

Reference No.: Geschäftsfall -> Geschäftszahl

ANNEX B

GENERAL TERMS AND CONDITIONS

for grant support to actions

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1. NOTIFICATION AND CONDUCT OBLIGATIONS

1.1. Principles of economy, efficiency and expediency

1.1.1. The grant funds shall be used efficiently, cost effectively and solely for the purpose for which they are provided. The Recipient shall exercise due diligence and shall apply the required prudence and expertise.

1.2. Notification of events impairing the Action

1.2.1. The Recipient shall promptly notify ADA of all events that would require a modification of the Action or that may delay or render impossible the implementation of the Action.

1.3. Anticorruption and combatting money laundering and financing of terrorism

1.3.1. The Recipient's own interests or those of its staff members or contract partners may have an adverse impact on the objective performance of the Action in the interests of ADA. Such conflicts of interest may, for example, arise due to personal or commercial connections or links of the Recipient and/or of its owners, staff members or contract partners with target groups or other parties contracting with ADA. The Recipient shall notify ADA promptly of each and every existing or potential conflict of interest and consult with ADA with respect to further action. ADA will not reject an appropriate proposal by the Recipient that resolves the conflict of interest (e.g., by replacing persons concerned with equally qualified staff members) without jeopardizing the implementation of the Action.

1.3.2. The Recipient shall refrain, and ensure that its officers and staff members or contract partners engaged in the context of the Action refrain, from demanding gifts or other personal benefits from third parties. In connection with the performance of the Action, Recipients may only accept from third parties and/or grant to third parties low-value gratuities to the extent that this is local custom and customary in the sector. Gifts or other personal benefits with a view to an action or omission in breach of an obligation, or the exercise of undue influence on the decision-making process of a third party, shall never be granted or accepted.

1.3.3. The Recipient shall comply with the statutes, rules and regulations on combatting money laundering and the financing of terrorism and shall take all reasonable efforts to prevent any breach of these provisions when performing the Action.

1.3.4. The Recipient shall inform ADA immediately of any case or suspicion of misuse of grant funds, fraud or corruption in connection with the Action, as well as the proposed measures in this regard. The Recipient shall ensure that whistleblowers are not disadvantaged on account of any report filed in good faith.

1.3.5. The Recipient shall ensure that all contract partners engaged in the context of the Action observe the requirements listed under sections 1.3.1. - 1.3.4. The Recipient shall confirm in writing the transmission of Annex D to these contract partners.

1.4. Social and environmental standards, prevention of sexual exploitation, harassment and abuse

1.4.1. The Recipient shall ensure that, in performing the Action, its actions neither directly nor indirectly contribute to violations of human rights (due diligence obligation under human rights law). The Recipient shall comply with the social and environmental standards stipulated by local law or international agreements, in particular the core labour standards of the International Labour Organisation.

1.4.2. In addition, the Recipient shall take account of the environmental and social standards as set forth in ADA's "Environmental and Social Impact Management Manual".¹ The Recipient shall immediately notify ADA in writing of any event or factor that may result in adverse environmental or social impacts or risks in accordance with this manual. Action-specific conditions must be implemented.

1.4.3. As employer, the Recipient shall refrain from any direct or indirect discrimination against employees on account of their sex, ethnic origin, religion or belief, disability, age or sexual orientation, including regarding access to employment and its termination, professional advancement and training, working conditions including remuneration, and occupational systems of social security. Should the Recipient provide goods or services to third parties in performance of the Action, it shall refrain from any discrimination on account of sex or ethnic origin when determining access to these goods and services.

¹ <https://www.entwicklung.at/en>.

1.4.4. In the event of sexual exploitation, harassment or abuse, including sexual contact with a person under the age of 18, in the framework of the Action, the Recipient shall take immediate corrective action. The Recipient shall promptly notify ADA (egsim@ada.gv.at) of any such event or suspected event and of the corrective action it intends to take. This information must not include any information that would enable the identification of any person concerned.

1.5. Compliance with international agreements

1.5.1. The Recipient shall take into consideration international agreements on development cooperation and, if applicable, on the implementation of the Action entered into by the Republic of Austria, its government or a line ministry, and make use of all benefits granted therein.²

1.6. Change of control, disposition of assets

1.6.1. The Recipient shall notify ADA in writing at least 60 days prior to

- a) a change in its ownership or ownership structure, provided this results in a change of control;
- b) a change in the Recipient's legal form; or
- c) it disposes of, transfers, leases, rents out, or otherwise makes available to another, or merges, splits or outsources its business or organisation or any of its assets, plants or rights that are required for the Action, whether against payment or free of charge.

1.6.2. ADA may terminate this grant agreement in accordance with section 18.1.3 within 60 days after receipt of the notification pursuant to section 1.6.1. If ADA has not received the notification by the date specified in section 1.6.1, a termination is deemed valid with retroactive effect from that date.

2. ELIGIBLE AND NON-ELIGIBLE COSTS

2.1. Eligible costs

2.1.1. Eligible costs are costs that:

- a) are directly attributable to the Action;
- b) are absolutely necessary for the implementation of the Action;
- c) are incurred within the Action duration and paid at the latest by the time the final report is submitted. Costs for final evaluations or final reports by external auditors may be incurred and paid after the end of the Action duration;
- d) are allocated to a budget line included in the budget;
- e) are actually and definitively borne by the Recipient;
- f) are identifiable and verifiable and have been recorded in the Recipient's accounts and calculated in accordance with the accounting standards applicable to the Recipient;
- g) are reasonable and justified and comply with the principles of economy, efficiency and expediency;
- h) are traceable to and verifiable by supporting documents issued to the Recipient or the Action;
- i) are evidenced by cash flows;
- j) have been incurred in accordance with the grant agreement and applicable law;
- k) meet the requirements of the applicable tax, labour and social legislation.

