes become outdated due to the existence of another, more applicable, methods and procedures, and if the Beneficiary has been aware of or should know of such facts (when in doubt, a similar provision on termination applies),
 - g) it is clear the Project implementation procedure does not produce the expected outcomes due to events caused by the Main Beneficiary (when in doubt, a similar provision on termination applies) or
 - h) based on control procedures, the Beneficiary is found to commit severe financial imbalance or fraud.
2. The Provider is not entitled to withdraw from the Agreement if the violation of the Main Beneficiary's obligations is caused solely by the Provider's failure to fulfil its obligations.

3. The withdrawal becomes effective on the date of delivery of written and justified notice of withdrawal to the Main Beneficiary.
4. By withdrawing from the Agreement, the effects set forth in Sections 2004 and 2005 of Act No. 89/2012 Sb., Civil Code, become effective.

Article 9 **Revenues from Projects**

1. The Project revenues mean any revenues of the Beneficiary incurred in connection with the Project implementation, with the exception of the Public Contract in Research, Development, and Innovation, which it would not incur under different circumstances and which are primarily unexpected during the project implementation or upon its completion. Therefore, the Project revenues do not include the income from declared outcomes. This is considered an advantage which the Beneficiary should dispose of in such a way as to pay the relevant amount corresponding to such Project revenue to the Provider.
2. In particular, the Project revenues include
 - a) interest on the relevant part of the funds provided under the aid for the time it is deposited on the Beneficiary's account,
 - b) any commercial use or other monetisation of property acquired from the aid funds which can no longer be used to implement the Project and
 - c) sanctions issued to suppliers, including those not enforced, when procuring goods and services for the purposes of the Project implementation or other indemnification (e.g. discounts for late delivery).
3. The Beneficiary is obliged to act as a proper business entity when generating revenues, i.e. not preventing their acquisition unless it would do so even if the revenues were unrelated to the Project. Otherwise, it shall be considered a violation of the Rules for Public Aid. If the relevant Beneficiary's bank does not provide interest, the Beneficiary shall prove this as a regular part of the product offered to other clients as well and it is not an *ad hoc* agreement between the Beneficiary and the bank.
4. The Beneficiary shall include the overview of the project revenues, or reasons of their non-existence, for the period of the Project implementation to the final report and pay them out to the Provider no later than by 15 February of the year following the Project completion to the account No. 19-3125001/0710. The calculated amount does not need to strictly correspond to reality if the Beneficiary's efforts to do so is disproportionately time-consuming and administratively costly in relation to the result obtained. However, in the cases defined in the previous sentence, the Beneficiary shall at least choose such a simple calculation method which approximates reality while considering the main purpose of this provision is the Beneficiary's obligation to dispose of such an advantage, as described in Par. 1.

5. The period for transferring these Project revenues is the duration of the Project implementation and a period of three years after its completion.
6. If revenues generated from the property acquired under the aid in the part where they should be used for the Project implementation, such revenues are considered unauthorised as a result of the Beneficiary's violation of the budgetary discipline.
7. The pay-out obligation does not apply to revenues not exceeding CZK 200 in one Project by one Beneficiary in the relevant calendar year.

Part C – Disclosing Information, Confidentiality, Submission of Reports

Article 10

Disclosing Information and Confidentiality

1. The Provider shall ensure disclosing of the relevant information to the RDI IS in accordance with Chapter VII of Act on the Support of Research and Development and Government Regulation No. 397/2009 Sb. on the information system for research, experimental development and innovation. For this purpose, the Provider requests such information from the Beneficiary, unless it already received them based on other facts.
2. All information related to the Project implementation and the Project Outcomes are considered confidential except for information entered into RDI IS or information which the Provider is obliged to provide to a government body, judicial body or law enforcement authority. The Provider also reserves the right to disclose relevant information to other providers or other governmental bodies for the effective performance of activities related to the provision of aid in research, development, and innovation.
3. The Parties shall keep all relevant information confidential and, if the information is disclosed under the Agreement to third parties, the Parties shall ensure that these third parties keep confidentiality of the information disclosed to them as confidential and use them only for purposes for which they were disclosed to them.
4. The preceding paragraph does not apply to informing the public that the project, or its outcomes and outputs, is or was co-financed using the Provider's funds and the Beneficiary also follows the document "**Rules for Publicity of Project Supported by TA CR Funds**".
5. The Provider has the right of free, exclusive and irrevocable disclosure, dissemination and distribution of science, technical, and other articles from magazines and conferences as well as information from other documents related to the Project published by the Beneficiary or with its consent.

