



KYKLOS 4.0

An Advanced Circular and Agile Manufacturing Ecosystem
based on rapid reconfigurable manufacturing process and
individualized consumer preferences

Annex 3: Sub-grant Agreement [Template]

July 2022

KYKLOS 4.0 Sub-grant Agreement

[The rights and obligations contained in this Funding Agreement derived from the KYKLOS 4.0 Grant Agreement and Consortium Agreement are compulsory for the SUBGRANTEE. Consequently, they are not negotiable. Only Annex A's content is negotiable.]

This KYKLOS 4.0 Funding Agreement for providing Funding to the SUBGRANTEE, hereinafter referred to as the “**Agreement**”, is entered into by and between:

FUNDACIÓN TECNALIA RESEARCH & INNOVATION, organised and existing under the laws of Spain, with its registered office at Parque Científico y Tecnológico de Bizkaia, Astondo Bidea, Edificio 700 – E-48.160 Derio (Bizkaia) Spain, and VAT number G-48975767, hereinafter referred to as “**Funding Partner**”, represented by Joseba Mikel Laka Mugartza, acting in his capacity as Director of ICT Division,

And

OFFICIAL NAME OF THE LEAD PARTNER (Acronym)

VAT Number:

Legal Status:

Legal office address:

Legal representative and title:

OFFICIAL NAME OF PARTNER 2 (Acronym)

VAT Number:

Legal Status:

Legal office address:

Legal representative and title:

OFFICIAL NAME OF PARTNER 3 [IF APPLICABLE] (Acronym)

VAT Number:

Legal Status:

Legal office address:

Legal representative and title:

Hereinafter and above referred to as “**SUBGRANTEE(S)**”;

Hereinafter sometimes individually or collectively referred to as “**Party**” or “**Parties**”.

TECNALIA, MAGG, CETMA, TWI, Jotne, F6S, FOKUS, DIGITAL SME, CIMNE, CIRTES, SIMAVI, CERTH, GFT, KT, ADSYS, UPM, PDMFC, EfB, ALGOSYSTEMS, UC, Innov-Acts, AST, GRC, VESTEL, ProMedicare, Kanfit 3D, DIGRO, PIDOS, CONT, (hereinafter collectively referred as the “**Beneficiaries**”) participate to the H2020 project titled “KYKLOS 4.0–An Advanced Circular and Agile Manufacturing Ecosystem based on rapid reconfigurable manufacturing process and individualized consumer preferences” (hereinafter the “KYKLOS 4.0 Project”).

The Beneficiaries entered into a Grant Agreement N° 872570 with the European Commission (hereinafter referred to as “**Grant Agreement**” or “**GA**”) and signed together in 22 October 2020 a Consortium Agreement with respect to the Project (hereinafter referred to as “**Consortium Agreement**” or “**CA**”).

As a goal of the KYKLOS 4.0 project, there is a reserved amount of grant funding to be distributed to eligible projects within the KYKLOS 4.0 project for proposals and, according to the rules set out in Article 15 of the GA regarding the Funding to Third Parties, which have applied for and been awarded funding to eligible projects that have applied for and been awarded funding pursuant to open calls.

The SUBGRANTEE has submitted a proposal to the open call (such projects being referred to herein as “EXPERIMENT”), for funding of the EXPERIMENT as detailed in ANNEX A. This EXPERIMENT has been approved/awarded by the Beneficiaries and the European Commission.

It is a requirement of the award that the SUBGRANTEE as a “third party” or “indirect beneficiary” shall enter into this Funding Agreement to source funding from the Project for the purposes of funding/contributing to the funding of the EXPERIMENT.

Now therefore it has been agreed as follows:

1. DEFINITIONS

Words beginning with a capital letter shall have the meaning defined in the preamble of the Agreement or in this Section:

- 1.1 Access Rights** means rights to use Results or Background in accordance with the stipulations of the H2020 General MGA – Multi and under the terms and conditions laid down in this Agreement.
- 1.2 An Affiliated Entity** of a Beneficiary means any legal entity shown in Attachment 4 to the CA.
- 1.3 Agreement** means this Funding Agreement, together with its Annexes.
- 1.4 Background** means all data, information, know-how– whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights – listed in Annex A “EXPERIMENT” – that is Needed to implement the Project or exploit the Results and that is:
- owned or controlled by a Party or a Beneficiary prior to the date of signature of the EXPERIMENT (Annex A); or
 - developed or acquired by a Party or a Beneficiary independently from the work in the EXPERIMENT even if in parallel with the performance of the EXPERIMENT, but solely to the extent that such data, information, know-how and/or intellectual property rights are introduced into the EXPERIMENT by the owning Party.
- 1.5 Exploitation or Exploit** means the use of results in further research activities other than those covered by the action concerned, or in developing, creating, and marketing a product or process, or in creating and providing a service, or in standardisation activities.
- 1.6 Fair and Reasonable Conditions** means appropriate conditions, including possible financial terms or royalty- free conditions, considering the specific circumstances of the request for access, for example the actual or potential value of the results or background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged.

- 1.7 Funding** means the cash element of the funding to be given by the Funding Partner to the SUBGRANTEE for the implementation of the EXPERIMENT as detailed in Annex A.
- 1.8 EXPERIMENT** means the experiment detailed in Annex A “EXPERIMENT” to be carried out by Beneficiaries and the SUBGRANTEE.
- 1.9 Needed** means:
- For the implementation of the EXPERIMENT:
Access Rights are Needed if, without the grant of such Access Rights, carrying out the tasks assigned to the recipient party would be technically or legally impossible, significantly delayed, or require significant additional financial or human resources.
 - For Exploitation of own Results:
Access Rights are Needed if, without the grant of such Access Rights, the Exploitation of own Results would be technically or legally impossible. Where Confidential Information is concerned, only Confidential Information which has been disclosed during the Project may be considered as technically essential, except as otherwise agreed between the Parties and/or between a Party and a Beneficiary.
- 1.10 Results** means any tangible or intangible output of the action, such as data, knowledge, or information, that is generated in the action, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights.

