**Financial support Agreement**

concluded between

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| --- | --- | --- |
| **TECOS, Slovenian Tool and Die Development Centre****Kidričeva 25,****3000 Celje,****Slovenia,****represented by:** **dr. Aleš Hančič,** **Director**hereinafter referred to as “TECOS” | and | [<…>]hereinafter referred to as “[<…second party>]” |

- both of the above entities are hereinafter jointly referred to as the “Parties” or individually as a “Party” -

**Section 1 – Preamble**

* 1. TECOS has been awarded the project entitled “Slovenian Pilot for an Industry 4.0 Transformative Mechanism” (hereinafter referred to as the “High Impact Action (HIA) Project”).
	2. TECOS is the Project Coordinator of the HIA Project.
	3. The HIA Project is funded by the European Union (hereinafter referred to as the “EC”) within the Framework Programme for Research and Innovation - Horizon 2020, on the basis of the Grant Agreement 2018CE160AT115 concluded between TECOS, Ministry of Economic Development and Technology and the European Commission (hereinafter referred to as the “Grant Agreement”). The deadline for completion of the HIA project is May 31st 2021.
	4. Given the HIA projects outlook of establishing a national demonstrative centre for factories of the future, TECOS as the beneficiary of Strategic Research and Innovation Partnerships for Factories of the Future (hereinafter referred to as ”SRIP FoF”) looks to leverage the HIA project results in that regard. Thus by signing of this contract both parties are in agreement, that the results of the HIA project and parties work will be given the Intellectual property rights and stipulations shared with HIA partners.
	5. Annex 1 to the Grant Agreement requires the HIA Project to reserve a portion of its budget for 5 projects to be carried out by third party SMEs which will set the ground for a physical and virtual platform for piloting and demonstrating modular and reconfigurable cells across various industries.
	6. [<second party>] is the Project Leader of the project entitled “[<project name>]” (hereinafter referred to as the “[<…>]”).
	7. With the means to achieve the goals mentioned in Paragraph 1.4, on [<…>] TECOS published Invitation to Tender and HIA Call for SMEs with all necessary appendices (hereinafter referred to as the “HIA Open Call for SMEs”).
	8. On the basis of HIA Open Call for SMEs, [<second party>] submitted his application for co-funding the [<project name>] Project (hereinafter referred to as the “Application”). [<project name>] Project has been accepted for funding within the HIA Open call for SMEs and will receive financial support in terms of provisions included in Annex 1 to the Grant Agreement.
	9. [<second party>] will execute the [<project name>] Project and is responsible for its completion in accordance with this Agreement, HIA Open call for SMEs and the Application. HIA Open call for SMEs and the Application are an integral part of this Agreement.
	10. Within the HIA Project, service provider has the position of a third party.

**Section 2 – Subject Matter**

* 1. The subject of this contract is the co-financing of eligible costs for the implementation of the HIA Project, under the conditions and commitments below. The detailed content of the subject of this contract is defined in the HIA open call for SMEs application for the award of incentives under the Grant Agreement, which is an integral part of this contract.
	2. The Parties are entering into this Agreement in order to specify the rights, obligations and responsibilities regarding co-financing and implementation of the operation referred to in the first paragraph of this Article. Co-financing funds are allocated on the basis and under the conditions specified in Invitation to Tender, HIA Call for SMEs and the Grant Agreement and agreed with this contract, which is known to the [<second party>] and by signing this contract assumes the agreed rights and obligations. Breach of the terms constitutes a breach of contract.

**Section 3 – Financial support**

3.1. TECOS, as the Project Coordinator of the HIA Project, shall provide to the [<project name>] Project financial support in the maximum amount of 50.000,00 EUR (fifty thousand euros), with all taxes and contributions included, based on reimbursement by EC and proof of incurred costs, with possible audits at any time during the implementation of the [<project name>] Project without prior indication in a form of an on-site visit or an audit via teleconference by a TECOS, Ministry of Economic Development and Technology or EC representative. The eligibility of costs is consisted in the HIA open call for SMEs and the Invitation to tender, which are an integrated part of this contract as well as the application form submitted, Memorandum of understanding between the SME and SP, Grant Agreement and [<project name>] Financial plan

3.2. The amount indicated in the Paragraph 3.1 shall present a maximum of 50 % of the [<project name>] overall direct costs, of which costs necessary for implementation of the project such as equipment or personnel costs as defined in the Invitation to tender, provided the equipment purchased is new, or the personnel costs are regarding a new employment at least for the duration of the project, can amount up to maximum 10.000,00 EUR.