6. If the subject of the Project implementation is subject to legal or recognised confidentiality obligation, the Parties disclose the information on the performed research, development, and innovation and its results with the exception of the information defined in the applicable law.
7. The Parties are exempted from the confidentiality obligation,
 - a) if the information content provided to them as confidential has been made publicly available based on other activities performed outside the scope of the Agreement or under other provision not related to the Project implementation, or
 - b) the confidentiality obligation is revoked by the entity in favour of which the obligation was established.

Article 11 ***Submission of Reports***

1. During the Project implementation, the Main Beneficiary submits the following reports:
 - a) annual interim report on the Project implementation,
 - b) special report upon the Provider's written request, in particular, in the case if the Beneficiary is suspected of violating its aforementioned obligations,
 - c) final report on the Project implementation together with the Implementation Plan,
 - d) report on the implementation of outcomes.
2. The final report replaces the interim report for the final year or final stage of the Project implementation.
3. If a stage of public contract in research, development, and innovation is supposed to finish within less than 3 months after the Project implementation commencement or 3 months prior to the Project implementation commencement, the obligation to submit the report is only fulfilled by the submission of the following interim or final report. If the Implementation Period of the Public Contract in Research, Development, and Innovation is less than 13 months (inclusive), the Main Beneficiary shall only submit the final report. This paragraph is without prejudice to the obligation to submit the final part of the report within the deadline defined in Par. 1.
4. A report is deemed as submitted, if it is delivered at the Provider's address and includes all compulsory requisites and all other compulsory documents are attached to it, the interim (if any) and the final report shall especially include the Implementation Plan.
5. The method, form and other conditions of the preparation and submission of the report and other documentation by the Beneficiary are set forth in the relevant Evaluation Process, in particular, in the SME-12 Submission and Processing of Reports Directive.

Part D – Property Ownership, Rights to and Utilisation of Outcomes

Article 12

Property Ownership

1. The owners of assets necessary for the Project implementation are under Section 15 of Act on the Support of Research and Development the Beneficiary and Other Participants which acquired set assets or created it during the Project implementation.
2. If the Beneficiary is an organisational unit of state or ministry, the owner of such assets is the Czech Republic.
3. If the Beneficiary is an organisation unit of the regional self-governing unit, the owner of the assets is the given regional self-governing unit.

Article 13

Implementation Plan of Project Outcomes and Agreement on Utilisation of Outcomes

1. The draft of the Implementation Plan on the Project Outcomes, except the performance under the Public Contract in Research, Development, and Innovation, is submitted by the Beneficiary together with the final report as its annex, or together with the interim report as its annex, if the outcome is achieved during the project implementation. The draft of the Implementation Plan on the Project Outcomes shall particularly include all rights to the Project Outcomes and proposal for the scheduled utilisation of the Project Outcomes and it shall also summarise all facts from the preceding reports, including those the Beneficiary does not intend to pursue further nor commercially nor for research purposes and other compulsory requisites stated in the Implementation Plan form included in the **SME-12 Submission and Processing of Reports Directive**. The draft of the Implementation Plan of the Project Outcomes shall be created in accordance with the terms and conditions of the Agreement and the Binding Parameters of Project Implementation.
2. The Provider reserves the right to monitor the fulfilment of the Implementation Plan of the outcomes for the entire duration of its validity, for minimum of 3 years after achieving the outcome, if the outcomes are achieved during the Project implementation, however, for maximum of 3 years following the project implementation, in particular, on the basis of the Beneficiary's submissions of reports on implementation pursuant to the relevant Evaluation Process.
3. The Agreement on Utilisation of Outcomes may be concluded either between the participant, if there is no other user, or, if another user exists, such is also party to such agreement, or, if the rights to the outcomes are already governed otherwise, the agreement may be concluded only between the outcome owner and its user. If there is one owner of

the outcome utilising it itself, the Agreement on Utilisation of Outcomes is replaced by the affidavit of the utilisation of the outcomes.