2.2. Value added tax

2.2.1. The grant must not be used to cover value added tax if there is a legal right to reimbursement, irrespective of actual reimbursement.

2.2.2. Where there is no legal right to reimbursement, grant funds may be used to cover value added tax, provided the Recipient actually and definitively bears it and this fact is confirmed in the audit report of the external auditor.

² <https://www.bmeia.gv.at/themen/voelkerrecht/staatsvertraege/bilaterale-staatsvertraege>.

- 2.2.3. The grant is deemed to be a gross amount if a competent tax authority assesses all or part of it as taxable turnover rather than as a grant. Any additional separate payment of VAT - for whatever legal reason - is excluded.
- 2.3. Personnel costs**
- 2.3.1. Only personnel costs of persons in the following employment relationships who work wholly or partly on the Action are eligible:
- a) salaried employees;
 - b) persons in public service.
- 2.3.2. Eligible are the gross salaries corresponding to the usual remuneration policy of the Recipient for the actual work time spent on the Action and, on a pro rata basis, all other legally required personnel costs to be paid by the employer. Gross salaries do not include bonuses, premiums, benefits in kind and other voluntary social benefits.
- 2.3.3. Personnel costs must:
- a) be provided for in the budget;
 - b) be documented by signed employment contracts that comply with applicable national law;
 - c) be documented by time sheets that include an informative description and are signed by a duly authorised representative of the Recipient. Time sheets must be kept on a daily basis, recording time in hourly increments. If the budget provides for daily rates, a full eight hours is counted as one day.
 - d) correspond to market rates for employees of comparable qualification and experience;
 - e) not exceed the amount that the Recipient usually pays for the respective position;
 - f) be verifiable and consistent with the payroll and existing employment contracts;
 - g) have been actually incurred and paid.
- 2.4. Personnel travel costs**
- 2.4.1. Travel expenses are costs of transport (travel/flight costs), meals (daily rates) and accommodation (hotel bills or accommodation allowances).
- 2.4.2. Travel expenses are eligible if
- a) they are provided for in the budget; and either
 - b) can be claimed by the Recipient as business expenses in accordance with the tax regulations of the country in which the Recipient is domiciled; or
 - c) do not exceed the rates specified in the regulation of the Federal Government enacted pursuant to Section 25c of the Austrian Regulation on Travel Expenses (*Reisegebührevorschrift*), Federal Law Gazette No. 133/1955, as amended.
- 2.4.3. All applicable fare reductions, rebates, discounts, etc. must be claimed and deducted from the Action costs.
- 2.4.4. For the settlement of travel expenses, travel expense claims must be enclosed, stating at least the destination, participants and purpose of the trip.
- 2.4.5. Corresponding original receipts must be enclosed with the travel expense claims, unless meals and accommodation are based on daily and overnight rates. In the case of air travel, the corresponding boarding passes must also be enclosed.
- 2.4.6. For air travel, the most economical route in economy class is eligible.
- 2.4.7. In general, public transportation must be used.
- 2.4.8. Travel in a taxi or other rental car services are only eligible, if:
- a) public transportation is unavailable or unacceptable, and this fact is justified through a legible note attached to the receipt; or
 - b) taxi is the more economical means of transportation compared to public transportation.
- 2.4.9. Travel by private transport is eligible if it is necessary and expressly provided for in the budget. Mileage allowance can be charged up to the official mileage allowance applicable in the respective country.

2.5. External services

2.5.1. Costs for services provided by external contractors are eligible if they are necessary for the Action and provided for in the budget.

2.6. Indirect costs

2.6.1. Eligible indirect costs are overheads incurred by the Recipient in direct connection with the implementation of the Action. These are compensated by applying a percentage mark-up to the direct eligible costs. Costs charged as direct costs must not at the same time be charged as indirect costs.

2.6.2. Indirect costs may not exceed the percentage set out in the Special Conditions.

2.7. Non-eligible costs

2.7.1. The following costs are non-eligible:

- a) contributions in kind;
- b) value added tax, unless it is verifiably, actually and definitively borne by the Recipient;
- c) reserves and provisions;
- d) debts, credits, loans and ancillary fees and debit interest;
- e) imputed (notional) costs, unless they have been expressly agreed in the Special Conditions;
- f) costs financed by third parties;
- g) bonuses, premiums, benefits in kind and other voluntary social benefits;
- h) salary supplements or severance payments, provided there is no legal entitlement to these;
- i) fines and penalties imposed by courts or administrative authorities and the costs of the associated legal defence;
- j) gifts and tips;
- k) spirit drinks;
- l) financing costs, such as debit interest, late payment fees, unrealised discounts;
- m) exchange rate losses;
- n) payments for damages.

3. FINANCIAL MANAGEMENT OF THE ACTION

3.1. Bookkeeping obligation

3.1.1. The Recipient shall keep all records and bookkeeping related to the Action in accordance with the generally accepted principles of bookkeeping.

3.1.2. In its bookkeeping, the Recipient must comply with applicable accounting principles and regulations as well as relevant provisions.

3.1.3. Income and expenditure for the Action must be recorded in the Recipient's accounting system and be reconcilable with the corresponding accounting documents.

