



FUNDING GUIDELINES

March 2021

1. FUNDING

- 1.1.** ERSTE Foundation is a creative, innovative idea workshop, a laboratory for key issues for the future, that increases its effectiveness through strategic cooperation in networks. It is active in four key areas: financial literacy, European values, social innovation and capacity building, and contemporary culture. It aims to strengthen civil society and democracy, support work with socially disadvantaged groups, and promote contemporary art in Europe. Within its continually evolving substantive programme of work, ERSTE Foundation funds legal entities that are non-profit, charitable or religious in the sense of Austrian tax legislation and that are selected in accordance with ERSTE Foundation's legal base (hereinafter "project partners").
- 1.2.** Funding is not contingent on services in kind but on completing the funded projects in the interest of the general public. These funding guidelines govern the relationship between ERSTE Foundation and project partners in order to ensure that projects are completed and that funding is used for its intended purpose.
- 1.3.** Eligible legal entities cannot extrapolate a legal claim to funding from these funding guidelines or other documents.
- 1.4.** Funding is contingent on complying with these funding guidelines and other agreements that project partners enter into with ERSTE Foundation.

2. BASIC PRINCIPLES FOR RECEIVING FUNDING AND FOR PROJECT EXECUTION

- 2.1.** The project partner declares that it has all necessary rights to execute the project and that it will retain those rights until it ends contractual relationships with ERSTE Foundation.



- 2.2.** All rights means, in particular, all approvals, permits, licences, etc. under public law that are required for the project partner's activity in general and for completing the project in particular. In addition, all rights also refers to all intellectual property rights required for project execution.
- 2.3.** In addition, the project partner declares that it exclusively (apart from totally subordinate ancillary purposes) and directly serves non-profit, charitable or religious purposes, according to its legal base (law, bylaws, foundation statement, etc.) and its actual management, at least for the full duration of its contractual relationships with ERSTE Foundation, and that it will use funding exclusively for such purposes. The project partner must not pursue profit. Project partner members and investors do not receive any portion of profits or any other funding from the project partner's funds in their capacity as members. When members or investors leave, they do not receive any more than their original equity interests and the fair market value of their material deposits. The project partner must not favour any person through administrative expenses that are external to the project partner's purpose or through disproportionately high remuneration. If the project partner is dissolved, assets must only be used for non-profit, charitable or religious purposes.
- 2.4.** The project partner will use funding directly and exclusively to execute the funded project – regardless of whether the project is executed with cooperation partners. It will not use funding, in particular, simply to fund execution of the project by third parties.
- 2.5.** Project partners execute projects at their own risk. The project partner is responsible for ensuring compliance with all applicable statutory provisions, especially those relating to tax law, labour law and social law.
- 2.6.** The project partner guarantees that project results do not violate third-party rights.

3. FINANCING AND USE OF FUNDS

- 3.1.** A funded project is financed according to the project financing plan that underlies the funding agreement. The project partner will promptly inform ERSTE Foundation in writing of any required changes to financing (for instance, because it enters into



funding agreements with third parties or generates income). Such changes require the prior written consent of ERSTE Foundation, which it can only refuse with good cause.

- 3.2.** The project partner will use funding efficiently, purposefully, correctly, and only to cover costs incurred while executing the project, in accordance with the project cost calculations underlying the funding agreement. Here too, changes require the prior written consent of ERSTE Foundation.
- 3.3.** The project partner will neither transfer (for example, by assignment) nor encumber claims to any funding that it is entitled to as a result of agreements with ERSTE Foundation. An exception is allowed for an assignment to the benefit of a financing bank for the purpose of securing interim financing for the project that ERSTE Foundation has funded.
- 3.4.** If the project partner uses less than the budgeted amount, ERSTE Foundation will not transfer to the project partner any outstanding payments that exceed the adapted budget. If the project uses less than the entire amount granted by ERSTE Foundation, the project partner must reimburse ERSTE Foundation for all excess amounts within 14 days of gaining knowledge of this fact, unless the parties agree in writing to a different use.
- 3.5.** If Austrian capital gains tax is due on funding, ERSTE Foundation will withhold this capital gains tax at the source. The project partner must properly pay all other legally required taxes, fees, etc. in connection with the funding it has received from ERSTE Foundation. In addition, the project partner must submit its tax returns and other required filings to tax authorities and other authorities in connection with these taxes, fees, etc. The project partner will indemnify and hold ERSTE Foundation harmless if any claims arise in this regard.

4. REPORTS AND BILLS

- 4.1.** Within three months of completing the project, the project partner will send ERSTE Foundation a final report on its project activities and submit a final tally of the appropriate use of the funding that ERSTE Foundation provided. The final tally must



document the total financing and total costs of the project, including cost-reducing income, and should be structured like the project financing plan and project cost calculations.