3.3. [<second party>] shall privately co-fund the [<project name>] Project’s overall direct costs in the amount of minimum 50% of the overall direct costs (hereinafter referred to as the “Private co-funding”).

3.4. Private co-funding shall amount to a maximum of 10.000,00 EUR for costs necessary for implementation of the project such as equipment or personnel costs, provided the equipment purchased is new, or the personnel costs regarding a new employment at least for the duration of the project.

3.4 The remaining obligatory private co-funding (minimum of 40.000,00 EUR) can take form of an in-kind contribution.

3.5. Value added tax is not an eligible cost. Eligible costs are not costs of services that are used continuously, permanently, occasionally or periodically, or are related to the [<second party>]'s normal operating costs.

3.6. [<second party>] shall issue two (2) claims for reimbursement of costs:

a) 1st claim – two (2) months after the [<project name>] Project start for costs incurred up to the date of the 1st claim and

b) 2nd claim – upon the [<project name>] Project completion, but not later than 31st of May 2021 for costs incurred up to the date of the 2nd claim.

3.7. The claim for reimbursement shall be sent to TECOS’s contact person designated in Section 8 of this Agreement in written form (via e-mail) and accompanied by:

* Contractual documents with service providers, with proof of payment based on authentic accounting documents and other documentation in the related cost center;
* Proof of purchase of equipment or other costs, with proof of payment based on authentic accounting documents and other documentation in the related cost center;
* Content report, describing on maximum 10 pages progress and activities implemented within the project.

3.8. The reimbursement of the eligible costs shall be executed within 15 business days all of the following conditions are met:

* TECOS receives complete claim for reimbursement of costs as provided in this Section,
* TECOS concludes that the costs reported for reimbursement are eligible and
* TECOS receives the funds from EC as provided in the Grant Agreement[[1]](#footnote-1).

3.9. All payments in accordance with this Section shall be made into [<second party>]'s bank account:

 IBAN: [<…>]

SWIFT: [<…>]

 Bank name: [<…>]

3.7. [<second party>] shall use the financial support received in accordance with this Section to pay [<project name>] Project selected service providers in compliance with the Proof of Memorandum of understanding by SME and each service provider.

3.8. Additional actions not defined in this contract may not be performed by [<second party>] without the prior written consent of TECOS.

**Section 4 –** **Recovery of Undue Amounts**

4.1. The allocated funds are earmarked and may be used by [<second party>] only in accordance with the provisions of this Agreement. In case of irregularities identified by the supervisory institutions, TECOS is entitled to terminate the Agreement and [<second party>] is obliged to return all funds already received within 8 working days from the receipt of the request for return or payment, together with legal default interest from the date of transfer to the date of return.

4.2. In case EC, exercising its powers under the Grant Agreement, claims back from TECOS any amount due to [<second party>] failure to comply with its obligations indicated in this Agreement, TECOS is entitled to recover that amount from [<second party>], together with legal default interest from the date of transfer to the date of return.

4.3. For the avoidance of doubt, TECOS may claim back any amount to be recovered in accordance with Sections 4.1. and 4.2. directly from [<second party>], regardless of the [<second party>] selected service provider that the amount was allocated to within the [<project name>] Project.

4.4. For the purpose of securing the payments referred to in Paragraph 4.3, on the day of signing the Agreement [<second party>] issues 3 blank bills of exchange to TECOS with the authorization for the completion in the amount up to full amount of the agreement (50.000,00 EUR/ bill of exchange, which TECOS is entitled to redeem if [<second party>] does not pay within the deadline from Paragraph 4.4. The authorization for the completion the bill of exchange shall be valid at least until May 31st 2026.

4.5. All payments in accordance with this Section shall be made into TECOS's bank account:

 IBAN: SI56 0279 7026 3267 709

SWIFT: LJBASI2X

 Bank name: NLB d.d.

**Section 5 –** [<project name>] **Project Activities**

5.1. The [<project name>] Project implementation period starts on January 18th 2020. The deadline for completion is on May 31st 2021.

