

# **EIT Manufacturing Financial support agreement**

For small projects (f.e. participation in events)

**Version 1.0  
14 November 2022**

Name of Recipient: [xxx]

This financial support agreement, hereinafter the “**Agreement**”, shall have [retroactive] effect as of [1 January 2023] and is entered into by and between:

**EIT Manufacturing asbl**, with registered office at 2 Boulevard Thomas Gobert, 91120 Palaiseau, hereinafter referred to as “KIC LE”;

And

**[Recipient of financial support]**, hereinafter referred to as the “Recipient”;

Hereinafter, jointly or individually, referred to as “Parties” or “Party”;

#### **WHEREAS:**

The KIC LE, representing EIT Manufacturing, has entered into a Partnership Agreement (“**PA**”) with the European Institute of Innovation and Technology (“**EIT**”), with the effective date of 1 January 2021, establishing a long-term cooperation laying down the general terms and conditions under which EIT Manufacturing must operate as an institutionalised European partnership under the Horizon Europe Programme.

Under the terms of the PA, the KIC LE has been awarded a grant for the Business Plan 2023-2025 by the EIT, and for this purpose, has entered into a Grant Agreement with the EIT (the “**GA**”), with effective date of 1 January 2023, laying down the provisions concerning the implementation of the activities through grants, which, among others, allows the KIC LE to provide financial support to third parties for projects and actions related to KAVAs (the “**Financial Support to Third Parties**”).

Within the framework of the PA and the GA, the KIC LE has set up a project, being the project “[xxx]”, hereinafter referred to as the “**Project**”.

The Recipient will be involved in the Project as a **Third Party Receiving Financial Support**.

In this Agreement the Parties wish to lay down the contractual arrangements between them regarding their respective rights and obligations for the implementation by the Recipient the Project, transposing to the extent needed the provisions of the GA.

#### **NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:**

### **Article 1: Definitions**

#### **1.1 Definitions**

Words beginning with a capital letter shall have the meaning defined either herein or in the Horizon Europe Programme, the EIT Regulation, in the Partnership Agreement Internal Agreement, or Grant Agreement, including their respective Annexes.

#### **1.2 Additional Definitions**

“**Authorised Representative**” shall mean the person or persons duly authorised to sign this Agreement, including its Annexes, on behalf of a Party.

Name of Recipient: [xxx]

**“Effective Date”** shall mean the date first referenced above.

**“EIT”** or **“granting authority”** shall mean the European Institute of Innovation and Technology, currently regulated by Regulation (EU) 2021/819 of the European Parliament and of the Council of May 20, 2021 (**“EIT Regulation”**).

**“Force Majeure”** shall mean any situation or event that

- prevents either Party from fulfilling their obligations under this Agreement,
- was unforeseeable, exceptional situation and beyond the Parties’ control,
- was not due to error or negligence on their part (or on the part of other participants involved in the action), and
- proves to be inevitable in spite of exercising all due diligence.

**“Grant Agreement”** or **“GA”** shall mean the agreement signed by the EIT and the KIC LE, setting out the rights and obligations applicable to the EIT grant awarded for the implementation of the KIC Business Plan, which is attached to this Agreement [alternatively which is available on EIT [xxx]’s website] and as altered, amended, re-instated or replaced from time to time.

**“Horizon Europe Programme”** shall mean Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013.

**“IP Policy”** shall mean the EIT Manufacturing’s IP Policy as available on EIT Manufacturing’s website.

**“KIC Business Plan”** shall mean the KIC Business Plan as defined in the PA. The KIC Business Plan is attached as Part B of the grant application submitted by EIT Manufacturing.

**“Partnership Agreement”** or **“PA”** shall mean the agreement laying down the general terms and conditions under which the EIT Manufacturing must operate as an institutionalised European partnership, entered into by and between the EIT and the KIC LE, with an effective date of 1 January 2021, as altered, amended, re-instated or replaced from time to time.

**“Project”** shall mean the participation of the Recipient in the Project “[xxx]”. The project is further described in the Annexed Call for Proposals.

