

Annex III: Sub-grant agreement

v2.00

The EIT – Making Innovation Happen

EIT Manufacturing

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Contracting parties

Today xxx of Month xxx 2020,

University Of Patras, established in Patras/Greece, VAT number 998219694 duly represented for the purposes of signing the Sub-grant agreement by Legal Representative

hereinafter referred as the “Contractor”

Of the one part, and

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[CONSORTIUM_LEADER_COMPANY_NAME], a private law company organized under the laws of [COUNTRY], established in [LEGAL_ADDRESS], with VAT nr [VAT_NUMBER]¹, duly represented by [LEGAL_REPRESENTATIVE], [LEGAL_REPRESENTATIVE_POSITION],

hereinafter referred as the “Beneficiary”

}

of the other part

Hereinafter collectively referred as the “Contracting Parties”

HAVE AGREED to the following terms and conditions including those in the following Annexes, which form an integral part of this Sub-grant agreement (hereinafter referred as the “Contract”)

¹ Please note that VAT is a mandatory field

General Provisions

The EIT Manufacturing (hereinafter referred as the “EIT”). The European Commission (hereinafter referred as the “EC”).

The Contract aims at defining the framework of rights and obligations of the Contracting Parties under the Sub-project [SUB-PROJECT_ACRONYM], [SUB-PROJECT_FULL_NAME].

The Beneficiary has received the favourable resolution by the external evaluators and therefore is entitled to receive funding and services according to the terms and conditions set out under the Contract.

The funds received by the Beneficiary are owned by the EIT. The Contractor is mere holder and manager of the funds.

Article 1 - Entry into force of the contract and Termination

This Contract shall enter into force on the day of its signature by the last Contracting Party. The termination of the Contract will be subject to the terms and conditions set out in Annex 1 – Open Call and Guidelines for Applicants.

Article 2 - Obligations and Responsibilities of the Beneficiary

The obligations and responsibilities are defined in detail in the Annex 1 - Guidelines for Applicants.

Additionally, the Beneficiary shall take every necessary precaution to avoid any risk of conflict of interest relating to economic interests, political or national affinities, family or emotional ties or any other interests liable to influence the impartial and objective performance of the Sub-project.

In more details:

- The Consortium leader (beneficiary) declares that all Consortium partners have agreed on their roles and budget shares.
- The Consortium leader (beneficiary) is solely responsible to distribute the budget shares to Consortium partners in accordance to this Consortium Declaration.
- EIT and DigTrafoRis Consortium bears no responsibility in case the Consortium leader (beneficiary) violates the mutual agreement set in this Consortium Declaration.
- EIT and DigTrafoRis Consortium bears no responsibility in case of dispute among consortium partners regarding IP rights.

The above are also evident in the attached "Consortium Honour Declaration".

Article 3 - Breach of Contractual obligations

In the event the Contractor identifies that the Beneficiary:

- i) Breached its obligations under the Contract.
- ii) Stopped to carry out its business object of this Contract and therefore is not able or willing to continue the Sub-project.
- iii) Is engaged in a bankrupt or receivership process.

The Contractor will give written notice requiring that such breach to be remedied within 30 days.

In case the Beneficiary has not brought remedies from the notice, the Contractor may decide to terminate the contract unilaterally.

Moreover, in the event the breach of the contractual obligations has been manifestly intentioned or with gross negligence, the Contractor may request the Beneficiary the refund of the payments made to date.

Article 4 - Price and Financial provisions

4.1 Maximum financial contribution

The maximum financial contribution to be granted to the Beneficiary shall not exceed the amount of **15.000 EUR**.

4.2 Distribution of the financial contribution

The financial contribution to be granted to the Beneficiary shall be calculated and distributed in accordance with the provisions set in Annex II - Guidelines for Applicants.