5.2. In order to be eligible for the financial support indicated in this Agreement, [<project name>] Project shall execute the following activities:

1. pursuit of 20 % efficiency gain in at least one of the following parameters: lead-time, material use, overall production/process costs, waste production, CO2 emission, part integration, people interaction, energy consumption,
2. process improvement enabled by technological integration,
3. the development and dissemination of a success story in the form of a 1 to 2-pager and a speech/presentation in an event upon mutual agreement with TECOS.

5.3. All project activities have to be executed in accordance to the HIA Open call for SMEs, Application and the technical specification defined in the Invitation to tender. Additionally, all activities will be executed with the HIA project’s overall goal of establishing a national demonstration center for factories of the future in mind.

5.4. As stated in the HIA Open Call for SMEs, both claims, content report and all accompanying documentation has to be submitted before said deadline. In case the claims and report are not submitted within the given deadline, TECOS reserves the right to dissolve this Agreement with no claim eligible by the [<second party>].

5.5. After the execution of all project activities, [<second party>] shall provide to TECOS the [<project name>] Project Final Report that shall include the description of all executed project activities, a short overview of the main observations and learning points of the project, including recommendations on development of full Platform specifications (Beta/Full version), its architecture and also the surrounding support structure in the areas of piloting, integration, deployment and technological demonstration.

5.6. All [<project name>] Project Activities shall be executed by the core personnel indicated in the Application and its accompanying document.

5.7. [<second party>] shall ensure a conclusion of an agreement with service providers in scope of the [<project name>] Project and in accordance with this Agreement.

**Section 6 – Auditing**

6.1. All documentation related to the execution of subject of the Agreement must be kept in such a way as to provide an audit trail.

6.2. [<second party>]is obligated to keep all documentation related to the execution of project activities in accordance with the applicable legislation, but at least for a certain period, which TECOS notifies [<second party>] of, after fulfilling the contractual obligations for the needs of subsequent inspections.

6.3. [<second party>] undertakes to provide access to all documentation related to the Project Activities to TECOS and all other supervisory bodies involved in the implementation, management, control or audit of the HIA project and their proxies, even after completion of contractual obligations, until May 31st 2026.

6.4. The audit trail must enable the presentation of the time sequence of all events related to the performance of an individual activity and business events stored in accounting and other records. An audit trail is a collection of all the information necessary to present a historical record of significant events or activities related to stored data and information, as well as systems for collecting, processing and archiving data.

6.5. The information included in the audit trail must be such as to demonstrate the indisputability of the information stored. Their creation and storage must ensure their indisputability and usefulness throughout the storage of information.

6.6. [<second party>] agrees on possible audits at any time during the implementation of the [<project name>] Project in a form of an on-site visit or an audit via teleconference by a TECOS or EC representative without prior indication.

6.7. [<second party>] undertakes to provide explanations and any additional information requested by the auditing body.

**Section 7 – Direct Applicability of the Grant Agreement Provisions**

7.1. The Parties agree with direct applicability of the following provisions of the Grant Agreement and will ensure that the European Commission, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) have the right to exercise their powers that may be indicated Article II of the Grant Agreement.

**Section 8 – Contact Persons**

8.1. The following persons shall be designated by the Parties as contact persons for notices under this Agreement:

(i) Contact person for TECOS shall be:

Title and name: [<…>]

Mailing address: Kidričeva 25, 3000 Celje, Slovenia

Phone: [<…>]

E-Mail: [<…>]

(ii) Contact person for [<…>] shall be:

Title and name: [<…>]

Mailing address: [<…>]

Phone: [<…>]

E-Mail: [<…>]

8.2. Any notices shall be made in written form and delivered to the other Party by personal delivery, via registered mail, by e-mail or in such other form as agreed by the Parties.

**Section 9 – Force Majeure**

9.1. Force majeure means any situation or event that:

* prevents either Party from fulfilling their obligations under the Agreement;
* was unforeseeable, exceptional situation and beyond the Parties’ control;
* was not due to error or negligence on their part;
* proves to be inevitable in spite of exercising all due diligence.

9.2. The following cannot be invoked as force majeure:

* 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;
* labor disputes or strikes, or
* financial difficulties.

9.3. Any situation constituting force majeure must be formally notified to the other Party without delay, stating the nature, likely duration and foreseeable effects.

9.4. The Parties must immediately take all the necessary steps to limit any damage due to force majeure and do their best to resume implementation of the action as soon as possible.