**“Third Party Receiving Financial Support”** shall mean a recipient of financial support to third parties, (in the form of grants, prizes or similar forms of support as described in Article 9.4 and Annex V of the GA).

## Article 2: Purpose

The purpose of this Agreement is to lay down the contractual arrangements between the Parties regarding their respective rights and obligations pertaining to the implementation by the Recipient of the Project.

Name of Recipient: [xxx]

## Article 3: Entry into force, duration, and termination

### 3.1 Entry into force and duration

This Agreement shall have effect from the Effective Date and shall apply until the end date of the Project. The expected end date of the Project is [xxx].

However, this Agreement may be terminated in accordance with Article 3.2 of this Agreement.

### 3.2 Termination

**3.2.1.** In the event that the Recipient is in breach of its obligations under this Agreement, the KIC LE may give formal notice to the Recipient requiring that such breach will be remedied within 14 calendar days of this formal notice, unless such breach cannot be remedied.

If such breach is substantial and is not remedied within that period or, is not capable of remedy, the KIC LE may decide to declare the Recipient to be a defaulting Party and to decide on the consequences thereof which may include termination of this Agreement upon notice and other measures (for example suspend/recover any payment of (part of) the financial support or stop the Project).

**3.2.2.** The KIC LE may terminate this Agreement with immediate effect through written notice to the Recipient in the event the further implementation of the Project is prevented or delayed with more than two weeks by Force Majeure.

**3.2.3.** If the GA is terminated by the EIT or the KIC LE, the KIC LE shall have right to terminate this Agreement upon notice to the Recipient.

### 3.3 Effects of termination

#### 3.3.1. Survival of rights and obligations

After termination, the Recipient's obligations (in particular Articles 11 (Confidentiality), 10 (Liability), 9 (Visibility rules and communication), and 12.7 (Applicable law) of this Agreement continue to apply.

Termination shall not affect any rights or obligations of the Parties incurred prior to the date of termination, unless otherwise stipulated herein or agreed between the Parties. This includes the obligation to provide all input, deliverables, and documents for the period that the Agreement was still in force and effect.

## Article 4: Implementation of the Project

The Recipient must:

- take part in the efficient implementation of the Project and cooperate, perform and fulfil, promptly and on time, all of its obligations under this Agreement as may be reasonably required from it and in a manner of good faith as prescribed by Belgian law.
- remain eligible under the Horizon Europe programme funding for the entire duration of this Agreement. Costs and contributions will be eligible only as long as the Recipient and the Project are eligible.

Name of Recipient: [xxx]

- promptly notify to the KIC LE any significant information, fact, problem or delay likely to affect its participation in the Project.
- promptly provide all information reasonably required by the KIC LE for the implementation of the Project

### Article 5: Monitoring and reporting

The Recipient shall:

- comply with any reporting policy and instructions issued by the KIC LE, in accordance with the timing and conditions it sets out as may be amended/modified by the KIC LE;
- comply with any and all other monitoring and reporting requirements, including any future requirements by the KIC LE and/or as may be established by the KIC LE, as the case may be pursuant to requirements of EIT.

### Article 6: Financial provisions

#### 6.1. Financial contribution

The Recipient shall receive financial contribution only for its participation in the Project. The Recipient shall receive a financial contribution to cover [to be completed:].

The maximum amount of financial contribution to the Recipient under this Agreement is in total **EUR XXXXX**. Furthermore, the Recipient must keep the records and the original documents supporting the costs declared.

#### 7.2 Payment Schedule

The payment will be awarded as follows:

[Optional: lump sum (no cost reporting)]

[Optional: via instalments (cost reporting)]

If the Agreement is terminated before the completion of the Project, the Recipient shall refund all payments it has received except the amount corresponding to the costs already incurred and accepted by the KIC LE.

#### 7.3 Payments

The KIC LE shall notify the Recipient concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references.

Payment by the KIC LE to the Recipient hereunder, shall be made to the following bank account:

Official name and legal form of Recipient:

Bank:

IBAN:

or any other bank account details as may be provided by the Recipient to the KIC LE after the execution of this Agreement, which new details shall only be effective five working days after receipt

Name of Recipient: [xxx]

by the KIC LE of written notice from Recipient in that respect.