In any case, the financial grant to be paid will always be subject to:

- A favourable resolution by EIT internal evaluation team responsible for assessing the Sub-project in each of the stages.
- The availability of funds in EIT bank account during the relevant payment period.
- The prior writing notice to the Beneficiary of the date and amount to be transferred to its bank account, giving the relevant references.
- Payments to the Beneficiary will be made by the Contractor. In particular:
 - The Contractor reserves the right to withhold the payments in case the Beneficiary does not fulfil with its obligations and tasks as per Annex 1 - Guidelines for Applicants.
 - Banking and transaction costs related to the handling of any financial resources made available to the Beneficiary by the Contractor shall be covered by the Beneficiary.

4.3 Payments schedule

The payment schedule is directly linked to the on the dates the budget for the support of third parties will be available from EIT Manufacturing to DigTrafoRis project.

The sub-project coordinator should deliver at least one (1) week in advance the deliverables, so that the reviewers will be able to read it. During the review, the sub-project consortium members should present their work, answer questions and demonstrate their experiment.

The Beneficiary is entitled to receive exclusively those payments allocated to each specific phase of the Sub-project provided that the conditions under Article 4.2 are met.

Article 5 - Liability of the Beneficiary

The Contractor cannot be held liable for any acts or omissions of the Beneficiary in relation to this Contract.

The Beneficiary shall be fully liable and bear sole responsibility for its acts and omissions within the framework of this Contract.

Article 6 - Confidentiality

6.1 Principles

With respect to all information of whatever nature or form as is disclosed between the Contracting Parties in connection with the Sub-project and identified in writing as confidential, the terms of this Article shall apply.

6.2 Obligations

The Contracting Parties agree that such information is communicated on a confidential basis and its disclosure may be prejudicial to the owner of the information, and undertakes that:

- i) it will not, during the term of the Sub-project and for a period of five (5) years from the expiration date of the Sub-project, use any such information for any purpose other than in accordance with the terms of the Contract.
- ii) it will, during the term of the Sub-project and for a period of five (5) years from the expiration date of the Sub-project, treat the same as (and to procure that the same be kept) confidential provided always that such agreement and undertaking shall not extend to any information which the receiving Party can show:
 - was, at the time of disclosure to the Subcontractor, published or otherwise generally available to the public, or
 - has, after disclosure to either of the Contracting Parties, been published or become generally available to the public otherwise than through any act or omission on the part of the receiving Party, or

- was already in the possession of the Contracting Parties, without any restrictions on disclosure, at the time of disclosure to the Party, or
- was rightfully acquired from others without any undertaking of confidentiality; or
- is subsequently independently developed by the Contracting Parties without use of the information provided by the disclosing party.

In case of breach of the confidential rules hereinabove set, the Contracting Party breaching the confidentiality will remain solely liable towards possible claims.

Article 7 - Intellectual property rights

The results developed during the Sub-project shall be exclusively property of the Beneficiary.

Article 8 - Force Majeure

“Force Majeure” shall mean, any unforeseeable exceptional situation or event beyond the Contracting Parties control, which prevents either of them from fulfilling any of their obligations under the Agreement, which was not attributable to error or negligence on their part or on the other part of subcontractors, involved in the implementation of the Sub-project and which proves to be inevitable in spite of the exercising all due diligence. Any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure, as well as labour disputes, strikes or financial difficulties cannot be invoked as force majeure.

The Contracting Parties shall take the necessary measures to limit any damage due to force majeure. They shall do their best to resume the implementation of the action as soon as possible.

No Contracting Party shall be considered to be in breach of its obligations and tasks if such breach is caused by Force Majeure. A Contracting Party will notify the other Contracting Party of any Force Majeure as soon as possible. In case the Beneficiary is not able to overcome the consequences of Force Majeure within thirty calendar (30) days after such notification, the Contractor will decide accordingly including the termination of the Contract.