3.1.4. It must be evident from the bookkeeping that expenditure is covered by income and that there is no double financing.

3.2. Separate accounting

3.2.1. Each individual income and expenditure made from the funds of the Action must be clearly identifiable and verifiable in the Recipient's accounts and must be assignable to an individual budget line.

3.2.2. The Action must be accounted for separately from the Recipient's other accounts, e.g. as an individual cost centre or a separate accounting system in which all Action-related income and expenses are recorded.

3.2.3. All supporting documents must be clearly related to the Action and the Action duration.

3.3. Bank account and payments

- 3.3.1. ADA makes payments to the bank account specified in Annex C ("Action Account"), which enables identification of the grant funds.
- 3.3.2. The Action Account may be used exclusively for payments relevant to the Action and at the time of actual need.
- 3.3.3. Interest income must be shown as income in the financial report and credited to the grant in proportion to the financing share.
- 3.3.4. Payments must be made non-cash when feasible.

3.4. Currency conversion

- 3.4.1. Costs incurred in a currency other than the reporting currency must be converted using a transparent, traceable and verifiable method.
- 3.4.2. All currency conversions must be documented. ADA accepts bank statements or currency exchange confirmations from banks and authorised foreign exchange offices as documentation.
- 3.4.3. If the exchange rates do not meet the above criteria, ADA may request a conversion at the monthly booking rate of the European Commission applicable in the month in which the costs were incurred. The applicable exchange rate can be found on the homepage of the European Commission.³
- 3.4.4. Exchange rate gains must be refunded on a pro rata basis.

3.5. Prohibition of profit

- 3.5.1. No profit may be realised from the grant. Profit is defined as a surplus of income over the eligible costs of the Action at the time of submission of the final report.

4. AWARD OF CONTRACTS

4.1. General provisions

- 4.1.1. The award of contracts is the procurement of services of any kind (divided into services, supplies and works) on the market.
- 4.1.2. In all procedures, the Recipient must comply with the basic procurement principles of equal treatment of all bidders, non-discrimination, transparency, free, fair and equitable competition, reasonableness of prices, economy and efficiency, best value for money, and proportionality.
- 4.1.3. The Recipient must calculate the contract value diligently and competently. Related services must be grouped together and incorporated into one contract (prohibition of contract splitting for the purpose of circumventing threshold values).
- 4.1.4. The Recipient shall document the entire procurement procedure in writing, including the requests for offers or the public tender, the determination of the best bidder and the award decision.
- 4.1.5. If the Recipient does not receive at least two offers following a request for offers in accordance with section 4.2 or 4.3, the Recipient shall request offers once more but from a wider group of bidders. The Recipient shall set a new deadline for the submission of offers and may adapt the terms of reference as appropriate. This does not apply to procedures under sections 4.2.1.c) and 4.3.3.
- 4.1.6. The Recipient shall not award any Action-related service contract to any of its own or a subgrantee's staff members. The same applies to former staff members, provided they were involved in the implementation of the Action, and a conflict of interest cannot be excluded.
- 4.1.7. The Recipient shall ensure that external service providers do not avail themselves of any of the Recipient's or a subgrantee's staff members in the performance of their contracted services.

4.2. Award of contracts if the Action is financed with less than 50% own contributions

- 4.2.1. The Recipient shall apply the statutory procurement law in effect at its domicile. Irrespective of the statutory provisions, the following minimum requirements apply:

³ https://commission.europa.eu/index_en.

- a) Where the estimated value of the contract is EUR 5,000 (net) or more, three offers shall be requested for comparison purposes.
 - b) Where the estimated value of the contract is EUR 20,000 (net) or more, the Recipient shall create terms of reference, which specify award criteria (price and, where appropriate, quality criteria). Four offers shall be requested based on the terms of reference. If quality criteria are defined, the offers are evaluated by an independent evaluation commission. The Recipient identifies the best bidder and verifies its eligibility (legal authorization, professional reliability, technical and financial capacity).
 - c) Where the estimated value of the contract is EUR 100,000 (net) or more, the Recipient shall issue a public invitation to tender in analogous application of statutory procurement law.
- 4.2.2. If the requirements of Section 4 paragraph 2 of the Austrian Federal Public Procurement Act (PPA) are met (procurement of certain construction works or related services above the threshold value), the Recipient is obliged to apply the PPA when procuring works and associated services.

4.3. Award of contracts if the Action is financed with 50% or more own contributions

- 4.3.1. If the estimated value of the contract is EUR 10,000 (net) or more, three offers shall be requested for comparison purposes.
- 4.3.2. Where the estimated value of the contract is EUR 50,000 (net) or more, the Recipient shall create terms of reference, which include award criteria (price and, where appropriate, quality criteria). Four offers shall be requested based on the terms of reference. If quality criteria are defined, the offers are evaluated by an independent evaluation commission on the basis of these criteria. The Recipient identifies the best bidder and verifies its eligibility (legal authorization, professional reliability, technical and financial capacity).
- 4.3.3. Where the estimated value of the contract is EUR 100,000 (net) or more, the Recipient shall notify the broader public of the planned procurement, e.g. by publishing it on a procurement portal, the Recipient's website, ADA's website or on any other suitable media or platform.

