



**Co-funded by  
the European Union**

# **Estonian EU external border programme 2014-2020**

## **Grant Contract**

**for the implementation of the project**  
(one beneficiary)

**ER274 Improving sewage treatment in Setomaa WWTPs  
(SetoWWTP)**

**Preamble**

This Grant Contract („the Contract”) is concluded between State Shared Service Centre (registry code 70007340), Lõkke 4, Tallinn 10122, Estonia

acting as the Managing Authority („MA”) of the Estonian EU external border programme 2014-2020<sup>1</sup> („Programme”) represented by Mrs Külli KAARE, Acting Head of the Managing Authority

of the one part,

and

Setomaa Management Ltd. (in original language: Setomaa Haldus OÜ) (reg.nr. 10322845, private body), Pikk 30, Värska 64001, Estonia, represented by Mr Raul LEPP, board member

Acting as the Lead Beneficiary (the "Beneficiary")

of the other part,

(the Parties)

have agreed for the implementation of the project ER274 Improving sewage treatment in Setomaa WWTPs (SetoWWTP) ("the Project") as follows:

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<sup>1</sup> In accordance with the Commission Implementing Decision C(2014)7172 the legal name of the Programme is Estonia-Russia Cross Border Cooperation Programme 2014-2020, however due to suspension of the Financing Agreement between the European Union, the Russian Federation and the Republic of Estonia, and JMC decision made on 23 May 2022 the Estonia-Russia CBC Programme 2014-2020 is temporary called Estonian EU external border programme.

## **Article 1 – Legal Framework**

1. The Lead Beneficiary shall guarantee that the Project referred to in Article 2 is implemented and managed in accordance with the following regulations and rules as well as the horizontal policies of the European Union and national legislation:

1.1 National rules of the Republic of Estonia

1.2 European Union legal acts:

1.2.1 Regulation (EC) No 232/2014 of the European Parliament and of the Council of 11 March 2014 (ENI Regulation);

1.2.2 Council Regulation (EC, EURATOM) No 966/2012 on the Financial Regulation that is applicable to the general budget for the European Communities;

1.2.3 Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection on the European Communities financial interests;

1.2.4 Regulation No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action;

1.2.5 Commission Implementing Regulation No 897/2014 of 18 August 2014 laying down implementing rules for cross-border cooperation programmes financed under Regulation No 232/2014 of the European Parliament and of the Council laying down general provisions establishing a European Neighbourhood Instrument (Implementing Rules);

1.2.6 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

1.2.7 Regulation (EU) 2022/2192 of the European Parliament and of the Council of 9 November 2022 laying down specific provisions for the 2014-2020 cooperation programmes supported by the European Neighbourhood Instrument and under the European territorial cooperation goal, following programme implementation disruption

1.3 Estonia - Russia Cross Border Cooperation Joint Operational Programme 2014 - 2020 approved by the European Commission on 18 December 2015, decision No C(2015)9193, last changes approved on 16.12.2020.

1.4 Guidelines for the 6th Call for proposals.

1.5 Project Implementation Guidelines and annexes thereto.

## **Article 2 – Purpose**

2.1 The purpose of this Contract is the award of a grant by the MA for the implementation of the Project no ER274 entitled: Improving sewage treatment in Setomaa WWTPs (SetoWWTP) attached as Annex I.

2.2 The Contract is signed in accordance with the decision of the Joint Monitoring Committee (the "JMC") of the Programme of 25-26 April 2023 and with the decision of the MA No 43/2023 to award the grant to the Project.

2.3 The Lead Beneficiary (the "Beneficiary") will be awarded the grant on the terms and conditions set out in this Contract and Annex I, which the Beneficiary hereby declares it has noted and accepted.

2.4 The Beneficiary accepts the grant and undertakes to be responsible for carrying out the Project.

### Article 3 – Implementation period of the Project

3.1 This Contract shall enter into force on the date when the second of the two Parties signs.

3.2 The Project implementation period starts on 30.06.2023 and ends on 29.12.2023.

Starting date of the Project implementation period can be either:

1. the day following that on which the Contract is signed by both the Beneficiary and MA;
2. a later date agreed in the Contract, but no later than 1 July 2023.

3.3 The execution period of this Contract shall end when the payment of the balance is made by the MA unless postponed in accordance with Article 18.4 of this Contract.

### Article 4 – Financing the Project

4.1 The total eligible costs of the Project are estimated at EUR 315 000,00, as set out in Annex I.

4.2 The MA undertakes to finance a maximum amount of EUR 283 500,00 from the Programme budget.

4.3 The grant is further limited to 90% of the total actually incurred eligible cost of the Project.

4.4 To the activities of the Beneficiary of the Republic of Estonia, the following State aid or *de minimis* aid are applicable:

Name of the Project partner	Activity	Total cost of the activity (EUR) (incl. VAT)	Eligible costs of the activity (EUR)	Aid intensity (%)	Aid amount (EUR)	Relevant State aid/de minimis aid regulation and article
Setomaa Management Ltd.	Obinitsa WWTP reconstruction	302,616.00	252,180.00	90.00	226,962.00	Regulation (EU) No 651/2014, Article 56
	Saatse WWTP reconstruction	59,784.00	49,820.00	90.00	44,838.00	De minimis aid
	Owner`s supervision services	14,400.00	12,000.00	90.00	10,800.00	De minimis aid
	Communication	1,200.00	1,000.00	90.00	900.00	Regulation (EU) No 651/2014, Article 56

