

# **Framework Agreement for (Consulting) Services**

## **EIT Manufacturing Central gGmbH**



This Framework (Consulting) Services Agreement, hereinafter referred to as “this Agreement”, effective from 20.06.2023 (“Effective Date”), is entered into force

**BETWEEN:**

**EIT Manufacturing Central gGmbH**, having its registered office at Hilpertstrasse 31, 64295 Darmstadt, Deutschland, registered as legal entity at Amtsgericht Darmstadt under the registration number HRB 99846, and herein represented by Dr. Christian Bölling as Managing Director;

hereinafter referred to as “**EIT Manufacturing**” or “**EITM**”;

**And**

**Name of the company**, having its registered office at **address** hereinafter represented by **Name**, CEO;

hereinafter referred to as “the Client”;

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

**WHEREAS:**

The Client has been shortlisted and will receive the growth package from EIT Manufacturing (support services).

EIT Manufacturing agrees to perform such Services, all upon the terms and subject to the conditions set forth in this Agreement;

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

## **Article 1: Definitions**

“(M)GA” ((Model) Grant Agreement) means the Agreement signed by the EIT and EIT Manufacturing, laying down the provisions concerning the implementation of the EIT Manufacturing Business Plan through grants.

“PA” (Partnership Agreement) means the agreement between EIT Manufacturing and the European Institute of Innovation and Technology laying down the general terms and conditions under which the KIC EIT Manufacturing must operate as an institutionalized European Partnership.

“Services” shall mean the (consulting) services provided by EIT Manufacturing, as described in Annex I.

## **Article 2: Scope of this Agreement and Services**

This Agreement applies to the Services to be rendered by EIT Manufacturing to the Client as further described in Annex 1 to this Agreement, which may be updated from time to time.

## **Article 3: Price**

### *3.1. Fees*

3.1.1 the Client shall receive the Services described in Annex I from EIT Manufacturing free of charge for the duration of this Agreement.

3.1.2 However, the Client shall reimburse EIT Manufacturing for out-of-pocket expenses and in particular the living and travel expenses in connection with the Services rendered.

Out of pocket expenses shall be subject to the following: (i) EIT Manufacturing obtained the Client’s advance approval for such Out of pocket expenses; and (ii) EIT Manufacturing submitted to the Client a detailed report of actual expenses incurred in a form reasonably acceptable to the Client, along with supporting documentation including, but not limited to, actual costs and travel and living expenses.

## **Article 4: Liability**

4.1. EIT Manufacturing shall provide the Services under this Agreement in accordance with professional standards and in execution of its mission and purpose. EIT Manufacturing does not provide any warranty regarding the Services, any resulting documentation or material, expressed or implied, including but not limited to warranties of merchantability, fitness for a particular purpose and non-infringement of intellectual property rights.

4.2. To the maximum extent permitted by law, and except as otherwise provided herein, in no event will either Party, regardless of legal theory, be liable for any indirect, incidental, or consequential damages, such as but not limited to any loss of profit, loss of anticipated savings, or any other economic advantage, arising out of or in connection with this Agreement or any services provided under this Agreement, even if a Party has been informed of the possibility of those damages.

4.3. Except as provided herein, in no event will either Party's liability, regardless of legal theory, exceed, for all claims in aggregate, an amount equal to the amount of the 5000 euros.

4.4. The foregoing exclusions and limitations shall not apply, (i) to the extent such exclusions and limitations are not permitted by law; (ii) for fraud, (iii) for damages caused by gross negligence or wilful intent; (iv) for a breach of a Party's obligations under article 6; (v) to claims or damages related to bodily injury (including death) or loss of or damage to property.

#### **Article 5: Intellectual Property Rights**

All (intellectual) property rights and related rights, including but not limited to copyright and patent rights, shall remain property of the respective party.

EIT Manufacturing owns and shall continue to own its generic legal know-how and any accruals to such know-how obtained in the performance of the Services under this Agreement. The Client acknowledges that EIT Manufacturing shall have the right to use this know-how without restrictions during and after the term of this Agreement.

#### **Article 6: Confidentiality**

"Confidential Information" means any information disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") under this Agreement (i) that is clearly marked as proprietary and/or confidential when disclosed or, (ii) from which the confidentiality and proprietary nature can be reasonably inferred under the circumstances. The terms and conditions of this Agreement are confidential to both Parties.