4.4. Exceptions

- 4.4.1. In exceptional cases and subject to ADA's prior consent, the Recipient is not required to apply the provisions under sections 4.2 or 4.3. Section 15.2 applies in analogy. The Recipient shall provide to ADA:
 - a) a plausible written justification;
 - b) the offer that the Recipient intends to accept; and
 - c) evidence that the prices offered are reasonable and customary in the specific sector and local market (e.g. by providing price information obtained, market price research, price lists).
- 4.4.2. ADA may request additional evidence and information and/or make its approval subject to the fulfillment of additional conditions.

5. MANAGEMENT OF PROCURED GOODS

5.1. Goods procured for the Recipient's use

- 5.1.1. The Recipient shall keep a list of all goods procured for its own use with a price exceeding EUR 1,000 (net) per item (inventory). This list must be continuously updated. The Recipient shall provide the most current list to ADA with each report under section 8.1.
- 5.1.2. The Recipient shall provide to ADA a list of all goods procured for its own use with a price exceeding EUR 4,000 (net) per item, which are no longer required for implementation of the Action or which are the Recipient's property at the end of the Action duration. The Recipient shall propose the realisation or further use of these goods in accordance with the following options and request ADA's written consent:
 - a) transfer the goods to and assign ownership to ADA or to a third party nominated by ADA free of charge;
 - b) keep available the goods for use by ADA or a third party nominated by ADA free of charge; or

c) redeem the goods, by paying ADA the current market value, if applicable taking into account any own contribution used for their procurement.

5.1.3. Any motor vehicles procured for implementation of the Action (Action vehicles) must be treated with care, properly maintained and adequately insured. If the Recipient negligently or wilfully causes damage to an Action vehicle, it shall pay for the repairs using its own funds; no Action funds may be used. If the damage remains at the end of the Action, ADA may reduce the grant by an amount sufficient to cover the repairs.

5.1.4. Action vehicles may only be used for Action-related purposes. Use for private purposes or by third parties is prohibited.

5.1.5. A logbook must be kept for each Action vehicle. The logbook must clearly show, in chronological order, the number of kilometres, the date and the purpose of the trip, the kilometre readings at the start and end, the name of the driver as well as the amounts of fuelling and costs of any repairs. For trips exceeding 100 kilometres, the departure and arrival times must also be noted.

5.2. Goods procured for subgrantees or beneficiaries

5.2.1. Where the Recipient procures goods designated for a subgrantee or a beneficiary, it shall transfer ownership by written agreement and a written acknowledgement of receipt. Where such goods are directly delivered by the supplier to a subgrantee or beneficiary, the Recipient shall ensure that the respective subgrantee or beneficiary creates a written acknowledgement of receipt. The Recipient shall countersign the latter after signature by the subgrantee or beneficiary. The Recipient shall provide the acknowledgement of receipt to ADA with the next report under section 8.1.

5.2.2. The provisions of section 5.1 on creating an inventory and on Action vehicles apply in analogy. Section 5.1 applies in analogy even if the transfer of ownership to subgrantees or beneficiaries is or becomes impossible.

6. SUBGRANTS

6.1. General provisions

6.1.1. The Recipient may provide part of the grant to third parties for the implementation of part of the Action, provided this is foreseen in Annex A ("Subgrant").

6.1.2. The award of contracts (section 4) and the provision of free or subsidized goods (section 5.2) do not constitute subgrants.

6.1.3. The Recipient shall apply and document application of transparent and non-discriminatory criteria for the selection of subgrantees. If there are multiple Recipients (section 22), it is prohibited to provide subgrants to other Recipients.

6.1.4. The Recipient shall conclude the contracts with subgrantees in writing.

6.1.5. A subgrantee is also a party that receives part of the grant for the implementation of part of the Action by a subgrantee.

6.2. Liability for and obligations to impose on subgrantees

6.2.1. The Recipient shall contractually impose on subgrantees its obligations under section 1 (notification and conduct obligations), section 2 (eligible and not-eligible costs), section 3 (financial management), section 4 (award of contracts), section 5 (management of procured goods), section 6 (subgrants), section 7 (visibility), section 9 (financial reporting), section 10 (retention obligation) section 11 (oversight and on-the-spot checks), section 12 (evaluation), section 13 (publications), section 14 (rights to Action results) and section 21 (protection of personal data) and verify compliance.

6.2.2. The Recipient is liable toward ADA for the actions and omissions of subgrantees, including the correct financial reporting. Only the Recipient may claim costs from ADA directly.

6.3. Loans

6.3.1. The grant shall not be used for awarding repayable loans or credits.

7. VISIBILITY

- 7.1.1. The Recipient shall comply with the “Directive on visibility and communication of actions funded by the Austrian Development Agency”, as amended.⁴

8. REPORTING

8.1. Interim reports and final report

- 8.1.1. For each reporting period, the Recipient shall submit to ADA a narrative report on the progress of the Action and a financial report on the use of the grant audited by an external auditor. The reports must be legally signed. If electronic submission is not possible, the reports must be submitted in duplicate in printed form.
- 8.1.2. At the end of the Action duration, the Recipient shall submit a final narrative and financial report to ADA. The final report must encompass the entire Action duration.
- 8.1.3. Unless otherwise specified in the Special Conditions, the reporting period is twelve months and the submission deadline for each report is two months, except for the final report, where it is three months.

8.2. Inception report

- 8.2.1. If provided for in Annex A, the Recipient shall submit an inception report to ADA.