2. CONDITIONS FROM THE GRANT AGREEMENT AND THE CONSORTIUM AGREEMENT REFLECTED IN THE AGREEMENT

The Funding Partner receives funding from the European Commission to fund the EXPERIMENT. Under the Grant Agreement or the Consortium Agreement, some of the obligations must be imposed on the SUBGRANTEE. Those obligations are reflected in this Agreement. The specific obligations that the SUBGRANTEE must ensure are described in the Multi-Beneficiary General Model Grant Agreement (H2020 General MGA – Multi), available at: http://ec.europa.eu/research/participants/data/ref/h2020/mga/gga/h2020-mga-gga-multi_en.pdf, in sections 6, 22, 23, 35, 36, 38 and 46. These sections are part of the Agreement.

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

3. TERMS AND CONDITIONS FOR THE FUNDING

The SUBGRANTEE shall carry out the tasks according to the schedule set forth in Annex A “EXPERIMENT” at the latest and shall report to the Funding Partner on the activities’ progress in regular intervals as indicated in Annex A “EXPERIMENT”. Such technical reports based on the template reproduced in Annex B (or similar provided by the Funding Partner) shall contain detailed information on the results generated by the SUBGRANTEE.

- 3.1** The Funding Partner shall fund the EXPERIMENT carried out by the SUBGRANTEE, within the limits and in accordance with the schedule of payments specified in Annex A “EXPERIMENT”.
- 3.2** The SUBGRANTEE shall provide a consolidated costs report to the Funding Partner accompanied by the financial statement. The SUBGRANTEE shall be entitled to claim

eligible costs for the EXPERIMENT as described in Annex C “Estimated budget for the action” of this Agreement. The list of the eligible and in eligible costs is attached in Annex 5.

- 3.3** The payment shall be paid to the SUBGRANTEE by the Funding Partner pursuant to the schedule and conditions defined in Annex A “EXPERIMENT” and the following conditions:

The SUBGRANTEE shall provide the Funding Partner with costs report according to the schedule set out in Annex A “EXPERIMENT”, each of these costs’ reports shall be accompanied by written requests for payment.

- The SUBGRANTEE shall report the costs in the Technical Report template (Annex B).
- For the final payment (at the end of Stage 3), the following elements shall at least be included in the SUBGRANTEE’s costs reports:
 - a) The identification of the EXPERIMENT.
 - b) A financial statement of costs actually incurred.
 - c) The identification of milestones, based on the completion of several tasks.
 - d) Detailed information on the deliverable achieved for the implementation of the EXPERIMENT.

No payment will be made by the Funding Partner if all the conditions set out in this article are not met or if insufficient evidence is presented by the SUBGRANTEE.

All requests for payment should include the following information:

- KYKLOS 4.0 – Grant Agreement no. 872570
- KYKLOS 4.0 Open Call #2
- The Stage to which the payment is associated [Stage 1 – Planning; Stage 2 – Implementation; Stage 3 – Commercialisation & Business Sustainability]
- SUBGRANTEE information (e.g., entity acronym)

4. LIABILITY

- 4.1** The SUBGRANTEE shall comply with all applicable laws, rules, and regulations, including, but not limited to safety, security, welfare, social security and fiscal laws, rules and regulations. The SUBGRANTEE shall fully and exclusively bear the risks in connection with the fulfilment of its tasks and obligations under this AGREEMENT.

- 4.2** The SUBGRANTEE shall not be entitled to act or to make legally binding declarations on behalf of the Funding Partner, any other Beneficiary, the KYKLOS 4.0 Project, and the European Commission, and shall indemnify all of the latter from any third party claim resulting from a breach of these obligations.

- 4.3** The contractual liability of the Funding Partner under this Agreement shall in any case be limited to the amount of the Funding provided to the SUBGRANTEE hereunder. Neither the Funding Partner nor the European Commission shall not in any case be liable for any indirect or consequential damages such as:
- loss of profits, interest, savings, shelf-space, production, and business opportunities.
 - lost contracts, goodwill, and anticipated savings.
 - loss of or damage to reputation or to data.
 - costs of recall of products; or

- any other type of indirect, incidental, punitive, special, or consequential loss or damage.

4.4 This limitation of liability shall not apply in cases of wilful act or gross negligence.

4.5 In respect of any information or materials (including Results and Background) supplied by one Party to another Party or to a Beneficiary of the KYKLOS 4.0 Project, or by a Beneficiary of the KYKLOS 4.0 Project involved in the applicable EXPERIMENT to a Party, no warranty or representation of any kind is made, given or implied as to the sufficiency, accuracy or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

Therefore,

- the recipient shall in all cases be entirely and solely liable for the use to which it puts such information and materials (including Results and Background), and
- there is no liability in case of infringement of proprietary rights of a third party resulting from any Access Rights.

5. INTELLECTUAL PROPERTY RIGHTS POLICY

The SUBGRANTEE acknowledges the terms of the “Intellectual Property Rights Policy” defined hereinafter. The SUBGRANTEE agrees to comply with the Intellectual Property Rights Policy to ensure that the Funding Partner will always be able to comply with such terms towards the other Beneficiaries.

5.1 General Principle regarding Ownership

Results are owned by the Party or by the KYKLOS 4.0 Beneficiary that generates them.