4.5 On the basis of this Contract the Beneficiary ensures that they may grant indirect *de minimis* aid to the participants of Project activities. In this case the Beneficiary collects data from the receivers of indirect *de minimis* aid, checks that any new grant of aid does not exceed the relevant ceiling and informs the undertaking which receives the aid in writing of the prospective amount of the aid expressed as a gross grant equivalent and of its *de minimis* character, making reference to the respective EU regulation and citing its

title and publication reference in the Official Journal of the European Union. The Beneficiary must inform participants of the Project activities about becoming subjects to *de minimis* aid before the Project activity takes place.

4.6 The Beneficiary of the public sector of the Republic of Estonia that receives state aid or *de minimis* aid above Programme co-financing rate is considered as state aid or *de minimis* aid grantors for themselves, unless their co-financing comes from external financing, in a form, which is free of any public support (e.g from other economic activities or loans).

4.7 The flat-rate of eligible indirect costs for the Beneficiary is 0%, as calculated according to the point 2.5.6.2 of the Implementation Guidelines.

Costs declared under flat-rate shall satisfy the eligibility criteria set out in Article 20.1 and 20.2. They do not need to be backed by accounting or supporting documents.

4.8 The amounts transferred but not used by the Beneficiary have to be returned to the MA.

## **Article 5 — Communication with Programme authorities**

5.1 Any communication with the Programme authorities related to this Contract shall be effected via electronic monitoring system (eMS), <https://ems.estoniarussia.eu>.

## **Article 6 — Annexes**

6.1 The following documents form an integral part of the Contract:

- Latest full Project application with annexes approved by the JMC/MA/JTS and uploaded in eMS

6.2 In the event of a conflict between the provisions of this Contract and the Annex thereto, the Contract shall take precedence.

## **Article 7 — General provisions**

### **General principles**

7.1 The Beneficiary and the MA are the only Parties to this Contract.

### **Data protection**

7.2 Any personal data will be processed solely for the purposes of the performance, management and monitoring of this Contract by the MA and may also be passed to the bodies charged with monitoring or inspection tasks under the law of the European Union and, the Republic of Estonia. If the Beneficiary has any queries concerning the processing of personal data, it shall address them to the MA. The MA and the Beneficiary have to undertake all measures to fulfil the requirements of EU General Data Protection Regulation and national legislation. The Beneficiary and the MA will have right of recourse at any time to the European Data Protection Supervisor.

7.3 The Beneficiary shall ensure that personal data of natural persons participating in the Programme shall be collected, stored and transferred, with their consent, in databases of the Programme Authorities and management bodies. The Beneficiary shall limit access and use of personal data to that strictly necessary for the performance, management and monitoring of this Contract and shall adopt all appropriate technical and organisational security measures necessary to preserve the strictest confidentiality and limit access to this data.

**Responsibilities of the Beneficiary :**

7.4 setting up and maintaining effective, efficient and reliable Project implementation system (strategic, daily operational and financial management), i.e.: ensuring efficient use of the Project's resources; ensuring that these tasks are subsequently fulfilled; ensuring proper communication with wider public, where relevant;

7.5 representing the Project – the Beneficiary serves as a contact point to the MA, JMC, National Authority (the NA), Audit Authority (the AA) and Joint Technical Secretariat (JTS) concerning the implementation of the Project and should ensure continuous communication with the Programme (JTS);

7.6 progress of the Project as far as its financial and physical execution is concerned, and in particular, for ensuring the delivery of outputs and results in line with the Project application;

7.7 establishing adequate monitoring and evaluation system of the Project that ensures timely delivery of Project outputs and results in a proper quality;

7.8 ensuring that the MA, JTS, JMC members, as well as independent assessors authorised by the Programme authorities and representatives of the European Commission can have access to all Project documents, sites and premises when carrying out monitoring or evaluation missions, on-the-spot checks and audits; Access shall be granted on conditions of strict confidentiality with regard to third parties, without prejudice to public law obligations to which they are subject;

7.9 timely and correct reporting in compliance with Article 8 of this Contract;

7.10 requesting and receiving payments from the MA;

7.11 respecting and observing Programme rules and requirements, the EU, EURATOM, and national legislation concerning financial management and controls, public procurement, rules on nationality and origin, information and publicity and state aid rules;

7.12 ensuring the correctness of the Project accounting system and documents. The Beneficiary shall have separate accounting system or an adequate accounting code for the Project funds and expenditures.

7.13 ensuring that the Beneficiary's expenditure has been incurred, is supported by invoices or documented by accounting documents and adequate supporting documents understandable to third parties and has actually been paid out by the Beneficiary in accordance with the Implementation Guidelines and no later than 31 December 2023.