Article 9 - Information and communication

9.1 Information and communication towards the EC and EIT

The Beneficiary shall, throughout the duration of the Sub-project, take appropriate measures to engage with the public and the media about the Sub-project and **to highlight the financial support of the EC, EIT and the DigTrafoRis project**. Unless the EIT requests otherwise, any publicity, including at a conference or seminar or any type of information or promotional material (brochure, leaflet, poster, presentation etc.), must specify that the Sub-project has received research funding from the EIT through the DigTrafoRis project and display the European and EIT emblem along with the project's logo. When displayed in association with a logo, the European and EIT emblem should be given appropriate prominence. This obligation to use the European emblem in respect of projects to which the EC contributes implies no right of exclusive use. It is subject to general third-party use restrictions which do not permit the appropriation of the emblem, or of any similar trademark or logo, whether by registration or by any other means. Under these conditions, the Beneficiary is exempted from the obligation to obtain prior permission from the EC to use the emblem.

Any publicity made by the Beneficiary in respect of the Sub-project, in whatever form and on or by whatever medium, must specify that it reflects only the author's views and that the EIT is not liable for any use that may be made of the information contained therein.

The EIT shall be authorised to publish, in whatever form and on or by whatever medium, the following information:

- the name of the Beneficiary
- contact address of the Beneficiary
- the general purpose of the Sub-project (publishable summary, etc.)
- the amount of the financial contribution of the EIT foreseen for the Sub-project; after the final payment, the amount and rate of the financial contribution of the EIT accepted by the EIT;
- the estimated amount and rate of the financial contribution of the EIT foreseen for the Beneficiary in the table of the estimated breakdown of budget.
- the geographic location of the activities carried out;
- the list of dissemination activities and/or of patent (applications) relating to foreground;
- the publishable reports submitted to it (technical reports are excluded, since they are confidential);
- any picture or any audio-visual or web material provided to the EIT in the framework of the Sub-project.

The Beneficiary shall ensure that all necessary authorisations for such publication have been obtained and that the publication of the information by the EIT does not infringe any rights of third parties.

Upon a duly substantiated request by the Contractor on behalf of the Beneficiary, the EIT may agree to forego such publicity if disclosure of the information indicated above would risk compromising the beneficiary's security, academic or commercial interests.

9.2 Information and communication among the Contracting Parties

Any notice to be given under this Contract shall be in writing to the addresses and recipients listed above.

Any change of persons or contact details shall be notified immediately to the Contractor. The address list shall be accessible to all concerned.

Article 10 - Financial audits and controls

The EC may, at any time during the implementation of the Sub-project and up to five years after the end of the Sub-project, arrange for financial audits to be carried out, by external auditors, or by the EC services themselves including the European Anti-Fraud office (OLAF). The audit procedure shall be deemed to be initiated on the date of receipt of the relevant letter sent by the EC. Such audits may cover financial, systemic and other aspects (such as accounting and management principles) relating to the proper execution of the grant agreement. They shall be carried out on a confidential basis.

The Beneficiary shall make available directly to the EC all detailed information and data that may be requested by the EC or any representative authorised by it, with a view to verifying that the grant agreement is properly managed and performed in accordance with its provisions and that costs have been charged in compliance with it. This information and data must be precise, complete and effective.

The Beneficiary shall keep the originals or, in exceptional cases, duly authenticated copies – including electronic copies - of all documents relating to the grant agreement for up to five years from the end of the Sub-project. These shall be made available to the EC where requested during any audit under the grant agreement.

In order to carry out these audits, the Beneficiary shall ensure that the EC's services and any external body(ies) authorised by it have on-the-spot access at all reasonable times, notably to the Beneficiary's offices, to its computer data, to its accounting data and to all the information needed to carry out those audits, including information on individual salaries of persons involved in the Sub-project. They shall ensure that the information is readily available on the spot at the moment of the audit and, if so requested, that data be handed over in an appropriate form.

On the basis of the findings made during the financial audit, a provisional report shall be drawn up. It shall be sent by the EC or its authorised representative to the beneficiary concerned, which may make observations thereon within one month of receiving it. The Commission may decide not to take into account observations conveyed or documents sent after that deadline. The final report shall be sent to the beneficiary concerned within two months of expiry of the aforesaid deadline.