5.2 Joint Results

As requested in the Consortium Agreement signed between the Beneficiaries, among which is the Funding Partner, if, while carrying out the EXPERIMENT, a Result is generated by the SUBGRANTEE with one or several Beneficiaries, they shall own Results jointly if it is not possible to establish the respective contribution of each Party or separate them for the purpose of applying for, obtaining, or maintaining their protection

Where such joint Result is covered by intellectual property rights, the joint owners shall use reasonable efforts to negotiate a joint ownership agreement regarding the allocation, protection, and the terms and conditions of Exploitation of the joint Results as soon as possible.

Unless otherwise agreed, each of the joint owners shall be entitled to use their jointly owned Results as they see fit on a royalty-free basis, and without requiring the prior consent of the other joint owner(s); and each of the joint owners shall be entitled to Exploit the jointly owned Results and to grant non-exclusive licenses to third parties (without any right to sub-license), if the other joint owners are given:

- at least 45 calendar days advance notice; and
- A compensation under Fair and Reasonable Conditions.

5.3 Access Rights

5.3.1 For the purpose of this article 5.3, Background shall mean the Background as listed in the EXPERIMENT for the concerned EXPERIMENT.

During the EXPERIMENT, the introduction of Background in the EXPERIMENT requires the prior approval of the Funding Partner and to implement such introduction.

5.3.2 Due to provisions of the Consortium Agreement signed between the Beneficiaries, Access Rights to Background and Results may be requested by the SUBGRANTEE to a Beneficiary only in the following case and if the following conditions are fulfilled:

- The SUBGRANTEE shall have Access Rights to Background and Results of the Beneficiaries if and when such Access Rights have been agreed upon on a case-by-case basis in a separate written agreement between the SUBGRANTEE and the Beneficiary/ies concerned. Such separate agreement shall not affect any legitimate right of another Beneficiary nor violate any of the provisions as set out in the GA and/or CA. The separate agreement shall ensure that the other Beneficiaries have access to the Background and Results of the SUBGRANTEE if Needed for the Implementation of the Project or Exploitation of its own Results.
- The SUBGRANTEE which obtains Access Rights in return shall fulfil confidentiality obligations at least as stringent as the obligations stated in the CA to be arranged in a separate confidentiality agreement between the SUBGRANTEE and the Beneficiary/ies concerned.
- Access Rights may be requested by the SUBGRANTEE up to twelve (12) months after the end of the EXPERIMENT.

5.3.3 The SUBGRANTEE shall grant Access Rights on its Background and/or Results to the Beneficiaries as far as such Background and/or Results are Needed for implementation of the EXPERIMENT and/or implementation of the KYKLOS 4.0 Project, and/or exploitation of the Beneficiaries' Results.

5.3.3.1 Where any Beneficiary has Access Rights on the SUBGRANTEE's Results and/or Background for implementation of the EXPERIMENT, such Access Rights shall be granted on a royalty-free basis.

5.3.3.2 Where Access Rights on Results and/or Background of the SUBGRANTEE are Needed by Beneficiaries in order to implement the Project:

- Access Rights to the SUBGRANTEES's Results shall be granted on a royalty-free basis.
- Access Rights to the SUBGRANTEE's Background shall be granted on a royalty-free basis.

5.3.3.3 Where Access Rights on the SUBGRANTEE's Results and/or Background are Needed by a Beneficiary/ies to Exploit their own Results, the conditions on which Access Rights will be granted shall be negotiated between the SUBGRANTEE and the Beneficiary/ies concerned and agreed in a separate written agreement.

Access Rights may be requested by the Beneficiaries up to twelve (12) months after the end of the EXPERIMENT.

6. CONFIDENTIALITY

- 6.1** All information in whatever form or mode of communication, which is disclosed by a Party or a Beneficiary (the “Disclosing Partner”) to the other Party or to any Beneficiary (the “Recipient”) in connection with the Project and/or the EXPERIMENT during their implementation is “Confidential Information”.
- 6.2** The Recipients hereby undertake for a period of four (4) years after the end of the EXPERIMENT:
- not to use Confidential Information otherwise than for the purpose for which it was disclosed.
 - not to disclose Confidential Information to any third party (other than to its Affiliated Entities) without the prior written consent by the Disclosing Partner, wherein the Recipient must ensure that an arrangement is in place prior to such disclosure that subjects the Affiliated Entities to provisions.
 - to ensure that internal distribution of Confidential Information by a Recipient, its Affiliated Entities, shall take place on a strict need-to-know basis; and
 - to return to the Disclosing Partner, or destroy, on request all Confidential Information that has been disclosed to the Recipients including all copies thereof and to delete all information stored in a machine-readable form to the extent practically possible. The Recipients may keep a copy to the extent it is required to keep, archive, or store such Confidential Information because of compliance with applicable laws and regulations provided that the Recipient comply with the confidentiality obligations herein contained with respect to such copy for as long as the copy is retained.
- 6.3** The recipients shall be responsible for the fulfilment of the above obligations on the part of their employees, its Affiliated Entities having access to Confidential Information pursuant to this Section and shall ensure that they remain so obliged, as far as legally possible, during and after the end of the Project and the EXPERIMENT.
- 6.4** The above shall not apply for disclosure or use of Confidential Information, if and in so far as the Recipient can show that:
- the Confidential Information has become or becomes publicly available by means other than a breach of the Recipient’s confidentiality obligations.
 - the Disclosing Partner subsequently informs the Recipient that the Confidential Information is no longer confidential.
 - the Confidential Information is communicated to the Recipient without any obligation of confidentiality by a third party who is to the best knowledge of the Recipient in lawful possession thereof and under no obligation of confidentiality to the Disclosing Partner.
 - the disclosure or communication of the Confidential Information is foreseen by provisions of the Multi-Beneficiary General Model Grant Agreement.
 - the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Partner.
 - the Confidential Information was already known to the Recipient prior to disclosure without any confidentiality obligation to the Disclosing Partner, or

- the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provision Section 10.7 hereunder.