9.5. The Party prevented by force majeure from fulfilling its obligations under the Agreement cannot be considered in breach of them.

**Section 10 – Prevention of Corruption**

10.1. Parties confirm that they are aware of the fact that this Agreement shall be null and void if any person in any phase of the Agreement promises, offers or gives any undue advantage to the representative or agent of any public sector body or organization on behalf or for the account of another Party for the purpose of obtaining business, concluding business under more favorable terms and conditions, omitting due supervision over the implementation of contractual obligations or for the purpose of any other act or omission which causes a public sector body or organization damage or by which the representative or the agent of the public sector body or organization, the other Party or its representative, agent or intermediary are put in a position to obtain an undue advantage.

**Section 11 – Applicable Law and Dispute Resolution**

11.1. This Agreement shall be governed by the laws of Slovenia, without regard to its conflicts of law principles that would require the laws of any other jurisdiction to apply.

11.2. All disputes arising in connection with the present Agreement shall be exclusively and finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC-Rules) by one or more arbitrators appointed in accordance with the said Rules. The Arbitration shall be administered by the ICC. The Emergency Arbitrator Provisions of the ICC-Rules shall not be applicable. Place of arbitration shall be Ljubljana, Slovenia. English shall be the language of arbitration.

**Section 12 – Miscellaneous**

12.1. [<second party>] undertakes to:

* perform all [<project name>] Project activities under this Agreement diligently and according to the rules of the profession, taking into account the provisions of the Agreement and its appendices, applicable regulations, and must ensure that the provision is made economically within the provisions of this Agreement and any additional agreements between the parties;
* perform all [<project name>] Project activities and other contractual obligations within the contractually specified deadlines;
* carry out all requirements in addition to perform [<project name>] Project in accordance with HIA Open Call for SMEs, Application and within the provisions of this Agreement and any additional agreements between the contracting parties and also third parties;
* provide TECOS with additional information on the course of performing the [<project name>] Project or other obligations of [<second party>] upon prior request;
* warn TECOS of any obstacles to perform the [<project name>] Project or other obligations of [<second party>] within 5 working days of the identified obstacle;
* protect the interests of TECOS;
* the intellectual property derived from this Agreement is the property of SME /second party, but TECOS, has the right within activities of SRIP FoF to use the results of the project for development of the beta platform for industrial transformation mechanism, without limitations.
* indicate that the *action* has received funding from the Union and display the European Union emblem in case any communication or publication made by [<second party>] that relates to the *action*, including at conferences, seminars or in any information or promotional materials (such as brochures, leaflets, posters, presentations, in electronic form, etc.).

12.2. [<second party>] guarantees to TECOS:

* that the production cell used for the purposes of [<project name>] Project is functional;
* that there are no legal errors or legal barriers in order to perform the [<project name>] Project and other obligations arising out of this Agreement.

that the costs that are subject to co-financing under this contract, ie for the same purpose, which contains elements of state aid, is not already co-financed by the state or local budget or international resources, or the total amount of funds received under this title does not exceed the maximum co-financing rate, which is defined by the rules regarding state aid. If it is found that the recipient has already received other budgetary resources or funds from international sources or they are was approved without notifying TECOS in writing before the conclusion of the contract, TECOS shall withdraw from this contract and demand the return of all funds already received under this contract together with statutory default interest for time between the date of transfer and the date of return 8 working days from the receipt of the request for return or payment.

12.3. This Agreement shall enter into force upon signature by each of the Parties hereto and shall remain effective for the duration of the [<project name>] Project.

12.4. This Agreement may be amended, modified or supplemented only by a writing signed by each of the Parties hereto.

12.5. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

12.6. The failure of a Party hereto at any time or times to require execution of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a Party of any condition or of any breach of any term contained in this Agreement shall be effective unless in writing and signed by the waiving Party, and no waiver in any one or more instances shall be deemed to be a continuing waiver of any such condition or breach in other instance or a waiver of any other condition or breach of any other term.

12.7. This Agreement has been concluded in English in four (4) originals, of which the Parties shall receive two (2) each.

**TECOS, Slovenian Tool and Die** [<second party>]

**Development Centre,**

represented by dr. Aleš Hančič, represented by [<name of representative>]

Director Director



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Dated: \_\_16.10.2020\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. The date of funds received from EC, is not within TECOS control. [↑](#footnote-ref-1)