4. The Agreement on Utilisation of Outcomes includes in particular
 - a) Project title and identification details,
 - b) definition of outcomes and their comparison to the Project objectives,
 - c) definition of ownership rights or rights of use to the outcomes under Section 16 of Act on the Support of Research and Development,
 - d) method of use of the outcomes and period in which the outcomes will be used, no longer than 5 years following the Project implementation completion,
 - e) the extent of the degree of information confidentiality and manner of handling such information under specific legislation,
 - f) sanctions for violating the Agreement and
 - g) date of the Agreement becoming and ceasing to be effective.
5. The Agreement on Utilisation of Outcomes shall be concluded in accordance with the conditions under the Agreement.
6. The Provider reserves the right to review the wording of the Agreement on Utilisation of Outcomes and its completeness.

Article 14

Rights to Project Outcomes and Their Protection

1. All rights to Project Outcomes which are not a Public Contract in Research, Development, and Innovation belong to the Main Beneficiary and Other Participants. Each of these entities owns a relevant part of the outcome under the Agreement on Participation on Project Implementation, provided that such division follows the ban on indirect Public Aid under the Framework (cf. e.g. Chapter 2.2 of Framework).
2. If the outcome of the Public Contract in Research, Development, and Innovation cannot be protected under the laws governing the protection of copyright, inventive or similar creative activity, the owner of the outcomes is the Provider and their publication and utilisation are possible only with the Provider's prior written consent.
3. If the outcome of the Public Contract in Research, Development, and Innovation can be protected under the laws governing the protection of copyright, inventive or similar creative activity and unless the Provider stipulates otherwise, the Main Beneficiary shall exercise the right to the outcomes, ensure their legal protection and after ensuring it transfer the ownership right to the Provider. The Main Beneficiary is entitled to reimbursement of demonstrable associated costs unless they are part of the Recognised Costs of the Project. Publication of outcomes prior to the submission of an application for industrial legal protection shall require the Provider's written consent.

4. The Main Beneficiary guarantees the legal integrity of the project, i.e. guarantees the Project Outcomes do not interfere with rights to Subjects of Intellectual Property and other third parties' rights for any utilisation of the project outcomes in the Czech Republic and abroad. The guarantees also apply to Other Participants.
5. The Main Beneficiary may disclose the information on Project Outcomes to which it has property rights, unless their disclosure affects their protection if the Beneficiary follows the **Rules for Publicity of Project Supported by TA CR Funds** and informs the Other Participant of its intention well in advance.

Article 15

Utilisation and Provision of Outcomes

1. The details of the utilisation of the Project Outcomes shall be outlined in the Implementation Plan of the project outcome and the Agreement on Utilisation of Outcomes.
2. While providing the Project Outcomes, the Beneficiary shall follow the provisions of Section 16 of Act on the Support of Research and Development.
3. Unless the outcome is not utilised according to Par. 2 or 3 in the manner and within the time specified in the Agreement on Utilisation of Outcomes, the Main Beneficiary is obliged to provide the achieved outcomes to be utilised by all interested parties on non-discriminatory terms.
4. The Beneficiary is entitled to provide the outcomes which are nor the results of the Public Contract in Research, Development, and Innovation only for a payment at least equivalent to its market price. If such cannot be objectively determined, the Beneficiary acts as a proper business entity in order to obtain the highest possible payment usually determined by the sum of the costs for achieving the outcome and a reasonable profit. While providing outcomes of an entity which was involved in the support from non-public sources, the amount of the payment for the provision of the outcomes shall be reduced by the amount of the non-public support provided by such entity.

Part E – Costs, Evaluation and Inspections

Article 16

Recognised Project Costs

1. All funds provided by the Provider as the support for the Project implementation in research and development have the nature of targeted funds.

2. Recognised Costs shall be
 - a) incurred in accordance with the Programme's objectives and be directly related to the Project implementation,
 - b) Eligible Costs,
 - c) verifiably paid by the Beneficiary,
 - d) accompanied by documentation of evidence,
 - e) reasonable (corresponding to the prices usual to the place and time) and
 - f) spent in accordance with the principles of economic efficiency (cost/expense minimisation while following the Project objectives), usefulness (direct link to the Project and integral for the Project implementation) and effectiveness (maximising the ratio of Project outputs and inputs),

while fulfilment of all these conditions is reflected in the evaluation and review processes, or upon the Provider's request.