7.14 ensuring that the expenditure presented by the Beneficiary has been incurred for the purpose of implementing the Project and corresponds to the application and verify that the expenditures have been examined by public officer;

7.15 ensuring production and maintenance of all documentary evidence required for control and audit purposes on the Beneficiary's level;

7.16 ensuring timely and proper closure of the Project;

7.17 repayment of the amounts to the MA unduly paid according to the Financial Correction Decision;

7.18 ensuring adequate visibility of the EU contribution to the project, as well the contribution by the participating country, Estonia, in order to strengthen public awareness of the actions being taken by Estonia and EU, and to create a consistent image for the support by Estonia, and EU in the project.

## **Article 8 – Obligations related to reporting**

8.1 As project duration covers only 6 months the Beneficiary must draw up only **Final Report**.

8.2 The Beneficiary prepares an individual final report and fills in information in eMS within 30 calendar days after the end of the project. An individual final report shall consist of narrative and financial report on the costs incurred and paid in the reporting period;

8.3 The public officer shall examine within 60 calendar days whether the costs declared by the Beneficiary and the revenue of the Project are real, accurately recorded and eligible under this Contract and produce an expenditure verification report.

8.4 The Beneficiary prepares a consolidated final report on the basis of the verified individual report and submits it to the JTS via eMS. The consolidated report shall be submitted to the JTS by the Beneficiary within 30 calendar days after the individual final report is verified by the public officer.

The consolidated report shall contain all necessary information on achievement of project outputs, a detailed description of the conditions in which the project was carried out, information on the steps taken to ensure the visibility of Programme financing, information with which to evaluate the project's outputs, the proof of the transfers of ownership (if applicable), etc.

The JTS and MA have 25 working days to check and approve the consolidated report.

8.5 The Beneficiary shall provide the MA with all required information on the implementation of the Project. The report shall describe the implementation of the Project according to the activities envisaged, difficulties encountered and measures taken to overcome problems, eventual changes introduced, as well as the degree of achievement of its results (impact, outcomes or outputs) as measured by corresponding indicators. The reports shall be drafted in such a way as to allow monitoring of the objective(s), the means envisaged or employed and the budget details for the Project. The level of detail in any report should match that of the Project and of the budget for the Project.

8.6 The individual and consolidated final reports shall be prepared in eMS in English and in accordance with the Implementation Guidelines.

The final reports shall:

- a) be submitted via eMS and cover the Project as a whole, regardless of which part of it is financed by the MA;
- b) consist of a narrative and a financial part;
- c) provide a full account of all aspects of the Project's implementation for the period covered the qualitative and quantitative information needed to demonstrate the fulfilment of the conditions established in this Contract, incl. flat rate amount;
- d) include the results within an updated table based on the logical framework matrix including the results achieved by the Project as measured by their corresponding indicators; agreed baselines and targets, and relevant sources of verification;
- e) be drafted in the currency of euro (EUR) and in the English language;
- f) include information about communication and visibility activities respecting requirements as provided by Article 12;
- g) include any relevant reports, publications, press releases and updates related to the Project.
- h) include the proofs of the transfers of ownership as referred to in Article 13 (if applicable).

8.7 The public officer, the JTS and the MA may ask the Beneficiary complementary information on the reports if necessary. In this case the Beneficiary is given a concrete

time-frame for submitting this information. The time limit for approving the reports will start counting again as of the day of the receipt of this information.

8.8 If the Beneficiary fails to provide any report or fails to provide any additional information requested by the Programme authorities within the set deadline without an acceptable and written explanation of the reasons, the MA may terminate this Contract according to Article 18.2 (a) and (f) of this Contract.

## **Article 9 – Liability**

9.1 The MA cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Beneficiary while the Project is being carried out or as a consequence of the Project. The MA cannot, therefore, accept any claim for compensation or increases in payment in connection with such damage or injury.

9.2 The Beneficiary shall assume sole liability towards third parties related to Beneficiary, including liability for damage or injury of any kind sustained by it while the Project is being carried out or as a consequence of the Project. The Beneficiary shall discharge the MA of all liability arising from any claim or action brought as a result of an infringement of rules or regulations by its employees or individuals for whom those employees are responsible, or as a result of violation of a third party's rights.

## **Article 10 – Conflict of interest and good conduct**

10.1 The Beneficiary shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of this Contract. Such conflict of interests may arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest.

10.2 Any conflict of interests which may arise during performance of this Contract must be notified in writing to the MA without delay. In the event of such conflict, the Beneficiary shall immediately take all necessary steps to resolve it.

10.3 The MA reserves the right to verify that the measures taken are appropriate and may require additional measures to be taken if necessary.

10.4 The Beneficiary shall ensure that Project staff, including its management, is not placed in a situation which could give rise to conflict of interests. Without prejudice to its obligation under this Contract, the Beneficiary shall ensure replacement, immediately and without compensation from the MA, of any member of Project staff in such a situation.

10.5 The Beneficiary shall ensure that during Project implementation all Project staff respect human rights and applicable environmental legislation including multilateral environmental agreements, as well as internationally agreed core labour standards.

## **Article 11 – Confidentiality**

11.1 The MA and the Beneficiary undertake to preserve the confidentiality of any information, notwithstanding its form, disclosed in writing or orally in relation to the implementation of this Contract and identified in writing as confidential until at least 5 years after the payment of the balance or according to time limit stipulated in national legislation.

11.2 The Beneficiary shall not use confidential information for any aim other than fulfilling their obligations under this Contract unless otherwise agreed with the MA.