6.5 The Recipient shall apply the same degree of care regarding the Confidential Information disclosed within the scope of the Project and/or the EXPERIMENT as with its own confidential and/or proprietary information, but in no case less than reasonable care.

6.6 Each Party shall promptly advise the other Party or the concerned Beneficiary in writing of any unauthorised disclosure, misappropriation, or misuse of Confidential Information after it becomes aware.

7. DISSEMINATION AND COMMUNICATION

The SUBGRANTEE shall, throughout the duration of the sub-project, take appropriate measures to engage with the public and the media about the EXPERIMENT and to highlight the financial support of the European Commission and the KYKLOS 4.0 project.

Each Party agrees that any dissemination activity (including publications, presentations, or contributions to any standards organisation) by the SUBGRANTEE is subject to the prior notification to the Funding Partner and/or the Beneficiary concerned, as the case may be.

Unless the European Commission requests otherwise, any publicity, including at a conference or seminar or any type of information or promotional material (brochure, leaflet, poster, presentation etc.), and any infrastructure, equipment, and major results must:

- Specify that the EXPERIMENT has received research funding from the EC through the KYKLOS 4.0 project.
- Display the European emblem along with the KYKLOS 4.0 logo. When displayed in association with a logo, the European 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 SUBGRANTEE is exempt from the obligation to obtain prior permission from the EC to use the emblem.
- Specify that it reflects only the author's views and that the EC is not liable for any use that may be made of the information contained therein. The following text should be used:
- *"The [EXPERIMENT acronym] has indirectly received funding from the European Union's Horizon 2020 research and innovation action programme, via the KYKLOS 4.0 Open Call #2 issued and executed under the KYKLOS 4.0 project (Grant Agreement no. 872570)."*

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

- The name of the SUBGRANTEE.
- Contact address of the SUBGRANTEE.
- The general purpose of the EXPERIMENT (publishable summary, etc.).

- The amount of the financial contribution of the EC foreseen for the EXPERIMENT after the final payment, the amount and rate of the financial contribution of the EC accepted by the EC.
- The estimated amount and rate of the financial contribution of the EC foreseen for the SUBGRANTEE 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 (technical reports are excluded, since they are confidential).
- Any picture or any audio-visual or web material provided to the EC in the framework of the Sub-project.

The SUBGRANTEE shall ensure that all necessary authorisations for such publication have been obtained and that the publication of the information by the Funding Partner, the Beneficiaries, or EC does not infringe any rights of third parties.

Upon a duly supported request by the Funding Partner on behalf of the SUBGRANTEE, the EC may agree to forego such publicity if disclosure of the information indicated above would risk compromising the SUBGRANTEE's security, academic or commercial interests.

8. ADDITIONAL OBLIGATIONS AND RESPONSIBILITIES

8.1 Conflict of interest

The SUBGRANTEE must take all measures to prevent any situation where the impartial and objective implementation of the EXPERIMENT is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest ('conflict of interests'). They must formally notify the Funding Partner without delay of any situation constituting or likely to lead to a conflict of interests and immediately take all the necessary steps to rectify this situation. The Funding Partner will verify if the measures taken are appropriate and may require additional measures to be taken by a specific deadline. If the SUBGRANTEE breaches any of its obligations, the sub-contract may be automatically terminated. Moreover, costs may be rejected.

4.4 SUBGRANTEE AGREEMENT

The SUBGRANTEE Lead Partner confirms and guarantees that an agreement between the entities forming the SUBGRANTEE has been defined clarifying all participation, financial and IP rights issues. Specifically:

- The SUBGRANTEE's Lead Partner declares that all partners have agreed on their roles and budget shares.
- The SUBGRANTEE's Lead Partner is solely responsible for distributing the budget shares to other partners.
- The Funding Partner or the KYKLOS 4.0 Project bears no responsibility in case the SUBGRANTEE's Lead Partner violates the mutual agreement.
- The Funding Partner or the KYKLOS 4.0 Project bears no responsibility in case of a dispute among consortium partners regarding IP rights.

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

9. DATA PROTECTION

The Parties have the obligation to abide by the Regulation (EU) 2016/679 (General Data Protection Regulation – GDPR) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons regarding the processing of personal data and on the free movement of such data. The processing of personal data shall be carried out lawfully, fairly and in a transparent manner, collected for specific purposes and adequate, relevant, and limited to what is necessary in relation to the purposes for which it is processed.

The SUBGRANTEE acknowledges that the Funding Partner or any other Beneficiary, if appointed as data processors, are not responsible for compliance with any data protection or privacy law applicable to the SUBGRANTEE and not directly, explicitly, and specifically applicable to data processors.

10. FINANCIAL AUDITS AND CONTROLS

The EC may, at any time during the implementation of the EXPERIMENT and up to five years after its conclusion, 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 SUBGRANTEE shall make available directly to the EC all information and data that may be requested by the EC or any representative authorised by it, in view of 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 SUBGRANTEE shall keep the originals or, in exceptional cases, duly authenticated copies (including electronic copies) of all documents related to the Grant Agreement for up to five years from the end of the sub-project. These shall be made available to the EC when requested during any audit under the Grant Agreement.

To carry out these audits, the SUBGRANTEE 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 SUBGRANTEE'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 EXPERIMENT. They shall ensure that the information is readily available on the spot during an audit and, if so requested, that data be handed over in an appropriate form.

Based on 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 SUBGRANTEE concerned, which may make observations thereon within one month of receiving it. The EC may decide not to consider observations conveyed or documents sent after that deadline. The final report shall be sent to the SUBGRANTEE concerned within two months of expiry of the aforesaid deadline.

Based on 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 EC to protect the European Communities' financial interests against fraud and other irregularities.