On the basis of the conclusions of the audit, the EC shall take all appropriate measures which it considers necessary, including the issuing of recovery orders regarding all or part of the payments made by it and the application of any applicable sanction.

The European Court of Auditors shall have the same rights as the EC, notably right of access, for the purpose of checks and audits, without prejudice to its own rules.

In addition, the EC may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.

Article 11 - Obligations imposed by the Grant Agreement to the Beneficiary

The Beneficiary receives funding from the European Commission for carrying out the **PROJECT (complete acronym)**. Under the Grant Agreement or the Consortium Agreement, some of the obligations have to be imposed on the Beneficiary. Those obligations are reflected in this Agreement. The specific obligations that the Beneficiary must ensure are described in the Multi-Beneficiary General Model Grant Agreement (H2020 General MGA – Multi), in sections 6, 22, 23, 35, 36, 38 and 46. These sections are part of this Contract and are fully applicable to the Beneficiary.

The Beneficiary acknowledges and agrees that these obligations comprised in this Agreement and the above-mentioned obligations of the Multi-Beneficiary General Model are fully applicable to it.

Article 12 - Language

This Consortium Agreement is drawn up in **English**, language which shall govern all documents, notices, meetings and processes relative thereto.

Article 13 - Amendments

Amendments or changes to this Contract shall be made in writing and signed by the duly authorised representative of the Contracting Parties.

Nevertheless, In the event the EIT modifies the conditions, the Contractor will amend the Contract accordingly.

Article 14 - Applicable Law

This Contract shall be construed in accordance with and governed by the laws of France.

Article 15 - Settlement of disputes

If the Contracting Parties are unable to resolve a dispute amicably, such dispute will be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three (3) arbitrators in Paris.

Each of the Contracting Parties to the dispute shall appoint one (1) arbitrator and the two (2) arbitrators so appointed shall elect the presiding arbitrator. Should a Party to the dispute which should appoint an arbitrator fails to do so within fourteen (14) days of the delivery of the written notice to do so from the other Party to the dispute or should the appointed arbitrators fail to reach agreement on the presiding arbitrator within fourteen (14) days after their appointment, such arbitrator shall be appointed in accordance with the Rules upon request of any of the Parties to the dispute.

The seat of arbitration shall be Brussels.

The Contracting Parties agree that the language of the arbitration, including oral hearings, written evidence and correspondence, shall be English.

A duly rendered arbitration award shall be final and binding on the Contracting Parties to the dispute. Each Contracting Party to the arbitration conducted in accordance with this section hereof shall bear its own expenses incurred in connection with such arbitration, including fees of its legal counsels. All other costs and expenses shall be apportioned between the Contracting Parties to the arbitration in accordance with the decision of the arbitrators.

Nothing in this Contract shall limit the Contracting Parties right to seek injunctive relief or to enforce an arbitration award in any applicable competent court of law.

AS WITNESS:

The Contracting Parties have caused this Contract to be duly signed by the undersigned authorized representatives **in three (3) copies** the day and year first above written:

For [SME_NAME] (the Beneficiary)	For LMS
Mr/Ms [NAME SURNAME]	Mr/Ms [NAME SURNAME]
[POSITION_IN_COMPANY]	[POSITION_IN_COMPANY]
Signature	Signature
Done at _____ on DD/MM/202Y	Done at _____ on DD/MM/202Y

Annexes

Annex 1. Guidelines for Applicants

[This refers to the Guidelines for applicants published by the time the call is open]

Annex 2. Sub-project Description of Work

[This refers to the proposal after introducing the changes, if any, during the negotiation phase.]

Annex 3. Individuals' status information

[For SMEs, This refers to ID-card or passport copy of the legal representative of the SME]

Annex 4. Consortium and honour Declaration

[This refers to the form submitted with the proposal]

Annex 5. Administrative data form/SME Declaration

[This refers to the form submitted with the proposal in the application phase]

Annex 6. Bank account information form

[This refers to the document including the bank account information of the coordinator where the funds will be transferred]