11.3 The Parties who have authorised access to the documents related to the Project, shall maintain the same level of confidentiality.



## **Article 12 – Visibility**

12.1 Unless the MA agrees or requests otherwise, the Beneficiary shall take all necessary steps to publicise the fact that the Programme has co-financed the Project. Such measures shall comply with the Communication and Visibility Guidelines for the implementation of projects in line with Communication and Visibility Instructions for beneficiaries from the Republic of Estonia.

12.2 In particular, the Beneficiary shall mention the Programme's financial contribution in information given to the final recipients of the Project, in its reports, and in any dealings with the media. It shall display the Programme logo wherever appropriate and as specified in the Communication and Visibility Instructions for beneficiaries from the Republic of Estonia.

12.3 Any notice or publication by the Beneficiary concerning the Project, including those given at conferences or seminars, shall specify that the Project has received Programme funding. Any publication by the Beneficiary in whatever form and by whatever medium, including the internet, shall include the disclaimer as specified in Communication and Visibility Instructions for beneficiaries from the Republic of Estonia.

12.4 The Beneficiary authorises the NA, MA, JTS, members of the JMC and the European Commission to publish its name and address, nationality, the purpose of the grant, duration and location as well as the maximum amount of the grant and the rate of funding of the Project's costs, as laid down in Article 3 of this Contract. Derogation from publication of this information may be granted if it could endanger the Beneficiary or harm their interests.

## **Article 13 – Ownership/use of results and assets**

13.1 Ownership of, and title and intellectual and industrial property rights to, the Project's results, reports and other documents relating to it will be vested in the Beneficiary.

13.2 Without prejudice to Article 13.1, the Beneficiary grants the NA, MA, JTS, members of the JMC and the European Commission the right to use freely and as it sees fit, and in particular, to store, modify, translate, display, reproduce by any technical procedure, publish or communicate by any medium all documents deriving from the Project whatever their form, provided it does not thereby breach existing industrial and intellectual property rights.

13.3 The Republic of Estonia and the European Commission shall be entitled to use, publish or disclose to third parties any study produced in the framework of the Project.

13.4 In case of the transfer of ownership, industrial and intellectual property rights for outputs and results the transfer shall be done according to the national legislation. The sustainability requirements defined in the Project should not be jeopardised and transfer of the ownership should not result in a profit for the Beneficiary.

13.5 According to the Article 39.3 of the Implementing Rules, any Project including an infrastructure component shall repay the Union contribution as well as the contribution of the Republic of Estonia if, within five years of the Project closure or within the period of time set out in state aid rules, where applicable, it is subject to a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives. Sums unduly paid in respect of the Project shall be recovered by the MA in proportion to the period for which the requirement has not been fulfilled.

13.6 The MA should be notified about changes of ownership of the Project results during implementation period of the Project and five years after completion of the Project.

13.7 The Beneficiary shall ensure that it has all rights to use any pre-existing intellectual property rights necessary to implement this Contract.

#### **Article 14 — Evaluation/monitoring of the Project**

14.1 The monitoring of implementation of the project shall be carried out by the MA and JTS. The monitoring will be performed based on the result-oriented evaluation. The beneficiary shall be ready to report on the outputs and results achieved by the project in any point of the project implementation.

14.2 If the European Commission carries out an interim or ex post evaluation or a monitoring mission, the Beneficiary shall undertake to provide it and/or the persons authorised by it as well as the NAs, MA, JTS and authorised independent assessors access to the Project site as well as with the documents or information necessary for the evaluation or the monitoring mission. Access should be granted on conditions of strict confidentiality with regard to third parties without prejudice to public law obligations to which they are subject.

14.3 If the construction/ renovation works are planned in the Project, within 2 weeks after the contract on construction/renovation works is signed within the Project, the Beneficiary shall inform JTS of the construction/renovation works including the start date of the works. In addition, the Beneficiary should inform the JTS prior to other major Project events as well.

14.4 If either the Beneficiary, or the Programme carries out or commissions an evaluation in the course of the Project, it shall provide the other with a copy of the evaluation report.

#### **Article 15 — Amendment of the Contract**

15.1 The Contract and the Project can be amended as stipulated in Article 5.10 of the Implementation Guidelines.

15.2 The amendment may not have the purpose or the effect of making changes to this Contract that would call into question the grant award decision or be contrary to the equal treatment of applicants. The maximum grant referred to in Article 4.2 of this Contract may not be increased.

15.3 The responsibility of eligibility of changes lies down on Beneficiary and to be examined by auditors.

#### **Article 16 — Contracts with suppliers/service providers**

16.1 In procurement procedures, the Public procurement act of the Republic of Estonia has to be followed.

#### **Article 17 — Extension and suspension**

##### **Extension**

17.1 Programme level eligibility for project implementation ends on 31 December 2023, meaning that all project activities have to be completed, costs incurred and payments made by that date without possibility for extension.

##### **Suspension by the Beneficiary**

17.2 The Beneficiary may suspend implementation of the Project, or any part thereof, if exceptional circumstances, notably of force majeure, make such implementation excessively difficult or dangerous. The Beneficiary shall inform the MA without delay, stating the nature, probable duration and foreseeable effects of the suspension.