11. TERMINATION

11.1 The Funding Partner can terminate this Agreement with immediate effect through written notice to the SUBGRANTEE if:

- The SUBGRANTEE is in breach of any of its material obligations under this Agreement, whose breach is not remediable, or, if remediable, has not been remedied within thirty (30) days after written notice to that effect from the party not in breach.
 - In the event of a breach of contractual obligations by the SUBGRANTEE, the Funding Partner reserves the right of not fulfilling the respective payments to the SUBGRANTEE.
 - The Funding Partner also reserves the right to claim a refund of any already paid funds, both in the case of a breach and/ or in case of work/ costs are not approved by the European Commission.
- To the extent permitted by law, the SUBGRANTEE is declared bankrupt, is being wound up, is having its affairs administered by the courts, has entered an arrangement with its creditors, has suspended business activities, or is the subject of any other similar proceeding concerning those matters, or
- The SUBGRANTEE is subject to an event of "Force Majeure", which prevents the SUBGRANTEE from correct performance of its obligations hereunder and such circumstances have lasted or can reasonably be expected to last more than 3 months.
 - "Force Majeure" means any unforeseeable exceptional situation or event beyond the 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 and which proves to be inevitable despite the exercising of 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 GA is terminated by the European Commission. In this case, both Parties shall agree the assessment about the work completed up to date of termination and thereupon shall proceed to the liquidation of the services. The Funding Partner shall not pay any additional compensation.

11.2 Access Rights granted to the SUBGRANTEE shall cease immediately upon the effective date of termination.

12. CONCLUDING CONDITIONS

- 12.1** The SUBGRANTEE' consistent level in its field of expertise played a key role in the selection of the SUBGRANTEE to implement the EXPERIMENT. Any total or partial transfer of provisions and the rights and duties it entails in the prior formal approval of the Funding Partner.
- 12.2** Any subcontract by the SUBGRANTEE concerning some of its tasks under this Agreement requires the prior written consent of the Funding Partner and does not affect its own obligations resulting from this Agreement. The SUBGRANTEE shall secure that the subcontractor will comply with all obligations – especially coming from the Multi-Beneficiary General Model Grant Agreement.
- 12.3** The Agreement will enter into force on the date of the last signature by the Parties.
- 12.4** This Agreement shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties. However, this Agreement or the participation of one or more Parties to it may be terminated in accordance with the terms of this Agreement.
- 12.5** If any provision of this Agreement is determined to be illegal or in conflict with the applicable law, the validity of the remaining provisions shall not be affected. The ineffective provision shall be replaced by an effective provision which is economically equivalent. The same shall apply in case of a gap.
- 12.6** This Agreement shall be governed by and construed in accordance with the laws of Belgium.
- 12.7** Any disagreement or dispute which may arise in connection with this Agreement and which the Parties are unable to settle by mutual agreement will be brought before the courts of Brussels, Belgium.
- 12.8** By signing this Agreement, the Beneficiary declares to be aware of the fundamental principle underpinning the rules for public expenditure in the EU that no costs for the same activity be funded twice from the EU budget, as defined in the Article 111 of Council Regulation (EC, Euratom) No. 1605/2002 of 25 June 2002 on the Financial Regulation, and confirms that all the work performed under KYKLOS 4.0 (Grant Agreement no. 872570) will be done exclusively in the scope of this programme, not being supported or funded by any other European Commission programme.

Done in two originals, one for each Party.

SIGNATURE PAGE

On behalf of the Funding Partner: **FUNDACIÓN
TECNALIA RESEARCH & INNOVATION**

Signature of the authorized representative:

On behalf of the SUBGRANTEE:

Signature of the authorized representative:

Name: Joseba Mikel Laka Mugartza
Title: Director of ICT Division
Date:

Name:
Title:
Date:

TEMPLATE ONLY

ANNEX A – EXPERIMENT DESCRIPTION

The SUBGRANTEE shall implement the EXPERIMENT in accordance with the following:

General Information

Description of the EXPERIMENT	
Acronym	
Full Title	
Project call identification	
Starting date of the EXPERIMENT:	
Duration of the EXPERIMENT:	
Date of selection of the SUBGRANTEE	

Workplan

Implementation of the EXPERIMENT	Description	Due date
TASKS		
TASK 1 - Name		
TASK 2 - Name		
<i>Add rows as necessary</i>		
KPIs		
KPI 1 - Name		
KPI 2 - Name		
<i>Add rows as necessary</i>		
MILESTONES		
Milestone M1 - Name		
Milestone M2 - Name		
<i>Add rows as necessary</i>		
DELIVERABLES		
Deliverable 1 - Name		
Deliverable 2 - Name		
<i>Add rows as necessary</i>		

Output/ result no.	Description	Due date
Output 1 – Name		
Output 2 - Name		
<i>Add rows as necessary</i>		

EXPERIMENT outcomes	
Expected results in terms of Industrial Impact	
Expected results in terms of IPR, software, know-how	

Note: The achievement and/ or delivery of the listed milestones, deliverables and tasks are mandatory and do not exclude the delivery of any others that may be included and/ or requested in the detailed Implementation plan to be developed in Stage 1 – Planning of the EXPERIMENT.