8.3. Form and content of narrative reports

- 8.3.1. The Recipient shall use the templates provided on ADA’s website for reports and adhere to the instructions included therein. The reports must be written in the same language as Annex A.
- 8.3.2. Reports must follow the description given in Annex A and refer to the objectives and expected results set out therein, in particular:
- a) Description of the activities and a detailed assessment of progress, based on the intervention logic (and the indicators thereof), including any deviations from Annex A;
 - b) Analysis of the Action status with respect to the objectives to be achieved;
 - c) Description of the monitoring, management and risk management measures, including those addressing environmental, gender and social risks; and
 - d) Reference to implemented or necessary adjustments to the Action.

8.4. Form and content of financial reports

- 8.4.1. Form and content of financial reports are set out in section 9.

9. FINANCIAL REPORTING

9.1. Obligation to submit financial reports

- 9.1.1. The Recipient shall submit financial reports as part of the reporting framework.
- 9.1.2. Financial reports must be verified by an external auditor.

9.2. Content of financial reports

- 9.2.1. Financial reports must include at least:
- a) a budget vs. actual comparison of the Action costs, i.e. a comparison of the planned and actual costs in the form and structure of the contractual budget;
 - b) a statement of Action cash flows, i.e. a clear description of all financial flows of the Action, which must be documented by bank account and currency exchange statements. The Action income must encompass the grant, own contributions and all other income;

⁴ <https://ada.kontainer.com/folder/1884100#token=Qh2O6uxldQynAmzTDntgPRfIHx20dkz2&type=shared>.

- c) a detailed list of vouchers for Action expenditure. The vouchers in the list of vouchers must be allocated to the individual budget lines;
- d) legally signed Management Declaration.

9.2.2. Where ADA deems it necessary, the Recipient shall submit further supporting documents, for example an audited or approved annual financial statement (for entities required to prepare annual financial statements) or a statement of income and expenditure (for entities not required to prepare annual financial statements).

9.3. Requirements for financial reports

9.3.1. Financial reports must:

- a) be prepared in euros;
- b) be prepared on a cash basis;
- c) cover the entire Action, including any own contributions and financial contributions from third parties;
- d) be based on the contractual budget and show the same level of detail;
- e) contain a budget vs. actual comparison of Action expenditure for each reporting period, the cumulative Action expenditure for all reporting periods and the percentage of budget utilisation;
- f) show net amounts of Action expenditure, i.e. free of any value added tax (VAT), unless this VAT is verifiably, actually and definitively borne by the Recipient;
- g) be legally signed by the Recipient;
- h) be in an electronic format that can be processed by common spreadsheet programmes.

9.4. Basis for preparing the financial reports

9.4.1. The financial report must be prepared on the basis of the accounting documents, which are based on original supporting documents.

9.4.2. Invoices must meet the following minimum requirements:

- a) be available as original invoices or be properly issued electronically;
- b) be issued to name and address of the Recipient;
- c) possess all legally required attributes of invoices;
- d) their content must be directly related to the Action;
- e) the relationship to the Action must be clearly identifiable, e.g. through an individual cost centre or Action stamp, so that the Action name or number are visible;
- f) be recorded in the Recipient's accounts;
- g) be paid.

9.4.3. If an original receipt was not obtainable from the issuer, replacement receipts may be provided as evidence of costs for settlement, up to the amount of EUR 20 per individual receipt and EUR 200 per reporting period.

9.5. Verification of financial reports by an external auditor

9.5.1. The Recipient shall contract an external auditor to verify the use of the Action funds for each reporting period. Action funds are all financial resources, including the grant, that are available to the Recipient for the implementation of the Action.

9.5.2. The Recipient shall contract the external auditor to verify whether the financial report submitted by the Recipient complies with the terms of this grant agreement. The verification must also cover whether the financial report submitted by the Recipient can be reconciled with the Recipient's accounting system and the accounting documents and other documentation it is based on.

9.5.3. The Recipient shall base the verification engagement on the terms of reference provided in Annex E.

9.5.4. If the verification report is not signed by a valid electronic signature, it must be submitted to ADA electronically and, additionally, as the signed original hard copy.

9.5.5. If the verification report is not satisfactory, ADA may at any time require the Recipient to contract a new verification and/or to submit the original supporting documents. This does not affect ADA's right to conduct on-the-spot checks and audits.

9.5.6. The Recipient may not engage the same auditor for more than five consecutive years. This also applies to auditors that are a legal entity (external rotation).

10. RETENTION OBLIGATION

10.1.1. The Recipient undertakes to keep all grant-related records and bookkeeping receipts as well as other records and correspondence in a secure and orderly manner for a period of ten years starting from the end of the year during which the last instalment has been disbursed.

10.1.2. ADA may impose an extension of the retention period in justified cases.

10.1.3. The Recipient may use suitable image and data carriers for retention if complete, organised, identical, authentic and verifiable reproduction is guaranteed at all times. In this case, the Recipient shall provide, at its own expense, all tools necessary to make the books, receipts and other documents legible and, if necessary, to provide permanent reproductions that are legible without tools and, if permanent reproductions are created, to make them available on data carriers.

11. OVERSIGHT AND ON-THE-SPOT CHECKS

11.1. Oversight by ADA and the EU

11.1.1. The Recipient shall at any time permit employees, officers and agents of ADA and the EU to inspect its bookkeeping records and receipts and to carry out on-the-spot inspections for monitoring purposes and for verifying the proper implementation of the Action and the proper use of funds in line with the intended purposes of the grant. The Recipient shall provide these employees, officers and agents with the requested information with respect to the Action, as the case may be via a suitable informed representative. The inspector decides as to what is considered relevant to the Action.