17.3 The Beneficiary or the MA may then terminate this Contract in accordance with Article

17.4 If the Contract is not terminated, the Beneficiary shall endeavour to minimise the time of its suspension and any possible damage and shall resume implementation once circumstances allow, informing the MA accordingly.

### **Suspension by the MA**

17.5 The MA may request the Beneficiary to suspend implementation of the Project, or any part thereof, if exceptional circumstances, notably of force majeure, make such implementation excessively difficult or dangerous. To this purpose, the MA shall inform the Beneficiary stating the nature and probable duration of the suspension.

17.6 The Beneficiary or the MA may then terminate this Contract in accordance with Article 17.7. If the Contract is not terminated, the Beneficiary shall endeavour to minimise the time of its suspension and any possible damage and shall resume implementation once circumstances allow and after having obtained the approval of the MA.

17.8 The MA may also suspend this Contract or the participation of a Beneficiary in this Contract if the MA has evidence that, or if, for objective and well justified reasons, the MA deems necessary to verify whether presumably:

- a) the grant award procedure or the implementation of the Project have been subject to substantial errors, irregularities or fraud;
- b) the Beneficiary has breached any substantial obligation under this Contract.

17.9 The Beneficiary shall provide any requested information, clarification or document within 30 days of receipt of the requests sent by the MA. If, notwithstanding the information, clarification or document provided by the Beneficiary, the award procedure or the implementation of the grant prove to have been subject to substantial errors, irregularities, fraud, or breach of obligations, then the MA may terminate this Contract according to Article 18.2(h).

### **Force majeure**

17.10 "Force majeure" shall mean any unforeseeable and exceptional situation or event beyond the Parties' control which prevents either of them from fulfilling any of their obligations, not attributable to error or negligence on their part (or the part of their contractors, agents or employees) and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as force majeure.

17.11 None of the Parties shall be held liable for breach of its obligations under this Contract if it is prevented from fulfilling them by circumstances of force majeure, provided that it takes measures to minimise any possible damage and that the other Parties are duly informed.

## **Article 18 — Termination of the Contract**

18.1 In the cases foreseen in Article 17.2 and 17.4, if the Beneficiary or the MA believes that this Contract can no longer be executed effectively or appropriately, it shall duly consult the other. Failing agreement on a solution, the Beneficiary or the MA may terminate this Contract by serving two months written notice, without being required to pay indemnity.

### **Termination by the MA**

18.2 Without prejudice to Article 18.1, in the following circumstances the MA may, after having duly consulted the Beneficiary, terminate this Contract without any indemnity on its part when:

- a) Beneficiary fails, without justification, to fulfil any substantial obligation, after being given notice by letter to comply with those obligations, still fails to do so or to furnish a satisfactory explanation within 30 days of receipt of the letter;
- b) Beneficiary or any person that assumes unlimited liability for the debts of the Beneficiary is bankrupt, subject to insolvency or winding up procedures, is having its assets administered by a liquidator or by the courts, has entered into an arrangement with creditors, has suspended business activities, or is in any

analogous situation arising from a similar procedure provided for under any national law or regulations relevant to the Beneficiary;

c) Beneficiary, or any related entity or person, have been found guilty of an offence concerning their professional conduct proven by any means;

d) it has been established by a final judgment or a final administrative decision or by proof in possession of the MA that the Beneficiary has been guilty of fraud, corruption, involvement in a criminal organisation, money laundering or terrorist financing, terrorist related offences, child labour or other forms of trafficking of human beings or has committed an irregularity;

e) a change to Beneficiary's legal, financial, technical, organisational or ownership situation or the termination of the participation of Beneficiary substantially affects the implementation of this Contract or calls into question the decision awarding the grant;

f) Beneficiary or any related person, are guilty of misrepresentation in supplying the information required in the award procedure or in the implementation of the Project or fail to supply – within the deadlines set under this Contract - any information related to the Project required by the MA;

g) Beneficiary has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established;

h) the MA has evidence that a Beneficiary or any related entity or person, has committed substantial errors, irregularities or fraud in the award procedure or in the implementation of the Project;

i) Beneficiary is subject to an administrative penalty referred to in Article 18.8;

j) the MA has evidence that Beneficiary is subject to a conflict of interests;

k) the MA has evidence that Beneficiary has committed systemic or recurrent errors or irregularities, fraud, or serious breach of obligations under other grants financed by the Programme and awarded to that specific Beneficiary under similar conditions, provided that those errors, irregularities, fraud or serious breach of obligations have a material impact on this grant.

The cases of termination under points (b), (c), (d), (h), (j) and (k) may refer also to persons who are members of the administrative, management or supervisory body of the Beneficiary and/or to persons having powers of representation, decision or control with regard to the Beneficiary.

18.3 In the cases referred to in points (c), (f), (h) and (k) above, a related person means any physical person with powers of representation, decision-making or control in relation to the Beneficiary. Any related entity means, in particular, any entity which has a majority of the shareholders' or members' voting rights or the right to exercise a dominant influence over another enterprise according to the national legislation.

#### **End date**

18.4 The payment obligations of the Programme under this Contract shall end 6 months after the implementation period laid down in Article 3 of this Contract, unless this Contract is terminated according to Article 18.