As to the SUBGRANTEE, it is agreed between the parties that, to the best of their knowledge, the following background is hereby identified and agreed upon for the Project. Specific limitations and/or conditions, shall be as mentioned hereunder:

Subgrantee's Background		
Describe Background	Specific limitations and/or conditions for implementation (Article 25.2 Grant Agreement)	Specific limitations and/or conditions for exploitation (Article 25.3 Grant Agreement)

Financial conditions	
Funding	Total and requested funding
Payment conditions	<p>1. Payments to be made</p> <p>The following payments will be made to the subgrantee:</p> <ul style="list-style-type: none"> • 1st payment: Finalisation of Stage 1 (Planning): 30% • 2nd payment: Finalisation of Stage 2 (Implementation): 40% • 3rd payment: Finalisation of Stage 3 (Commercialisation & Business Sustainability): 30% <p>2. Stage 1 payment (30%)</p> <ul style="list-style-type: none"> • Tentative implementation dates: TBD • Tentative review date: TBD. • Requirements: Detailed work programme, timeline, and allocation of resources. <p>3. Stage 2 payment (40%)</p> <ul style="list-style-type: none"> • Tentative implementation dates: TBD • Tentative review dates: TBD • Requirements: Demonstration of the experiment developed and results. <p>4. Stage 3 payment (30%)</p> <ul style="list-style-type: none"> • Tentative implementation dates: TBD • Tentative review dates: TBD • Requirements: Commercialisation activities and business sustainability strategy presented. <p>5. Date of payment</p> <p>Payments by the Funding Partner are considered to have been carried out on the date when they are debited to its account.</p> <p>NOTES:</p> <ul style="list-style-type: none"> • <i>The payment schedule is linked to successful completion of specified milestones and KPIs established by the Beneficiary in its project proposal, which will be evaluated through a report (deliverable) submitted to the coordinator at the end of each stage.</i> • <i>The Beneficiary should submit the deliverable corresponding to each stage by the last calendar day of the respective stage, providing sufficient time for the KYKLOS 4.0 consortium to review it. A review will be held so that the Contracting Parties can present their work and provide answers to questions from the KYKLOS 4.0 consortium partners.</i> • <i>NOTE: If at any of the payment stages the KYKLOS 4.0 team considers that the quality of work demonstrated and/or reported does not correspond to those agreed, the two parties may agree to a resubmission of a deliverable and respective reassessment. If significant improvements are not delivered after reassessment and the sub-project is therefore considered to be in breach of their contractual obligations, KYKLOS 4.0 reserves the right to terminate the contract.</i>

This EXPERIMENT, composed of the Agreement and its Annexes, constitutes the sole and complete understanding of the Parties with respect to its subject matter and supersedes all prior or contemporaneous communications between the Parties concerning such subject matter. This EXPERIMENT will be governed and construed according to the choice of governing and constructive law set forth in the AGREEMENT.

ANNEX B - TECHNICAL REPORT TEMPLATE

This Technical Report template is provisional and represents the information that will be required by the SUBGRANTEE in the deliverable to be submitted at the end of each stage.

Document Description

The technical report includes an explanation of work carried out, an overview of progress and a publishable summary (describing the overview of the results and the exploitation and dissemination, the conclusions of the actions and its socio-economic impacts).

1. Introduction

Description of the objectives of the EXPERIMENT period (concept and objectives), progress and potential innovation, targeted results description and used background.

2. Summary of progress

Short description of the progress achieved over the reporting period.

3. Work performed and results

Description of the main activities carried out and results achieved as foreseen in the workplan.

4. Risk management

Description of any risks encountered, and mitigation measures explored.

5. Promotion activities

Description of the main promotion activities carried out.

6. Plan for the next stage (if applicable)

7. Summary and final considerations

Summarise major results and achievements and evaluate them compared with the objectives.

ANNEX C – ESTIMATED BUDGET FOR THE ACTION

[To be completed according to the Proposal Budget statement. Please provided detailed references on all costs categories, personnel and direct costs]

Name of the legal representative of the SUBGRANTEE

Function of the legal representative of the SUBGRANTEE

TEMPLATE ONLY

ANNEX D - LIST OF ELIGIBLE AND INELIGIBLE COSTS - EXTRACT FROM THE GRANT AGREEMENT

ARTICLE 6 — ELIGIBLE AND INELIGIBLE COSTS

6.1 General conditions for costs to be eligible

'Eligible costs' are costs that meet the following criteria:

(a) for **actual costs**:

- (i) they must be actually incurred by the beneficiary;
- (ii) they must be incurred in the period set out in Article 3, with the exception of costs relating to the submission of the periodic report for the last reporting period and the final report (see Article 20);
- (iii) they must be indicated in the estimated budget set out in Annex B;
- (iv) they must be incurred in connection with the action as described in Annex A and necessary for its implementation;
- (v) they must be identifiable and verifiable, in particular recorded in the beneficiary's accounts in accordance with the accounting standards applicable in the country where the beneficiary is established and with the beneficiary's usual cost accounting practices;
- (vi) they must comply with the applicable national law on taxes, labour and social security, and
- (vii) they must be reasonable, justified and must comply with the principle of sound financial management, in particular regarding economy and efficiency;

(b) for **unit costs**:

- (i) they must be calculated as follows: {amounts per unit set out in Annex B or calculated by the beneficiary in accordance with its usual cost accounting practices (see Article 6.2, Point A) multiplied by the number of actual units};
- (ii) the number of actual units must comply with the following conditions:
 - the units must be actually used or produced in the period set out in Article 3;
 - the units must be necessary for implementing the action or produced by it, and
 - the number of units must be identifiable and verifiable, in particular supported by records and documentation (see Article 18);

(c) for **flat-rate costs**:

- (i) they must be calculated by applying the flat-rate set out in Annex B, and
- (ii) the costs (actual costs or unit costs) to which the flat-rate is applied must comply with the conditions for eligibility set out in this Article.

6.2 Specific conditions for costs to be eligible

Costs are eligible if they comply with the general conditions (see above) and the specific conditions set out below for each of the following budget categories:

- A. direct personnel costs;
- B. direct costs of subcontracting;
- C. *direct costs of providing Funding to third parties*;
- D. other direct costs;
- E. indirect costs;
- F. *not applicable*.