- 4.2.** During the course of an agreement with ERSTE Foundation and before the project is completed, in accordance with the rules agreed for the project, the project partner will provide ERSTE Foundation with written interim reports on prior activities in connection with the project and updated project cost calculations.
- 4.3.** If agreed, the project partner must set up separate project bookkeeping, in line with generally accepted accounting principles, for the funded project at its own expense (for example, to comply with Austria's UGB).
- 4.4.** If the project partner is audited by an independent auditor, the project partner must arrange for the audit to include the finances of the projects funded by ERSTE Foundation.
- 4.5.** The project partner will retain originals of all relevant receipts and other documents for a period of seven years after the agreement with ERSTE Foundation ends. The project partner will grant staff members of ERSTE Foundation and third parties commissioned by ERSTE Foundation (such as accountants, auditors, etc.) access to its offices, and allow them to inspect all books, accounts, and other documents in connection with the project, for the purpose of verifying proper use of funding. ERSTE Foundation is permitted to make copies of these books, accounts, and other documents. If requested by ERSTE Foundation in writing, the project partner will make the requested documents available to ERSTE Foundation within 14 days. If the project partner cannot provide all documents within 14 days, it must promptly reimburse ERSTE Foundation for all funding received.
- 4.6.** All receipts must be provided as originals and as copies. Costs for receipts will be refunded one time only, at cost. If a third party reimburses the project partner for these costs, the project partner must pay back any refunds it has received from ERSTE Foundation.
- 4.7.** The project partner is absolutely not entitled to inspect ERSTE Foundation's annual financial statements, management reports, audit reports, or books.



5. PUBLIC RELATIONS

- 5.1.** ERSTE Foundation can, at its own discretion, share projects and project results with existing and potential project partners and with the public. ERSTE Foundation can present projects that it has funded and their results via the internet and all other media, and it can make these results available to the public via (digital) libraries, media centres, collections, publications, etc. As part of its public relations, ERSTE Foundation can also create lists of works, catalogues, trailers, reports, invitations to events, posters, other PR and media material, etc.
- 5.2.** For this public relations work, the project partner will also make media files about ongoing projects and their results available to ERSTE Foundation at no charge. The files are to have the following technical specifications:
- Images: resolution: 300 dpi; formats: JPG, TIFF
 - Video: formats: mp4, 3g2, 3gp, 3gp2, 3gpp, asf, asx, avi, divx, mts, m2t, m2ts, m2v, m4v, mkv, mov, mp4, mpe, mpeg, mpg, ogg, wmv
 - TV and audio files, press reviews: Send to press@erstestiftung.org
- 5.3.** The project partner will mention ERSTE Foundation as a funder when presenting the project and in all publications that refer to the project, and it will offer ERSTE Foundation the opportunity to present itself and its funding, if it so desires. The project partner will make at least one page available to ERSTE Foundation for this purpose in any catalogues or brochures created in connection with the project.
- 5.4.** The project partner will submit all material that is intended to present the project in public, especially catalogues, brochures, and other printed works, to ERSTE Foundation for written approval before placing a print order. ERSTE Foundation will strive to grant such approvals as quickly as possible, although not later than two weeks after it can be shown to have received submissions. Material is considered to be approved if ERSTE Foundation does not object to it within two weeks.
- 5.5.** The project partner will place ERSTE Foundation's logo, preceded by the phrase "Funded by / Supported by", on all print products connected with the project,



especially invitations, press information material, folders, and posters. If the logo cannot be placed on the product for technical reasons, ERSTE Foundation's name should appear without a graphic. The appearance of ERSTE Foundation's name and logo should follow the guidelines at www.erstestiftung.org/ci/.

- 5.6.** Project presentations on the project partner's website must include an appropriate link to ERSTE Foundation's website, www.erstestiftung.org. If ERSTE Foundation desires a special graphic design for this link (after providing suitable media files), the project partner will oblige.
- 5.7.** The project partner will send ERSTE Foundation all press releases and invitations to conferences and other events connected with the project in advance and provide an opportunity for ERSTE Foundation to attend.
- 5.8.** The project partner will make a sufficient quantity of sample copies of all publications connected with the project available to ERSTE Foundation at no charge. In addition, the project partner will inform ERSTE Foundation of the publisher and the planned number of edition copies in advance.
- 5.9.** The project partner will add ERSTE Foundation to its press mailing list and send ERSTE Foundation a press review of events connected with the project within a reasonable period of time.
- 5.10.** If ERSTE Foundation does not wish to be mentioned in the project partner's publications, etc., the project partner will grant this wish.
- 5.11.** By submitting a project application to ERSTE Foundation, the project partner agrees to allow ERSTE Foundation to process its data.