11.1.2. The right of inspection and enquiry pursuant to section 11.1.1 applies until the expiry of the contractual retention obligation of the Recipient.

11.2. Audit by the Austrian Court of Audit

11.2.1. The Recipient is aware that use of the grant funds is subject to audit by the Court of Audit pursuant to Section 12 (3) of the Austrian Court of Audit Act (*Rechnungshofgesetz*) 1948, Federal Law Gazette No. 144/1948, as amended. In the event of such an audit by the Court of Audit, the Recipient shall assist and provide the relevant information.

11.3. Information to be procured from third parties

11.3.1. The Recipient hereby agrees that employees, officers and agents of ADA and the EU may request information relating to the Action from third parties, in particular from fiscal authorities, banks, creditor associations and other donors. The Recipient hereby authorises these third parties to provide such information.

12. EVALUATION

12.1.1. The Recipient shall ensure that agreed evaluations are carried out in compliance with the quality standards and principles set out in the Evaluation Policy of Austrian Development Cooperation (as amended)⁵ and in accordance with the applicable ADA Guidelines for Programme and Project Evaluations.⁶ This concerns, in particular, the guiding principles, roles and responsibilities of the evaluation manager, including compliance with the prescribed workflows, diligent implementation of the 15 steps of the evaluation process and the application of the checklists for quality control of the terms of reference, inception report and evaluation report.

⁵ <https://www.entwicklung.at/en/how-we-work/evaluation>.

⁶ <https://ada.kontainer.com/folder/1878169#token=SqFXCJNv52av6XqijHVjfnO6Hq24Nlx&type=shared>.

- 12.1.2. The Recipient shall submit the terms of reference, the inception report and the evaluation report including the results assessment form (RAF) to ADA promptly after their respective completion.
- 12.1.3. The Recipient shall collect and have available all data and documents relevant to the evaluation in a timely manner, in particular those listed in the Guidelines for Programme and Project Evaluations. In addition, the Recipient shall make available qualified and informed representatives as respondents for data collection and as members of reference groups.
- 12.1.4. During ADA-led evaluations, even if they take place after the end of the grant agreement, the Recipient shall participate in the evaluation process and provide documents and make qualified and informed representatives available as respondents and members of reference groups.

13. PUBLICATIONS

13.1. Publications by the Recipient

- 13.1.1. The Recipient shall notify ADA in the reports (section 8) of any publications on the Action made within the reporting period.

13.2. Publications by ADA

- 13.2.1. ADA has the right to make publications about the Action, except regarding information for which confidentiality has been agreed.
- 13.2.2. The Recipient acknowledges that ADA publishes information⁷ and documents⁸ and may use them for public relations purposes and assigns to ADA the rights of use pursuant to section 14.1.2. When needed, the Recipient shall provide a version of these documents cleared of personal data to be used for publication.
- 13.2.3. If a third party makes a claim against ADA because of the publication of a document pursuant to section 13.2.2, section 20 applies in analogy.

14. RIGHTS TO ACTION RESULTS

14.1. Intellectual property rights

- 14.1.1. The Recipient declares that no copyright or intellectual property right will be infringed by or during implementation of this grant agreement or the Action.
- 14.1.2. The Recipient assigns to ADA the non-exclusive, irrevocable, unrestricted as to place, and freely transferable right of use covering all types of uses, with respect to all Annexes to the Special Conditions and all intellectual property rights, intellectual property applications, inventions, construction documents, processes, designs, methods, documents and work results that originate from or are procured during implementation of the Action.

15. SIMPLIFIED CONTRACT AMENDMENTS

15.1. General provisions

- 15.1.1. In view of section 1.2.1, ADA will not agree to proposed contract amendments with retroactive effect.
- 15.1.2. The contract amendments within the scope of this section 15 are exempted from the general formal requirement of Article 11.4 of the Special Conditions.

15.2. Simplified amendments

- 15.2.1. Requests for the amendment of the grant agreement within the scope of section 15.2.3 must be submitted in writing, signed by authorized representatives. If submitted electronically, an electronic

⁷ <https://www.entwicklung.at/en/how-we-work/all-projects>.

⁸ <https://ada.kontainer.com/folder/1840059#token=9z51CUzUzF32h5i5bX5ZyYh17xv0uXlf&type=shared>

copy of the original is sufficient, provided the original is retained in accordance with section 10. Requests must be justified.

15.2.2. ADA may respond to such requests through authorized representatives via e-mail, letter or facsimile. A signature is not required.

15.2.3. Amendments with simplified consent requirements are:

- a) Adaptation of results, activities or indicators, baseline or target values to changed framework conditions;
- b) Expansion or reduction of a target group, target region or target area;
- c) Change of subgrantees;
- d) Budget reallocation, which (in aggregate) exceeds the threshold of section 15.3.1.b).
- e) Introduction of new or cancellation or renaming of existing budget lines;
- f) Mobilizing the contingency reserve;
- g) Change of reporting periods;
- h) Change of deadlines for the submission of reports;
- i) Change of disbursement conditions;
- j) Extensions of the Action duration, which (in aggregate) do not exceed one third of the original Action duration.

15.3. Amendments that do not require consent

15.3.1. Amendments under this section 15.3 do not require ADA's prior consent. The Recipient shall describe and justify the changes in the next report due:

- a) Changes of the content of the Action with the exception of (i) changes in accordance with section 15.2.3.a) and (ii) substantial changes to the Action design or intervention logic, including to the Action objective and to the target groups;
- b) Reallocation of funds from one budget line to another (budget reallocation), provided that the amount of each budget category to or from which funds are moved does not change by more than 10%. Subsequent reallocations must be added together for the purpose of this threshold. A reallocation between direct and indirect costs is prohibited. Any overruns must be covered by savings in other budget lines.