The MA may postpone this end date, so as to be able to fulfil its payment obligations, in all cases where the Beneficiary has submitted a payment request in accordance with contractual provisions or, in case of dispute, until completion of the dispute settlement procedure provided for in Article 19. The MA shall notify the Beneficiary of any postponement of the end date.

### **Effects of Termination**

18.5 Upon termination of this Contract the Beneficiary shall take all immediate steps to bring the Project to a close in a prompt and orderly manner and to reduce further expenditure to a minimum.

Without prejudice to Article 20, the Beneficiary shall be entitled to payment only for the part of the Project carried out, excluding costs relating to current commitments that are due to be executed after termination.

To this purpose, the Beneficiary shall introduce a payment request to the MA within the time limit set by Article 21.3 starting from the date of termination.

In the event of termination according to Article 18.1, the MA may agree to reimburse the unavoidable residual expenditures incurred during the notice period, provided, the first paragraph of Article 18.7 has been properly executed.

In the cases of termination foreseen in Article 18.2 a), c), d), f), h) and k) the MA may, after having properly consulted the Beneficiary and depending on the gravity of the failings, request full or partial repayment of amounts unduly paid for the Project.

### **Administrative sanctions**

18.6 Without prejudice to the application of other remedies laid down in this Contract, a sanction of exclusion from all contracts and grants financed by the Programme, may be imposed, after an adversarial procedure, upon the Beneficiary who, in particular,

a) is guilty of grave professional misconduct, has committed irregularities or has been found in serious breach of its contractual obligations. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, three years;

b) is guilty of fraud, corruption, participation in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking of human beings. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, five years;

18.7 Where the MA is entitled to impose financial penalties, the financial penalties and corrections shall be done according to the financial correction decision. The MA may deduct such financial penalties from any sums due to the Beneficiary or call on the appropriate guarantee.

18.8 The decision to impose administrative sanctions may be published on a dedicated internet-site, explicitly naming the Beneficiary.

18.9 The abovementioned administrative sanctions may also be imposed to persons who are members of the administrative, management or supervisory body of the Beneficiary, to persons having powers of representation, decision or control with regard to the Beneficiary.

## **Article 19 — Applicable law and procedures for complaints**

19.1 Without prejudice to the applicable European law, this Contract shall be governed by the law of the country of the Republic of Estonia.

19.2 The Parties to this Contract shall do everything possible to settle amicably any dispute arising between them during the implementation of this Contract. To that end, they can meet each other at either's request or communicate their positions in writing. In case of written communication the reply has to be provided within 30 days as of the receipt of the written notice.

19.3 The administrative decisions can be appealed within the framework of a pre-trial process according to the General Rules of Procedure for Complaints.

## **Financial provisions**

### **Article 20 — Eligible costs**

#### **Cost eligibility criteria**

20.1 Eligible costs are actual costs incurred by the Beneficiary which meet all the following criteria:

- 1) they are incurred and paid during the implementation or preparation period of the Project as specified in Article 3 and 20.1 of this Contract. In particular:
  - a) costs relating to services and works shall relate to activities performed during the implementation period. Costs relating to supplies shall relate to delivery and installation of items during the implementation period. Signature of a contract, placing of an order, or entering into any commitment for expenditure within the implementation period for future delivery of services, works or supplies after expiry of the implementation period do not meet this requirement;
  - b) all costs incurred should be paid as latest on 31 December 2023;
  - c) procedures to award contracts, as referred to in Article 16 of this Contract, may have been initiated and contracts may be concluded by the Beneficiary before the start of the implementation period of the Project, provided the provisions of Article 16 have been respected;
- 2) they are indicated in the Project's estimated overall budget;
- 3) they are necessary for the Project implementation;
- 4) they are identifiable and verifiable, in particular being recorded in the accounting records of the Beneficiary and determined according to the accounting standards and the usual cost accounting practices applicable to the Beneficiary;
- 5) they comply with the requirements of applicable tax and social legislation;
- 6) they are reasonable, justified, and comply with the requirements of sound financial management, in particular regarding economy and efficiency;
- 7) they are supported by invoices or documents of equivalent probative value.

#### **Eligible costs**

20.2 Subject to Article 20.1 the eligible costs are stipulated in Article 7 of the Guidelines for the 6<sup>th</sup> Call for proposals;

#### **Non-eligible costs**

20.3 The costs as stipulated in Article 7.3.3 of the Guidelines for the 6th Call for proposals are non-eligible.

### **Article 21 — Payment**

#### **Payments and pre-payments to the Beneficiary**

21.1 The MA must pay the grant to the Beneficiary following the payment procedures as stated in Article 10.2.3 of the Guidelines for the 6th Call for proposals:

- a) Pre-financing (after signing of the Grant Contract) in amount of 60% of awarded grant;
- b) payment of the final balance (upon completion of the project) after approval of the Final Consolidated Report.

21.2 The basis for making payments to the Beneficiary are:

- a) Contract, signed by the Head of the MA and the Beneficiary for the advance payment;

- b) Consolidated final report accompanied by expenditure verification report approved by the MA for the final payment. The final report shall in all cases include a detailed breakdown of expenditure covering the whole Project.

Payment shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information provided.