Payments will be made from the [name] account with [account number]. Any recoveries shall be made to this bank account.

#### **7.4 Recovery**

In the event the Recipient did not use the financial support from KIC LE for the purpose of the Project or not in accordance with the terms and conditions of this Agreement, it is under the obligation to return the unused or unjustified amounts within 30 calendar days upon notification from the KIC LE.

The KIC LE shall have the right to recover any undue financial support of KIC LE, if the eligibility rules of Article 6 of the GA are not complied with, or if the Recipient has not fulfilled all its other obligations pertaining to the implementation of the Project under this Agreement.

### **Article 9: Visibility rules and communication**

#### *9.1. Use of names, logos or trademarks*

Nothing in this Agreement shall be construed as conferring rights to use in advertising, publicity or otherwise the name of the KIC LE or any of its logos or trademarks without its prior written approval.

#### *9.2. Co-branding*

The Recipient shall take into account and respect any co-branding guidelines and requirements provided and set by EIT Manufacturing.

The Recipient shall comply with these co-branding obligations in accordance with the monitoring processes as provided for by EIT Manufacturing.

### **Article 10: Liability towards each other**

#### **10.1 Limitations of contractual liability**

The Parties shall take all the necessary steps to limit or mitigate any damage.

No Party shall be responsible to the other Party for any indirect or consequential loss or similar damage such as, but not limited to, loss of profit, loss of revenue or loss of contracts, provided such damage was not caused by a wilful act, gross negligence or by a breach of confidentiality.

The terms of this Agreement shall not be construed to amend or limit either Party's statutory liability.

#### **10.2 Damage caused to third parties**

Each Party shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said Party's obligations by it or on its behalf under this Agreement.

#### **10.3 Hold harmless**

Name of Recipient: [xxx]

The Recipient shall hold the KIC LE and its respective assigns and employees, officers and directors harmless from and against all losses, costs, liabilities, claims, damages and expenses, resulting from or relating to or arising out of the breach or default in the performance of any obligation on the Recipient's part under this Agreement through a legal action, including any counterclaim, that has proceeded to final judgment by a court of competent jurisdiction, in either case to the extent it determined a breach or default by the Recipient in the performance of this Agreement, provided it is not caused by the KIC LE's wilful act or gross negligence. The Recipient will be entitled to make observations towards the KIC LE, regarding the Recipient's obligation to hold the KIC LE harmless and the KIC LE shall reasonably consider such observations by the Recipient. The KIC LE shall take into account the reasonable requests of the Recipient with regard to the defence and the settlement of such claims, including the selection of counsels, and it is understood that KIC LE shall not settle any claim without the consent of the the Recipient.

#### **10.4 Force Majeure**

No Party shall be considered to be in breach of the Agreement if it is prevented from fulfilling its obligations under the Agreement by Force Majeure.

Each Party will notify the other Party of any Force Majeure without undue delay.

#### **Article 11: Confidentiality**

The Parties must keep confidential any data, documents or other material (in any form) that is identified as sensitive in writing, or when disclosed orally has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within 15 calendar days from oral disclosure at the latest as confidential information by the disclosing Party, is "Sensitive Information". Unless otherwise agreed between the Parties, they may use Sensitive Information only to implement the Agreement.

The Parties may disclose Sensitive Information to its personnel or other participants in the Project only if they:

- (a) need to know it in order to implement the Agreement and
- (b) are bound by an obligation of confidentiality.

It may moreover disclose Sensitive Information to third parties, if:

- (a) this is necessary to implement the Agreement or safeguard the EU financial interests and
- (b) the receiving parties of the information are bound by an obligation of confidentiality.

The confidentiality obligations no longer apply if:

- (a) the disclosing Party agrees to release the other Party
- (b) the information becomes publicly available, without breaching any confidentiality obligation
- (c) the disclosure of the Sensitive Information is required or permitted by EU, international or national law
- (d) a time period of 5 years after the disclosure of the Sensitive Information has passed, unless otherwise agreed upon between the Parties
- (e) the Sensitive Information is subsequently independently developed by or on behalf of the receiving Party without use of the disclosing Party's Sensitive Information.