16. SPECIAL CONTRACT AMENDMENTS

16.1. Amendments by ADA

16.1.1. If, in ADA's opinion, subsequent circumstances require changes to the Action or to the agreed conditions or requirements, ADA may, at any time and by written notice, require the Recipient to make such changes. Should such amendments result in additional costs to the Recipient, it shall promptly notify ADA. In such a case, the parties shall negotiate an amendment to this grant agreement. If the parties fail to reach agreement, each party may terminate this grant agreement. Section 18 applies in analogy.

16.2. Amendments to Action financing

16.2.1. Should the Recipient provide further own contributions not yet accounted for in the budget, or acquire new co-financing from a third party, it shall promptly notify ADA and submit a proposal for an amendment to this grant agreement. ADA may agree to this proposal or, by notification to the Recipient, reduce the amount of the grant by the amount of the new own contributions or co-financing.

16.2.2. If the Recipient does not receive the full amount of co-financing by a third party as foreseen in the budget, it shall promptly notify ADA. The Recipient shall at the same time propose an amendment to ADA on how to continue with the Action. Otherwise, the Recipient shall terminate the grant agreement (section 18).

16.2.3. If the Recipient is at fault for the cancellation or reduction of the co-financing of a third party, the Recipient shall pay interest on any part of the grant to be repaid in accordance with section 19.2.

17. TEMPORARY SUSPENSION OF IMPLEMENTATION

- 17.1.1. The Recipient may temporarily suspend the implementation of the Action if an unforeseeable and extraordinary external event that cannot be averted or limited in its effects with reasonable diligence and targeted risk management measures (force majeure) makes the implementation of the Action excessively difficult or disproportionately dangerous. The Recipient shall promptly notify ADA of the suspension in writing, stating the nature of the event, the expected duration of the suspension and the possible effects on the Action. It must coordinate with ADA, minimise the duration of the suspension and its costs as well as any damage as far as possible and continue with the implementation of the Action as soon as possible.
- 17.1.2. At ADA's written request, the Recipient shall temporarily suspend the implementation of the Action. ADA may submit such a request if it has justified grounds for assuming that there may be a breach of the grant agreement. ADA may also suspend further disbursements of the grant.

18. END OF THE AGREEMENT AND TERMINATION

- 18.1.1. This grant agreement ends when there are no more mutual financial claims between the Recipient and ADA (end of the agreement). This is generally the case after payment of the final instalment of the grant or settlement of the repayment claim.
- 18.1.2. The Recipient may terminate this grant agreement at any time. The Recipient shall cease the implementation measures and terminate all contracts regarding implementation measures as soon as possible from the date of the notice of termination as well as submit the final report to ADA. ADA may reclaim part or all of the grant in accordance with section 19.1.3.
- 18.1.3. ADA may terminate this grant agreement with immediate effect for cause, in particular in any of the cases of section 19.1.4.
- 18.1.4. ADA may terminate this grant agreement with immediate effect if an officer, authorised representative or senior managerial employee of the Recipient or of a subgrantee publicly incites hatred against or incites the commission of or commits a hostile act against
- a) a Jewish community institution, Jewish religious institution or a Jewish religious community, or against another church or religious community, or against a person on the basis of their membership of any of these, or
 - b) another group of persons defined by the presence or absence of criteria such as race, skin colour, language, religion or belief, nationality, descent or national or ethnic origin, gender, disability, age or sexual orientation, or against a member of such a group expressly because of their membership of that group.
- 18.1.5. From the date of submission or receipt of the notification of termination, the Recipient has no further claim to the payment of the grant.

19. REPAYMENT

19.1. Repayment grounds and amount

- 19.1.1. Irrespective of the other provisions of this section 19, the Recipient shall repay to ADA any remaining grant funds not used by the end of the Action. In all other cases, the Recipient shall repay upon ADA's first request. This request must be received by the Recipient before expiry of the Recipient's contractual retention obligation.
- 19.1.2. The Recipient shall repay to ADA any part of the grant, which ADA does not accept as eligible.
- 19.1.3. In case the Action was or can only be implemented in part and ADA, at its sole discretion, considers this partial implementation to be eligible for grant support, the Recipient shall repay the difference between the grant received and the costs of the implemented part of the Action.
- 19.1.4. At the first request of ADA, the Recipient shall repay the entire grant already disbursed, including the part already used, wherever