6. COPYRIGHTS AND OTHER INTELLECTUAL PROPERTY RIGHTS

- 6.1.** The project partner grants ERSTE Foundation all rights, especially all intellectual property rights, to use projects, without limitation on geography or time, especially project results and all other works connected with projects (such as publications, reports, academic studies, media, video, images, etc.), as well as the project partner's name, logo, marks, etc. and other project partner data, for PR and marketing



purposes. ERSTE Foundation's right of use therefore does not end when contractual relations end with the project partner, and it comprises the right to make edits. ERSTE Foundation's right of use extends, in particular, to the right of use on the internet, in publications and other print material, in media (including any digital or analogue media and any media that does not exist at the time the right is granted); composing and compiling media works; for texts: creating titles, headlines, summaries, translations; in the case of media: analogue and digital adaptations of images and audio, etc.

- 6.2.** If ERSTE Foundation requires documents, signatures, etc. from the project partner to use the rights it has been granted, the project partner will promptly provide these to ERSTE Foundation upon request.
- 6.3.** ERSTE Foundation is entitled to exercise the exploitation rights granted to it along with third parties, such as publishers, media partners, etc., as well as grant sublicences.
- 6.4.** ERSTE Foundation can but does not have to exercise all rights granted to it. ERSTE Foundation has no duty of exploitation, and the project partner will refrain from all consequences of possible non-use.
- 6.5.** If the project partner grants third parties rights and/or permissions to use works involving copyright-protected project results, it will require those third parties to name or not name ERSTE Foundation as described in section 5.5. of these funding guidelines and transfer these obligations to their respective legal successors.
- 6.6.** The project partner guarantees that all material, such as images, video, print material, text, etc., that it makes available to ERSTE Foundation is free from third-party rights, and especially that all intellectual property rights are cleared for use by ERSTE Foundation. The project partner will indemnify and hold ERSTE Foundation harmless if any claims arise in this regard.

7. TERMINATION WITH GOOD CAUSE

- 7.1.** ERSTE Foundation can withdraw funding or terminate a funding agreement in writing with immediate effect, in particular:



- if the project partner does not use all or part of funding for its intended purpose or does not prove that funding was used for its intended purpose within 14 days of being asked for such proof;
- if the project partner violates its obligations arising from the funding guidelines or an agreement with ERSTE Foundation, such as reporting requirements, disclosure requirements, or obligations relating to intellectual property rights;
- if the project partner is unable to implement the project, or significant parts thereof, in accordance with the project application – for whatever reason;
- if insolvency proceedings are initiated against the project partner's assets or an associated application is denied for lack of assets.

7.2. The project partner can withdraw from funding or terminate a funding agreement in writing with immediate effect if ERSTE Foundation remains in arrears with the payment of an agreed instalment in spite of being offered a grace period of at least four weeks in writing and being threatened with termination of contract.

7.3. If a contract is terminated with good cause, all payments that ERSTE Foundation has made to the project partner are to be reimbursed without delay. This does not apply to those payments that ERSTE Foundation made that the project partner can show to have used in accordance with their agreement. Without prejudice to higher claims for compensation, the project partner must pay ERSTE Foundation interest of 3% p.a. above the European Central Bank's main refinancing operations rate on amounts to be reimbursed, beginning from the date of receipt and ending upon full reimbursement.

7.4. Partial terminations of outstanding amounts are allowed.

8. PLACE OF PERFORMANCE

Unless agreed otherwise in writing, the place of performance for ERSTE Foundation's obligations is its registered business address.



9. WRITTEN FORM AND RECEIPT OF MESSAGES

- 9.1.** The project partner must promptly inform ERSTE Foundation in writing of all developments that affect project execution, especially circumstances that would lead to the funding or project partner being treated differently for tax purposes. The agreed requirement of the written form is met when messages are sent by email if their transmission can be proven using sent receipts.
- 9.2.** Changes and supplements – including any decision to remove the requirement of the written form – must be in writing.
- 9.3.** Deliveries will be made to the contacts named in the agreements with ERSTE Foundation or, when in doubt, to the project leader. The address given in the funding agreement or the address that was last provided to the other contracting party is considered to be agreed.

10. APPLICABLE LAW, PLACE OF JURISDICTION

- 10.1.** Austrian law applies.
- 10.2.** Rights or licences to intellectual property that have been transferred to ERSTE Foundation are additionally considered to be granted in accordance with local exploitation law (outside of Austria) and are connected with all rights of exploitation and defence that local law considers to be granted to a holder of the respective right. If the project partner takes steps to hinder exploitation of intellectual property rights, this too will apply, with respect to all types of exploitation, in accordance with relevant local law.
- 10.3.** The exclusive place of jurisdiction is the central district of Vienna (Innere Stadt). If verdicts reached in Austria cannot be implemented in the country where the project partner is headquartered, one or more of the arbitrators named in the International Chamber of Commerce's Rules of Arbitration will reach a final verdict on all verdicts resulting from disputes. The place of arbitration is Vienna, Austria.