3. The provided performance between the Main Beneficiary and Other Participants or among Other Participants is not considered a Recognised Cost. The costs with taxable event between the day on which a merger, division or transfer of assets to the shareholder and the day of the approval of such change in accordance with **SME-07 Project Change Management Directive** are not considered as Recognised Costs, unless the Beneficiary requested in due time a consent on the transfer of rights and obligations for such change pursuant to Section 14a of Act No. 218/2000 Sb., on Budgetary Regulations and amending certain related laws (Budgetary Regulations) and the approval is delayed solely for reasons on the part of the Provider.
4. If the Agreement becomes effective on a date later than the specified date of commencement of the Project implementation in the Binding Parameters of Project Implementation, the costs of the Project implementation incurred between such dates shall be considered as costs incurred after the Agreement becomes effective.
5. Each cost is considered as if funded from the provided support and non-public resources with the ratio based on the intensity of the provided support to the relevant Participant for the entire duration of the Project Implementation Period.
6. If the Binding Parameters of Project Implementation impose an obligation to fulfil two or more of the Outcomes within the Project implementation, for the purposes of the Agreement, the amount of the provided support required to achieve each individual Outcome as calculated according to the formula, where the value of Outcome equals the value of the points² of such outcomes multiplied by the quotient of the total support amount to the total amount of points of all declared Outcomes. If the Beneficiary in the Project proposal, or the reports submitted to the Provider, distributes the costs to individual Outcomes, the Provider shall determine the value of the Outcomes based on such data.

² Outcomes P, N, Z, F, G, H, R, V - 100 points, O - 20 points (only in case of application P or application F – 100 points)

7. The Beneficiary is obliged to keep separate accounts on all costs in accordance with Act 563/1991 Sb., on Accounting, as amended, and separate records of Project incomes and costs in case of tax records.
8. If the Beneficiary is a VAT taxpayer and is entitled to deduct tax according to Act 235/2004 Sb., on Value-Added Tax, such VAT may not be considered as a Recognised Cost.
9. All costs must be demonstrably related to the subject of the Project and make a demonstrable contribution to the fulfilment of the Project objective and its Outcomes, they must be further assigned to a specific activity within the Project and to specific R&D categories, i.e. to applied research or experimental development and they shall be provided to the Provider upon its request.
10. If the amount of the Recognised Costs is reduced, the maximum amount of the aid shall be reduced proportionately, maintaining the specified intensity of the aid.
11. If the Beneficiary acquires tangible or intangible assets or services for the purposes of the Project implementation and simultaneously the exception pursuant to Section 8(5) of Act on the Support of Research and Development cannot be applied, the Beneficiary is obliged to act according to the relevant provisions of Act on Public Procurement, regardless of the intensity or amount of the provided aid.

Article 17

Individual Categories of Eligible Costs and Conditions for Their Recognition

1. All individual types of costs not listed in this Article are considered ineligible and therefore, cannot be recognised.
2. Eligible Costs apply in the following items:
 - a) personnel costs,
 - b) investments,
 - c) subcontract costs,
 - d) other direct costs and
 - e) indirect costs.
3. **Personnel costs** include the wage and salary costs, mandatory payments for comprehensive health insurance and social security, state employment policy contributions and other statutory obligations of the employers or obligations arising under the applicable internal regulations (e.g. cultural and social needs fund, social fund, statutory employer's liability insurance, etc.). Remuneration can only be paid to the employees that are employed pursuant to the Act No. 262/2006 Sb., of the Labour Code, and participate in the implementation of the project in question (i.e. demonstrably work on the project at least in a part-time manner). These costs are eligible **only up to a maximum amount of**

two-month salaries for the work on the Project according to the valid wage/salary assessment or wage agreement for one calendar year. Wages, salaries, work performance agreement or contract for work remunerations must be in accordance with the approved wage, salary or other regulations of the beneficiary. The compensations for annual leave and sickness are eligible costs (for the employees with fixed full-time employment participating in the project). Self-employed as the separate beneficiaries are entitled to the remuneration for the work on the project proposal if the work corresponds to the hourly pay rate of the employees with similar qualification and experience (customary at the place and time).