### **Suspension of the period for payments**

21.3 Without prejudice to Article 18, the time-limits for payments may be suspended by notifying the Beneficiary that:

- a) the amount indicated in its request of payments is not due, or;
- b) proper supporting documents have not been supplied, or;
- c) clarifications, modifications or additional information to the individual or consolidated final report are needed, or;
- d) there are doubts on the eligibility of expenditure and it is necessary to carry out additional checks, including on-the-spot checks to make sure that the expenditure is eligible, or;
- e) it is necessary to verify whether presumed substantial errors, irregularities or fraud have occurred in the grant award procedure or the implementation of the Project, or;
- f) it is necessary to verify whether the Beneficiary have breached any substantial obligations under this Contract, or;
- g) the visibility obligations set out in Article 12 are not complied with.

The suspension of the time-limits for payments starts when the above notification is sent to the Beneficiary. The time-limit starts running again on the date on which the above notification has been satisfactorily answered and if needed, a correctly formulated request for payment is recorded. The Beneficiary shall provide any requested information, clarification or document within 30 days of the request.

If, notwithstanding the information, clarification or document provided by the Beneficiary, the payment request is still inadmissible, or if the award procedure or the implementation of the grant proves to have been subject to substantial errors, irregularities, fraud, or breach of obligations, then the MA may refuse to proceed further with payments and may, in the cases foreseen in Article 18, terminate accordingly this Contract.

In addition, the MA may also suspend payments as a precautionary measure without prior notice, prior to, or instead of, terminating this Contract as provided for in Article 18.

## **Article 22— Accounts, technical and financial checks and audit**

### **Accounts**

22.1 The Beneficiary shall keep accurate and regular accounts of the implementation of the Project using an appropriate accounting and double-entry bookkeeping system. The Beneficiary must use accrual accounting, so that the expenditure verification can be correctly performed..

The accounts:

- a) may be an integrated part of or an adjunct to the Beneficiary's regular system;
- b) shall comply with the accounting and bookkeeping policies and rules that apply in the country concerned;
- c) shall enable income and expenditure relating to the Project to be easily traced, identified and verified.

22.2 The Beneficiary shall ensure that any report as required under Article 8 can be properly and easily reconciled to the accounting and bookkeeping system and to the underlying accounting and other relevant records.

#### **Audit**

22.3 The MA, the Audit Authority (AA), the European Commission, the European Anti-Fraud office (OLAF) and the European Court of Auditors, and any external auditor or public officer authorized by these institutions and bodies, with the support of the Group of Auditors may conduct documentary and on-the-spot checks on the use made of the Project financing under this Contract and carrying out a full audit, if necessary, on the basis of supporting documents of accounts and accounting documents and any other documents relating to the financing of the Project, throughout the duration of this Programme and for the period of record-keeping.

The authorities carrying out the checks must be informed of the exact location of the documents at which they are kept. Where appropriate, the findings may lead to recovery by the MA.

#### **Right of access**

22.4 The Beneficiary shall grant the authorities mentioned in Article 22.5, as well as NA, MA, JTS and their authorised agents access to sites and premises at which operations financed under this Contract are carried out, including their computer systems, and to any documents and computerised data concerning the technical and financial management of those operations, and to take every appropriate measure to facilitate their work with the exception of data classified as a state secret in accordance with the national legislation. Access shall be granted on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject.

22.5 The Beneficiary shall allow the above entities to:

- a) access the sites and locations at which the Project is implemented;
- b) examine its accounting and information systems, documents and databases concerning the technical and financial management of the Project;
- c) take copies of documents;
- d) carry out on the-spot-checks
- e) conduct a full audit on the basis of all accounting documents and any other document relevant to the financing of the Project.

22.6 Additionally the authorised persons of the Republic of Estonia and European Anti-Fraud Office shall be allowed to carry out on-the-spot checks and inspections in accordance with the procedures laid down by the respective legislation for the protection of the financial interests of the Republic of Estonia and European Union against fraud and other irregularities.

Where appropriate, the findings may lead to recovery by the MA.

22.7 Access given to agents of the European Commission, European Anti-Fraud Office and the European Court of Auditors and to any external auditor or public officer authorised by the MA carrying out verifications shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject.

#### **Record keeping**

22.8 Project accounting and other relevant records and supporting documents need to be kept for five years from the date of payment of the balance to the programme or until the date stipulated in the state aid rules (if applicable). As long as the balance payment date is unknown, it is agreed that both programme and project level records and supporting documents need to be kept until at least end of 2030. The MA informs the Beneficiary about the date of reception of the balance payment from EC.



They shall be easily accessible and filed so as to facilitate their examination and the Beneficiary shall inform the MA of their precise location. The Beneficiary is obliged to use accrual accounting, so that the audit can be correctly performed.

22.9 All the supporting documents shall be available in the original form, which includes also electronic form. In case a circumstance occurs where the Beneficiary cannot keep the original of a document, a certified true copy of the document should be available.