- a) the Recipient provided incorrect or incomplete information to employees, officers or agents of ADA or the EU concerning any material matter relating to the award of the grant;
- b) the Recipient is in material breach of this grant agreement;
- c) the Recipient or one of its contractual partners used all or part of the grant in breach of this grant agreement;
- d) the Recipient, through its own fault, cannot carry out or has not carried out the Action in accordance with this grant agreement;
- e) the Recipient fails to submit due reports, documentary evidence, or requested information within a reasonable time;
- f) the Recipient failed to promptly notify ADA of events which delay or render impossible the implementation of the Action, or which would require a modification of the Action;
- g) the opening of bankruptcy proceedings against the Recipient is dismissed due to lack of assets and therefore the Action objective appears to be unachievable or uncertain;
- h) the Recipient hinders or prevents oversight measures;
- i) the correct use of the grant cannot be verified;
- j) the Recipient modified the Action in breach of this grant agreement or failed to obtain the required consent by ADA to a Action modification;
- k) the Recipient assigned, transferred or pledged the grant in breach of Article 11.1 of the Special Conditions;
- l) the Recipient breaches its anticorruption obligations (section 1.3) or, in the case of a conflict of interest, fails to reach agreement with ADA on remedial action, or, in the event of sexual exploitation, harassment, or abuse (section 1.4.4) fails to take immediate remedial action or fails to report a (suspected) case to ADA;
- m) the Recipient or a person, for whose actions it is responsible, directly or indirectly offered, promised or granted a gift or any other benefit to a person or agency in connection with the award of the grant;
- n) bodies of the European Union demand the repayment of the grant, because the grant is in breach of European Union law;
- o) the Recipient breaches other grant conditions, particularly those aimed at ensuring that the purpose of the grant is achieved;
- p) the Recipient or one of its contractual partners sells, pledges or otherwise transfers to a third party assets that were procured at least in part with grant funds in breach of this grant agreement; or
- q) the Recipient breaches the provisions on the award of contracts (section 4).

19.1.5. This list of grounds for repayment is not exhaustive; other important circumstances that are similar in nature or severity are equivalent to the grounds expressly listed above.

19.1.6. ADA may limit its claim for repayment under section 19.1.4 to the part of the grant that was used in breach of this grant agreement. In doing so, ADA takes into account the extent to which the purpose of the grant was achieved and the degree of fault of the Recipient or a third party for which the Recipient is responsible.

19.1.7. If the Recipient or a subgrantee breached the principles for the award of contracts (section 4), ADA may limit the claim for repayment to the value of the contract awarded.

19.1.8. ADA may offset the grant (or parts thereof) against amounts owed to ADA by the Recipient without the Recipient's consent.

19.2. Interest

19.2.1. If the Recipient or a person whom the Recipient has engaged for the preparation or implementation of the Action is at fault in creating the grounds for repayment, the amount to be repaid bears interest as from the date of disbursement at a rate of 3 percentage points above the current base rate⁹ defined by the Austrian National Bank (Section 1 (1) 1. Euro-JuBeG, Federal Law Gazette I, No. 125/1998 as amended). If the above-mentioned interest rate is lower than the rate stipulated by the European Union,

⁹ <https://www.oenb.at/en/Statistics/Standardized-Tables/interest-rates-and-exchange-rates/Base-and-Reference-Rates.html>.

ADA may apply the latter rate. The rate stipulated by the European Union applies to repayments under section 19.1.4.n), regardless of fault.

19.3. Reimbursement of audit expenses

19.3.1. The Recipient shall reimburse ADA for audit costs incurred in connection with the discovery of the grounds for repayment (e.g. commissioning external auditors, travel expenses of ADA employees and officers).

19.4. Further legal claims

19.4.1. Any further legal claims on ADA's part are reserved.

20. INDEMNIFICATION OF ADA

20.1.1. The Recipient implements the Action on its own responsibility and shall indemnify ADA for and against any related third-party claims. This includes the obligation to reimburse ADA for the costs of legal proceedings and ancillary expenses incurred by ADA. In the event of legal action against ADA by a third party, the Recipient shall join the litigation as an intervenor on the side of ADA upon ADA's request.

21. PROTECTION OF PERSONAL DATA

21.1.1. The Recipient shall:

- a) bring the ADA Privacy Notice¹⁰ to the attention, or ensure it is brought to the attention, of all natural persons, whose personal data are directly or indirectly transferred or disclosed to ADA during initiation or performance of this grant agreement, including for auditing the proper use of the grant;
- b) ensure that it has legal authorisation under applicable data protection law to transfer or disclose the personal data referred to in section 21.1.1.a) to ADA.

21.1.2. The Recipient shall comply with applicable data protection law.

21.1.3. ADA may process personal data created in connection with the initiation and performance of this grant agreement

- a) if this is necessary for the conclusion and performance of the grant agreement, for oversight and coordination purposes, for determining whether the conditions for the grant are met, for the verification of supporting documents or for reclaiming grant funds, or for exercising ADA's statutory mandate;
- b) by collecting or disclosing personal data beyond the information it has provided itself, by making enquiries with relevant federal authorities or other legal entities that award or administer grants, or with other third parties; or
- c) by collecting or publishing personal data of the Recipient pursuant to Section 32 paragraph 5 or Section 40k of the Transparency Database Act 2012, Federal Law Gazette I No. 99/2012, as amended.

22. MULTIPLE RECIPIENTS

22.1.1. If the grant agreement is concluded with multiple Recipients, they form a consortium that does not have legal personality.

22.1.2. The Coordinator is responsible for coordinating the Recipients, managing all communication with ADA and providing all information and documents to ADA required under this grant agreement. The Coordinator shall consolidate the narrative and financial reports for all Recipients, obtain all necessary information from the other Recipients and verify their accuracy. The other Recipients shall support the Coordinator in performance of its tasks, in particular by providing all information necessary for reporting in due time.

¹⁰ <https://www.entwicklung.at/en/privacy-notice>.

22.1.3. The Coordinator receives the grant and shall distribute it among the Recipients in accordance with Annex A.

22.1.4. If this grant agreement is terminated by one Recipient, the remaining parties shall consult in view of continuing the Action through new assignments of tasks and responsibilities to be agreed by an amendment in accordance with Article 11.4 of the Special Conditions. If this is unsuccessful, each party may terminate the grant agreement in accordance with section 18.