4. **Investments** include the expenditures on the acquisition of tangible and intangible fixed assets that can be depreciated under the Income Tax Act. As Eligible Costs of the acquisition of tangible and intangible fixed assets necessary for the Project implementation is considered only the portion of the investment purchase costs equal to the depreciation amount corresponding to the duration of the Project, to the extent of its use and time of its use for the purposes of the Project implementation calculated using the established accounting. The depreciation procedure may use accounting or tax depreciation. If the accounting depreciation is used, the period of depreciation may not be shorter than the period specified for tax depreciation and the amount of the annual depreciation may not exceed the amount of depreciation specified pursuant to Act No. 586/1992 Sb., on Income Taxes.
5. **Subcontract costs** are costs arising in direct connection with the research activity during the project, i.e. transfer of part of the research activities of the project to the contractor. The subcontracting contractor must not be a member of the research team or any other employee of the beneficiary or person connected (as defined in Section 23 (7) of the Act No. 586/1992 Sb., on income tax) to the beneficiary. The subcontracting costs are limited to 20 % of the total eligible costs of all the participants of the project for the entire duration; this does not apply in case of a public contract for research, development and innovation where these costs may be limited by the tender specifications by the Provider in accordance with the Act on public procurement.
6. **Other direct costs** include
 - a) the costs of protection of intellectual property rights declared as an outcome of the project (in particular the related fees, research and patent attorney costs) and the costs for the protection of the already incurred intellectual property rights necessary for the project implementation,
 - b) other operating costs incurred in the direct connection to the project implementation such as the materials, services and small tangible and intangible assets,
 - c) the costs of operating, repair and maintenance of tangible and intangible assets used during the project implementation in the amount corresponding to the period length and the proportion of the expected use of the assets for the project,
 - d) a part of the annual depreciation of the fixed tangible and intangible assets in the amount corresponding to the period length and the proportion of actual use of these assets for the project implementation that were not acquired with the use of public

funds and are not included in the investment category for this project, the proportion of depreciation for the project can be calculated either from the accounting depreciation or the depreciation under the Income Tax Act while the accounting depreciation must not be higher than the depreciation under the Income Tax Act.

- e) the travel expenses incurred in the direct connection to the Project implementation, if the business trip is made by an employee working on the Project (the costs for business trips, conference fees and travel allowances under the Act No. 262/2006 Sb., of the Labour Code), while the trip must have a demonstrable benefit to the Project implementation or the business trip is already declared in the approved Project proposal at a cost corresponding to the costs of adequate manner of public transport, and
- f) the scholarships specified in Section 91(2c) of Act No. 111/1998 Sb., on Higher Education Institutions and on Amendments and Supplements to some other Acts (Higher Education Act), or its respective proportion, if the student performs activities under this provision even outside of the relevant Project.

The costs substantiated only by the internal accounting documents (internal invoices) shall not be eligible project costs. The costs of material substantiated by the internal documentation (warehouse issue slip) can be only considered as eligible costs while the internal directive for inventory appraisal and invoices for the purchase of material for previous period are also submitted.

7. **Indirect costs** are costs arising in the direct connection to the Project or the part thereof determined according to one of the following methods, i.e. the administrative costs, rent, auxiliary staff and infrastructure costs and energy and services costs unless already listed in other categories. The indirect costs must be related to the project and must be reported in accordance with the selected reporting method of actual indirect costs, the “**full cost**” method when the organisation already has an existing system and internal regulations on the basis of which the individual indirect costs of the relevant Project are assigned;
- a) indirect costs reported in this way must be supported by the calculation, accounting outputs, relevant accounting documents and the amount of indirect costs is unlimited, or
 - b) the reporting method of indirect costs on the basis of fixed rate, i.e. the “**flat rate**” method in the amount of up to 20 % of the sum of the actual reported personnel costs and other direct costs of the Beneficiary in the year, except for investment costs, when indirect costs reported in such way do not need to be supported by the relevant accounting documents, however, the total amount of indirect costs of the organisation and their distribution to the centres / Projects / divisions etc. are reported.