Either Party undertakes not to disclose to third parties the confidential information, including but not limited to technical, financial, and commercial information, owned or controlled by the other Party and of which it becomes aware within the framework of their collaboration. Moreover, either Party undertakes to use such Confidential Information only for the purpose of their collaboration and for no other purposes. Receiving Party shall maintain the Confidential Information using at least the same degree of care as it employs to its own confidential information, but no less than reasonable care. The Receiving Party will disclose the other's Confidential Information only to employees and other persons working on its behalf with a need to know. Confidential Information shall remain the property of Disclosing Party and Receiving Party shall promptly return such Confidential Information to Disclosing Party upon written request. Either Party shall ensure that the members' personnel or other persons working on its behalf shall (i) be made aware of these confidentiality undertakings, and (ii) shall be bound by equivalent undertakings.

This undertaking of confidentiality shall remain in force for 2 years after the expiration or termination of this Agreement.

This obligation of confidentiality shall not apply to information for which the receiving Party is able to prove that he/she:

- is, or, after disclosure, becomes, publicly available through no fault of Receiving Party; or
- was independently developed by Receiving Party without access to confidential information; or
- was provided by a third party who, to Receiving Party's knowledge, had no or known confidentiality obligation to Disclosing Party; or
- was in Receiving Party's possession on a non-confidential basis prior to receipt from disclosing Party; or
- is explicitly approved in writing for release by Disclosing Party.

Either Party may disclose any Confidential Information of the other Party if required by court or government order or otherwise required by law, so long as the other Party is notified as soon as possible (if legally permitted), the Disclosing Party cooperates with the other Party to secure a protective order or otherwise protect the Confidential Information, and the Disclosing Party complies with the other Party's reasonable instructions to protect the confidentiality or the Confidential Information.

#### **Article 7: Entry into force and duration - Breach**

7.1. This Agreement shall have effect from 01.06.2023 and shall continue to be in full force and effect until 31.08.2023.

7.2. Early Termination:

7.2.1. Either Party shall have the right to terminate this Agreement with immediate effect by sending a registered letter in the following cases:

- (i) if the other Party ceases to trade (either in whole, or as to any part involved in the performance of this Agreement), or becomes insolvent, has a receiver, administrative receiver, administrator or manager appointed of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt, is unable to pay its debts when due, or any order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction) under the laws applicable to said Party; and
- (ii) if the other Party does not fulfil one of its material obligations under this Agreement and fails to remedy this within sixty (60) calendar days after having been served notice per registered letter by the non-defaulting Party, in which the nature of the shortcoming is described.

## **Article 8: Special conditions**

8.1. The Client acknowledges that EIT Manufacturing is the KIC Legal Entity, with as mission to bring European manufacturing actors together in innovation ecosystems that add unique value to European products, processes and services and inspire the creation of globally competitive and sustainable manufacturing.

The Client acknowledges the obligations of EIT Manufacturing and its affiliated entities under the Partnership Agreement (PA) and the (Model) Grant Agreement (MGA) under the new Horizon Europe Regulatory Framework, that EIT Manufacturing receives grants from the European Institute of Innovation and Technology and that EIT Manufacturing and its affiliated entities have the obligation to comply with controls, checks and audits and investigations (hereinafter "Audits") that may be carried out by the European Institute of Innovation and Technology, the European Court of Auditors and/or the European Anti-Fraud Office (OLAF). The Client shall do everything that is necessary to enable EIT Manufacturing and EIT Manufacturing to comply with these obligations.

8.2 In this respect, the Client agrees to respect Articles 12 (conflict of interest), 13 (confidentiality and security), 14 (ethics), 17.2 (visibility), 18 (specific rules for carrying out action), 19 (information) and 20 (record-keeping) of the MGA. The Client acknowledges that the Model Grant Agreement can be accessed on the European Commission's site, and especially under the link [https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/agr-contr/general-mga\\_horizon-euratom\\_en.pdf](https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/agr-contr/general-mga_horizon-euratom_en.pdf) and that the Client has thoroughly read its content before entering into this Agreement.

8.3. The Client acknowledges and agrees that the European Institute of Innovation and Technology, the Commission, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) can exercise their rights under Article 25 of the MGA and Articles 11 and 12 of the PA also towards the Client. The Client agrees in this regard to comply with any requests (including but not limited to providing any information and/or documents at first request) made by the European Institute of Innovation and Technology, the European Court of Auditors and/or the European Anti-Fraud Office (OLAF) in the context of such audits as to the Agreement and the results of the Agreement by the Client.

8.4. the Client undertakes to collaborate for up to 1 year after the end of the support period and/or any extension period(s) as applicable, with any reporting requirement including, but not limited to, provide declaration regarding the services that were provided by EIT Manufacturing and the milestones achieved during the applicable periods.

8.5. The Client shall mention the support of EIT Manufacturing on its website. When doing so, the Client will use the official EIT Manufacturing logo and the EU emblem, that EIT Manufacturing shall provide to the Client to that effect. Any other communication regarding the cooperation with EIT Manufacturing shall be subject to prior written approval from EIT Manufacturing.