22.10 In addition to the reports mentioned in Article 8, the documents referred to in this Article include but are not limited to:

- a) Accounting records (computerised or manual) from the Beneficiary's accounting system such as general ledger, sub-ledgers and payroll accounts, fixed assets registers and other relevant accounting information, regulation of organisations' relevant internal procedures (if necessary);
- b) Proof of procurement procedures such as tendering documents, bids from tenderers and evaluation reports;
- c) Proof of commitments such as contracts and order forms;
- d) Proof of delivery of services such as approved reports, signed time sheets, transport tickets, proof of attending seminars, conferences and training courses (including relevant documentation and material obtained, certificates) etc;
- e) Proof of receipt of goods such as delivery slips from suppliers;
- f) Proof of completion of works, such as acceptance certificates;
- g) Proof of purchase such as invoices and receipts;
- h) Proof of payment such as bank statements, debit notices, proof of settlement by the contractor;
- i) Proof that taxes and/or VAT that have been paid cannot actually be reclaimed;
- j) For fuel and oil expenses, a summary list of the distance covered, the average consumption of the vehicles used, fuel costs and maintenance costs;
- k) Staff and payroll records such as contracts, salary statements and signed time sheets.

22.11 Failure to comply with the obligations set forth in Article 22.1 to 22.11 constitutes a case of breach of a substantial obligation under this Contract. In this case, the MA may in particular suspend the Contract, payments or the time-limit for a payment, terminate the Contract and/or reduce the grant.

## **Article 23 — Final amount of the grant**

### **Final amount**

23.1 The grant may not exceed the maximum ceiling as stated in Article 4.2 of this Contract.

If the eligible costs of the Project at the end of the Project are less than the estimated eligible costs as referred to in Article 4.1 of this Contract, the grant shall be limited to the amount obtained by applying the percentage laid down in Article 4.3 of this Contract to the eligible costs of the Project approved by the MA.

23.2 In addition and without prejudice to its right to terminate this Contract pursuant to Article 18, if the Project is implemented poorly or partially - and therefore not in accordance with the requirements of the Project in Annex I - or late, the MA may, by a duly reasoned decision and after allowing the Beneficiary to submit its observations, reduce the initial grant in line with the actual implementation of the Project and in accordance with the terms of this Contract. This applies as well with regards to the visibility obligations set out in Article 12.

**No profit**

23.3 The grant may not produce a profit for the Beneficiary. Profit is defined as a surplus of the receipts over the eligible costs approved by the MA when the request for payment of the balance is made or according to State aid regulation if the Project is State aid relevant.

23.4 Where the final amount of the grant determined in accordance with the Contract would result in a profit, it shall be reduced by the percentage of the profit corresponding to the final Programme contribution to the eligible costs actually incurred approved by the MA.

**Article 24 – Recovery****Recovery**

24.1 If any amount is unduly paid to the Beneficiary, or if recovery is justified under the terms of this Contract, the Beneficiary undertakes to repay the MA these amounts. The repayments will be effected as stipulated in the Financial Correction Decision.

24.2 In particular, payments made do not preclude the possibility for the MA to issue a financial correction decision.

24.3 As a rule, the financial correction decision shall be submitted to the Beneficiary through eMS or any other relevant channel.

24.4 The NA of the Republic of Estonia or the European Commission is entitled to demand the repayment of the amount due to the MA from the Beneficiary established in the Republic of Estonia in case the Beneficiary has not reimbursed the funds unduly spent to the MA.

**Interest and fine for delay**

24.5 The MA will charge interest if the repayment of the support to be refunded is postponed and in case of the unlawful state aid according to the Guidelines to Financial Corrections as approved by the JMC of the Programme. If the amounts have not been repaid by the due term for repayment of support, the MA will charge fine for delay according to the Guidelines to Financial Corrections as approved by the JMC of the Programme.

**Offsetting**

24.6 Amounts to be repaid to the MA may be offset against amounts of any kind due to the Beneficiary, after informing it accordingly. This shall not affect the Parties' right to agree on payment in instalments.

**Other provisions**

24.7 Bank charges incurred by the repayment of amounts due to the MA shall be borne entirely by the Beneficiary.

24.8 Without prejudice to the prerogative of the MA, if necessary, the European Union may, as donor, proceed itself to the recovery by any means.

**Article 25 – Applicable law**

25.1 Without prejudice to the applicable European law, this Contract is governed by the laws of the Republic of Estonia. The place of jurisdiction is Tallinn, Estonia.

**Article 26 – Payment and contact details****Payment details**

26.1 The MA shall make payments in EUR to the Beneficiary to the following bank account referred to in this Contract which allows the identification of the funds paid by the MA:

Bank name: Swedbank AS  
IBAN: EE672200001120242093  
SWIFT: HABAE2X  
Holder of the account: OÜ Setomaa Haldus

## **26.2 Contact details of the MA and the Beneficiary**

### **For the MA**

Mrs Külli Kaare  
Acting as Head of Managing Authority  
Grants Development Department  
State Shared Service Centre  
Lökke 4, Tallinn 10122, Estonia  
E-mail: kylli.kaare@rtk.ee  
Phone: +372 663 1950

### **For the Beneficiary**

Mr Raul Lepp  
Board member  
Setomaa Management Ltd.  
Pikk 30, Värska 64001, Estonia  
E-mail: raul.lepp@setomaa.ee  
Phone: +372 518 3557

### **Signatures**

Külli Kaare  
Acting Head of the Managing Authority  
Signed digitally

Raul Lepp  
Board member  
Signed digitally