'Direct costs' are costs that are directly linked to the action implementation and can therefore be attributed to it directly. They must not include any indirect costs (see Point E below).

'Indirect costs' are costs that are not directly linked to the action implementation and therefore cannot be attributed directly to it.

A. Direct personnel costs

Types of eligible personnel costs

A.1 **Personnel costs** are eligible, if they are related to personnel working for the beneficiary under an employment contract (or equivalent appointing act) and assigned to the action (**'costs for employees (or equivalent)'**). They must be limited to salaries (including during parental leave), social security contributions, taxes and other costs included in the **remuneration**, if they arise from national law or the employment contract (or equivalent appointing act).

Beneficiaries that are non-profit legal entities¹ may also declare as personnel costs **additional remuneration** for personnel assigned to the action (including payments based on supplementary contracts regardless of their nature), if:

(a) it is part of the beneficiary's usual remuneration practices and is paid in a consistent manner whenever the same kind of work or expertise is required.

(b) the criteria used to calculate the supplementary payments are objective and generally applied by the beneficiary, regardless of the source of funding used.

Additional remuneration for personnel assigned to the action is eligible up to the following amount:

(a) if the person works full time and exclusively on the action during the full year: up to EUR 8 000;

(b) if the person works exclusively on the action but not full-time or not for the full year: up to the corresponding pro-rata amount of EUR 8 000, or

(c) if the person does not work exclusively on the action: up to a pro-rata amount calculated as follows: {{EUR 8 000 divided by the number of annual productive hours (see below)}, multiplied by the number of hours that the person has worked on the action during the year}.

A.2 The **costs for natural persons working under a direct contract** with the beneficiary other than an employment contract are eligible personnel costs, if:

(a) the person works under the beneficiary's instructions and, unless otherwise agreed with the beneficiary, on the beneficiary's premises;

(b) the result of the work carried out belongs to the beneficiary, and

(c) the costs are not significantly different from those for personnel performing similar tasks under an employment contract with the beneficiary.

A.3 The **costs of personnel seconded by a third party against payment** are eligible personnel costs, if the conditions in Article 11.1 are met.

A.4 **Costs of owners** of beneficiaries that are small and medium-sized enterprises (**'SME owners'**) who are working on the action and who do not receive a salary are eligible personnel costs, if they correspond to the amount per unit set out in Annex B multiplied by the number of actual hours worked on the action.

A.5 **Costs of 'beneficiaries that are natural persons'** not receiving a salary are eligible personnel costs, if they correspond to the amount per unit set out in Annex B multiplied by the number of actual hours worked on the action.

Calculation

Personnel costs must be calculated by the beneficiaries as follows: {{hourly rate multiplied by the number of actual hours worked on the action}}, plus for non-profit legal entities: additional remuneration to personnel assigned to the action under the conditions set out above (Point A.1).

The number of actual hours declared for a person must be identifiable and verifiable (see Article 18).

The total number of hours declared in EU or Euratom grants, for a person for a year, cannot be higher than the annual productive hours used for the calculations of the hourly rate. Therefore, the maximum

¹ For the definition, see Article 2.1(14) of the Rules for Participation Regulation No 1290/2013: **'non-profit legal entity'** means a legal entity which by its legal form is non-profit-making or which has a legal or statutory obligation not to distribute profits to its shareholders or individual members.

number of hours that can be declared for the grant is: {the number of annual productive hours for the year (see below) minus total number of hours declared by the beneficiary for that person in that year for other EU or Euratom grants}.

The '**hourly rate**' is one of the following:

(a) for personnel costs declared as **actual costs**: the hourly rate is the amount calculated as follows: {actual annual personnel costs (excluding additional remuneration) for the person divided by number of annual productive hours}.

The beneficiaries must use the annual personnel costs and the number of annual productive hours for each financial year covered by the reporting period. If a financial year is not closed at the end of the reporting period, the beneficiaries must use the hourly rate of the last closed financial year available.

For the 'number of annual productive hours', the beneficiaries may choose one of the following:

(i) 'fixed number of hours': 1 720 hours for persons working full time (or corresponding prorata for persons not working full time);

(ii) 'individual annual productive hours': the total number of hours worked by the person in the year for the beneficiary, calculated as follows:

{annual workable hours of the person (according to the employment contract, applicable collective labour agreement or national law) plus overtime worked minus absences (such as sick leave and special leave)}.

'Annual workable hours' means the period during which the personnel must be working, at the employer's disposal and carrying out his/her activity or duties under the employment contract, applicable collective labour agreement or national working time legislation. If the contract (or applicable collective labour agreement or national working time legislation) does not allow to determine the annual workable hours, this option cannot be used;

(iii) 'standard annual productive hours': the 'standard number of annual hours' generally applied by the beneficiary for its personnel in accordance with its usual cost accounting practices. This number must be at least 90% of the 'standard annual workable hours'. If there is no applicable reference for the standard annual workable hours, this option cannot be used.

For all options, the actual time spent on **parental leave** by a person assigned to the action may be deducted from the number of annual productive hours;

(b) for personnel costs declared on the basis of **unit costs**: the hourly rate is one of the following:

(i) for SME owners or beneficiaries that are natural persons: the hourly rate set out in Annex B (see Points A.4 and A.5 above), or

(ii) for personnel costs declared on the basis of the beneficiary's usual cost accounting practices: the hourly rate calculated by the beneficiary in accordance with its usual cost accounting practices, if:

- the cost accounting practices used are applied in a consistent manner, based on objective criteria, regardless of the source of funding;

- the hourly rate is calculated using the actual personnel costs recorded in the beneficiary's accounts, excluding any ineligible cost or costs included in other budget categories.