Name of Recipient: [xxx]

If and when the confidentiality obligations no longer apply, the receiving party of the information undertakes to return to the disclosing Party, or to destroy, on request all Sensitive Information that has been disclosed to the receiving parties including all copies thereof and to delete all information stored in a machine readable form to the extent practically possible. The receiving parties may keep a copy to the extent it is required to keep, archive or store such Sensitive Information because of compliance with applicable laws and regulations or for the proof of on-going obligations provided that the receiving party comply with the confidentiality obligations herein contained with respect to such copy.

If either Party becomes aware that it will be required, or is likely to be required, to disclose Sensitive Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure

- notify the disclosing Party, and
- comply with the disclosing Party's reasonable instructions to protect the confidentiality of the information.

## **Article 12: Miscellaneous**

### **12.1 Inconsistencies and severability**

Should any provision of this Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this Agreement. In such a case, the Parties shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original provision.

### **12.2 No representation, partnership or agency**

No Party shall be entitled to act or to make legally binding declarations on behalf of the other Party.

Nothing in this Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

### **12.3 Notices and other communication**

Any notice to be given under this Agreement shall be in writing to the addresses and recipients as listed below.

Formal notices:

If it is required in this Agreement that a formal notice, consent or approval shall be given, such notice shall be signed by a Party's Authorised Representative(s) and shall either be served personally or sent by mail with recorded delivery or e-mail with receipt acknowledgement.

Other communication:

Other communication between the Parties may also be affected by other means such as e-mail with acknowledgement of receipt, which fulfils the conditions of written form.

Any change of persons or contact details shall be notified immediately by the respective Party to the other Party.

Name of Recipient: [xxx]

#### **12.4 Assignment and amendments**

No rights or obligations of the Parties arising from this Agreement may be assigned or transferred, in whole or in part, to any third party without the other Party's prior formal approval.

Amendments and modifications to the text of this Agreement require a separate written agreement to be signed by Authorized Representatives of both Parties.

#### **12.5 Language**

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

#### **12.6 Mandatory national law**

Nothing in this Agreement shall be deemed to require a Party to breach any mandatory statutory law under which the Party is operating.

#### **12.7 Applicable law**

This Agreement shall be construed in accordance with and governed by the laws of Belgium.

#### **12.8 Settlement of disputes**

The Parties shall endeavour to settle their disputes amicably.

All disputes arising out of or in connection with this Agreement, which cannot be solved amicably, shall be finally settled before the courts of Brussels.

#### **12.9 Data Protection**

The Recipient ensures that any processing of personal data shall be performed in accordance with 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).

The collected personal data will be used solely for the implementation, follow-up, reporting and management of this Agreement by the Recipient and its subsidiaries and for dissemination of information and communication purposes foreseen for this Agreement. Data subjects have the right to access, rectify or delete their personal data. Data subjects can also object to its processing. To exercise these rights, data subjects can contact Recipient at [xxx].

#### **Article 13: Annexes**

The following annexes are attached to this Agreement:

Annex 1 – The Grant Agreement

Annex 2 Declaration on honour

Name of Recipient: [xxx]

In case of conflict between the provisions of this Agreement and its Annexes, the provisions of this Agreement will prevail.

**Signatures**

The Parties have caused this Agreement to be duly signed by the undersigned Authorised Representatives.

The signature of a Party via a scanned or digitized image of a handwritten signature (e.g. scan in PDF format) or an electronic signature (e.g. via DocuSign), shall have the same force and effect as an original handwritten signature for the purposes of validity, enforceability and admissibility. Each Party receives a fully executed copy of the Agreement. Delivery of the fully executed copy via e-mail or via an electronic signature system shall have the same force and effect as delivery of an original hard copy.

**For KIC LE**

Name:

Title :

In :

On :

Signature \_\_\_\_\_

**Recipient:**

Name:

Title:

In:

On:

Signature \_\_\_\_\_

**Annex 1 – Grant Agreement**

**Annex 2 - Declaration on Honor**