Article 18

Transfer and Change of Recognised Costs of Project and Support

1. The Recognised Costs and the related amount of the provided support for the Project implementation for the entire duration of the Project Implementation Period may be changed during the implementation by maximum of 50% of the amount of Recognised Costs or of the amount of support from public funds specified in the Agreement as

stipulated by the Provider during the evaluation of the Public Tender in research, development, and innovation.

2. The SME-07 Project Change Management Directive determines the Parties' course of action in the event of the Beneficiary's request for change in transfer or in the Recognised Costs of the Project and the amount of support.

Article 19 **Inspections and Evaluation**

1. The Provider is entitled to perform the Public Inspection at any time in accordance with Act No. 320/2001 Sb., on Financial Control, Act No. 255/2012 Sb., on Inspection (Inspection Code), and to the minimum extent stipulated in Section 13 of Act on the Support of Research and Development. The Provider follows these regulations as well as the **SME-22 Public Financial Inspection Directive**.
2. The Provider is further entitled to perform Evaluation Processes during and after the Project implementation. To this end, the Parties follow the relevant internal regulations of the Provider.
3. The Main Beneficiary is obliged to allow the Provider and persons authorised by the Provider to perform a comprehensive inspection under this Article and allow access to its accounting records related directly or indirectly to the Project in accordance with the provisions of Section 8(1) of Act on the Support of Research and Development and provide the necessary cooperation therewith at any time during the Project proposal or within ten years after the Agreement's expiry. This provision is without prejudice to the rights of inspection and financial bodies of the Czech government.
4. Upon the Provider's request during the inspection or evaluation, the Main Beneficiary shall submit the documents above on behalf of the Other Participant from which it obtained set documents well in advance.
5. The Beneficiary acknowledges that an Expert Guarantor may evaluate the Project during the implementation of the Public Contract in Research, Development, and Innovation. The evaluation by the Expert Guarantor is not considered as an inspection or Evaluation Process; therefore, it is not subject to the relevant regulations nor does it replace them. The Beneficiary may agree with the Expert Guarantor on a place of the evaluation performance, while the Beneficiary is under no obligation to facilitate the evaluation by the Expert Guarantor. The Beneficiary also acknowledges that the Provider will require the Expert Guarantor to submit all documents associated with its evaluation, including the annual plan, of which it will notify the Beneficiary within 14 calendar days of its receipt.

Part F – Final Provisions

Article 20 ***Parties' Disputes***

1. The Parties' disputes arising under the Agreement and in connection herewith shall be arbitrated by the relevant body or court.

Article 21 ***Amendments to Agreement***

1. The Agreement, including its Annexes, may be supplemented, modified and amended only by written and consecutively numbered Amendments to the Agreement signed by the Parties, with the exception of the cases referred to in the **SME-07 Project Change Management Directive** (in Annex 2 of the Directive entitled Types of Changes to Implemented Project – method of their evaluation by the TA CR evaluation bodies) as examples of changes which do not require an Amendment to the Agreement, where the change becomes valid and effective by its submission for approval by the Main Beneficiary. Oral agreements are not binding for the Parties.
2. If any changes occur in the Project proposal which are not simultaneously Binding Parameters of Project Implementation, the Beneficiary informs the Provider of such changes in the following interim or final report and does not draw up a report or request for change regarding such changes within the meaning of Article 4(2d). The information on such change shall also include the time when it occurred and its justification.
3. The preceding paragraph also applies to cases of such outcomes which are not specified as declared in the Binding Parameters of Project Implementation but nevertheless occur during the Project implementation in order to achieve these declared outcomes.

Article 22 ***Expiration of Agreement***

1. The Agreement expires in 3 years of the date of the Project implementation completion unless the Parties agree to extend it.
2. The Agreement also expires by termination or withdrawal.
3. The term of validity of the Agreement includes the Project Implementation Period and the subsequent period necessary for the evaluation of the Project Implementation Outcomes, including the settlement of the provided support under the Budgetary Regulations, which may not be longer than 180 calendar days from the date of the Project implementation

completion. However, the term of validity of the Agreement does not include the Project Implementation Period prior to the signature of both Parties. This Paragraph is without prejudice to Article 16(4).