The actual personnel costs may be adjusted by the beneficiary on the basis of budgeted or estimated elements. Those elements must be relevant for calculating the personnel costs, reasonable and correspond to objective and verifiable information;

and

- the hourly rate is calculated using the number of annual productive hours (see above).

B. Direct costs of subcontracting (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible if the conditions in Article 13.1.1 are met.

C. Direct costs of providing Funding to third parties are eligible if the conditions set out in Article 15.1.1 or 15.2.1 are met.

D. Other direct costs

D.1 Travel costs and related subsistence allowances (including related duties, taxes, and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible if they are in line with the beneficiary's usual practices on travel.

D.2 The depreciation costs of equipment, infrastructure, or other assets (new or second-hand) as recorded in the beneficiary's accounts are eligible, if they were purchased in accordance with Article 10.1.1 and written off in accordance with international accounting standards and the beneficiary's usual accounting practices.

The **costs of renting or leasing** equipment, infrastructure, or other assets (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are also eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure or assets and do not include any financing fees.

The costs of equipment, infrastructure or other assets **contributed in-kind against payment** are eligible, if they do not exceed the depreciation costs of similar equipment, infrastructure, or assets, do not include any financing fees and if the conditions in Article 11.1 are met.

The only portion of the costs that will be considered is that which corresponds to the duration of the action and rate of actual use for the purposes of the action.

D.3 Costs of other goods and services (including related duties, taxes, and charges such as non-deductible value added tax (VAT) paid by the beneficiary) are eligible, if they are:

- (a) purchased specifically for the action and in accordance with Article 10.1.1 or
- (b) contributed in kind against payment and in accordance with Article 11.1.

Such goods and services include, for instance, consumables and supplies, dissemination (including open access), protection of results, certificates on the financial statements (if they are required by the Agreement), certificates on the methodology, translations, and publications.

D.4 Capitalised and operating costs of 'large research infrastructure'² directly used for the action are eligible, if:

- (a) the value of the large research infrastructure represents at least 75% of the total fixed assets (at historical value in its last closed balance sheet before the date of the signature of the Agreement or as determined on the basis of the rental and leasing costs of the research infrastructure³);
- (b) the beneficiary's methodology for declaring the costs for large research infrastructure has been positively assessed by the Commission ('**ex-ante assessment**');
- (c) the beneficiary declares as direct eligible costs only the portion which corresponds to the duration of the action and the rate of actual use for the purposes of the action, and
- (d) they comply with the conditions as further detailed in the annotations to the H2020 grant agreements.

E. Indirect costs

² 'Large research infrastructure' means research infrastructure of a total value of at least EUR 20 million, for a beneficiary, calculated as the sum of historical asset values of each individual research infrastructure of that beneficiary, as they appear in its last closed balance sheet before the date of the signature of the Agreement or as determined on the basis of the rental and leasing costs of the research infrastructure.

³ For the definition, see Article 2(6) of Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) (OJ L 347, 20.12.2013 p.104)-('Horizon 2020 Framework Programme Regulation No 1291/2013'): 'Research infrastructure' are facilities, resources and services that are used by the research communities to conduct research and foster innovation in their fields. Where relevant, they may be used beyond research, e.g. for education or public services. They include: major scientific equipment (or sets of instruments); knowledge-based resources such as collections, archives or scientific data; e-infrastructures such as data and computing systems and communication networks; and any other infrastructure of a unique nature essential to achieve excellence in research and innovation. Such infrastructures may be 'single-sited', 'virtual' or 'distributed'.

Indirect costs are eligible if they are declared on the basis of the flat-rate of 25% of the eligible direct costs (see Article 5.2 and Points A to D above), from which are excluded:

- (a) costs of subcontracting and
- (b) costs of in-kind contributions provided by third parties which are not used on the beneficiary's premises *and*
- (c) *costs of providing Funding to third parties;*
- (d) *not applicable.*

Beneficiaries receiving an operating grant⁴ financed by the EU or Euratom budget cannot declare indirect costs for the period covered by the operating grant.

F. Specific cost category(ies)

Not applicable

6.3 Conditions for costs of linked third parties to be eligible

not applicable

6.4 Conditions for in-kind contributions provided by third parties free of charge to be eligible

In-kind contributions provided free of charge are eligible direct costs (for the beneficiary), if the costs incurred by the third party fulfil — *mutatis mutandis* — the general and specific conditions for eligibility set out in this Article (Article 6.1 and 6.2) and Article 12.1.

6.5 Ineligible costs 'Ineligible costs' are:

- (a) costs that do not comply with the conditions set out above (Article 6.1 to 6.4), in particular:
 - (i) costs related to return on capital;
 - (ii) debt and debt service charges;
 - (iii) provisions for future losses or debts;
 - (iv) interest owed;
 - (v) doubtful debts;
 - (vi) currency exchange losses;
 - (vii) bank costs charged by the beneficiary's bank for transfers from the *Commission*;
 - (viii) excessive or reckless expenditure;
 - (ix) deductible VAT;
 - (x) costs incurred during suspension of the implementation of the action (see Article 49);
- (b) costs declared under another EU or Euratom grant (including grants awarded by a Member State and financed by the EU or Euratom budget and grants awarded by bodies other than the *Commission* for the purpose of implementing the EU or Euratom budget); in particular, indirect costs if the beneficiary is already receiving an operating grant financed by the EU or Euratom budget in the same period.

6.6 Consequences of declaration of ineligible costs

Declared costs that are ineligible will be rejected (see Article 42).

This may also lead to any of the other measures described in Chapter 6.

⁴ For the definition, see Article 121(1)(b) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 218, 26.10.2012, p.1) ('**Financial Regulation No 966/2012**'): '**operating grant**' means direct financial contribution, by way of donation, from the budget in order to finance the functioning of a body which pursues an aim of general EU interest or has an objective forming part of and supporting an EU policy.