8.6 EIT Manufacturing has the right to mention in its communications, both internally towards EIT and its partnership, and externally, that it cooperates with the Client. For this purpose, the

Client authorizes EIT Manufacturing to make use of its logos and trademarks for the duration of this Agreement.

#### **Article 9: Data Protection**

9.1 The parties shall ensure 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 shall be used solely for the execution, follow-up and management of this Agreement.

#### **Article 10: General**

10.1. Neither Party to this Agreement shall have any authority to bind the other to any obligation with any third party.

10.2. Neither Party shall be liable for delays in performance or non-performance, in whole or in part, except for payments due, resulting from causes beyond its reasonable control, such as acts of God, fire, strikes, embargo, acts of the government, or other similar causes. In such event, the Party delayed shall promptly give notice to the other Party. The Party affected by the delay may: (a) extend the time for performance for the duration of the event, or (b) cancel all or any part of the unperformed part if such delay exceeds ninety (90) days.

10.3. Non-Waiver and Severability. The failure of either Party to strictly enforce any of the terms or conditions of this Agreement shall not be considered a waiver of any right hereunder. If any term or provision of this Agreement is declared invalid or unenforceable, the remainder of this Agreement will not be affected thereby, and each term and provision of this Agreement will continue to be valid and enforceable to the fullest extent permitted by law.

10.4. Successors and Assigns/Assignment: This Agreement shall apply to, inure to the benefit of and be binding upon the Parties hereto and upon their respective successors and permitted assigns. Neither Party may assign this Agreement without the other's written consent, except for EIT Manufacturing's option to assign this Agreement to an Affiliate Company by means of intra-group assignment, as long as EIT Manufacturing informs the other Party in writing as soon as reasonably possible. Any attempted assignment not in compliance with this subsection will be null and void. For the avoidance of doubt, EIT Manufacturing may rely on the personnel of its Affiliated Companies to perform this Agreement.

10.5. Survival of Obligations. The termination or expiration of this Agreement will not affect the survival and continuing validity of any provision that expressly or by implication is intended to continue in force after such termination or expiration.

10.6. Entire Agreement & Modifications. This Agreement with its Annex constitutes the entire agreement of the Parties with respect to its subject matter, there being no other promises, terms, conditions, or obligations, referring to the subject matter not contained therein. Any modification of this Agreement must be in writing signed by both Parties.

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

10.8 All disputes arising under this Agreement which cannot be settled amicably, shall be brought before the competent courts of Darmstadt.

10.9. Notices

Any notice or demand described in this Agreement or required by law must be in writing and must be communicated by confirmed facsimile, certified or registered mail, overnight mail or personal delivery addressed as follows:

For EIT Manufacturing Central gGmbH:

Hilpertstraße 31, 64295 Darmstadt, Germany

For the Client:

**Address**

The effective date of a notice will be (1) the date of a facsimile evidenced by a successful facsimile transmission report, (2) five (5) days following the date mailed for certified or registered letters, (3) two (2) days following the date mailed for overnight letters, or (4) when delivered, if in person. The above addresses may be changed at any time by giving prompt written notice as provided above.

10.10. Non-exclusive

The Client expressly agrees that EIT Manufacturing also performs services and/or deliveries for other clients, provided that this doesn't interfere with the proper execution of the Agreement between the Client and EIT Manufacturing.

## **Article 10: Signatures**

### **AS WITNESS:**

The Parties have caused this Agreement to be duly signed by the undersigned authorized representatives in separate signature pages the day and year first above written.

The signature of a Party by means of a scan or digitization of the original signature (e.g. a scan in PDF format) or an electronic signature (e.g. via AdobeSign), counts as an original signature with the same validity, enforceability and permissibility. Each Party receives a fully signed copy of this Agreement. The transfer of this copy by e-mail or via an electronic signature system will have the same legal force and legal effect as the transfer of the original copy of this Agreement.



**EIT Manufacturing Central gGmbH**

Signature(s)

Name(s) Dr. Christian Bölling

Title(s) Managing Director

Date

**the Client**

Signature(s)

Name(s)

Title(s)

Date

## **Annex I – Services**

### **Services:**

The following list describes the services that EIT Manufacturing may provide to the Client from 01.06.2023 until 31.08.2023. The Client and EIT Manufacturing shall determine jointly which specific services best fit the need of the Client.

- Business Development Support
  - Business strategy review,
  - Commercialisation roadmap support,
  - Investor readiness support
  
- Visibility and publicity
  - Participation in 1 networking/ matchmaking event (only if suitable events are taking place during the support period)
  - Communication support