

## **Funding Agreement**<sup>1</sup>

concluded between the

**Federal Government**

as Funding Provider

and

**Company name**

**Street**

**Post code / town**

**Company register number**

as Funding Recipient.

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<sup>1</sup> "This document is a translated version of the original German version. In cases of unclear formulation the German version is the decisive document".

## § 1 Granting of funding

- 1.1 Österreichische Forschungsförderungsgesellschaft mbH (FFG) is responsible for funding management pursuant to Secs. 11.1 to 11.5 of the Research and Technology Promotion Act (FTFG) based on contractual agreements (Framework Contract) in accordance with Sec. 12 para 1 of the FTFG, and concludes this Agreement as direct representative of the Funding Provider.
- 1.2 Based on the funding application "Project name xxx" dated xx.xx.202x and the funding recommendation approved by the Federal Ministers, funding is hereby granted for the following project:

Project name (subject of the Agreement): xxx  
 Acronym: XXXXX  
 Project number: xxx  
 Programme: COMET  
 Call: 4. Ausschreibung COMET-Zentren (K1), 2FP (2020)

## § 2 Duration of funding period

- 2.1 The funding period for the project specified in this Agreement starts on xxx and ends on xxx.

## § 3 Type and amount of funding

- 3.1 Funding shall be in the form of a non-repayable subsidy of a maximum amount of EUR xx, i.e. xx.xx % of the maximum overall costs eligible for funding.
- 3.2 If the total project costs eligible for funding are below the planned costs, the funding percentage calculated for the project will be applied to the eligible costs actually incurred.

Funding Recipient	Total project costs eligible for funding	Max. funding amount	Funding percentage
xxx	EUR xxx	EUR xxx	xx.xx%

- 3.3 The approved project costs and interim accounts shall not be construed as a final approval of costs. The final amount of eligible costs and funding will only be determined after FFG has audited and approved the documents evidencing the proper use of the funding (final approval).

## § 4 Eligible costs

- 4.1 Eligible costs shall be taken to mean all costs and expenses attributed to the project, which result directly, actually and additionally to the normal operational costs during the duration of the funded project. Additional provisions on eligible costs may result from the "Guidelines for the promotion of industrial/technological research, technology development and innovation" ("FTI-Richtlinie 2015" / "Struktur-FTI-RL"), issued by the Federal Minister of Transport, Innovation and Technology (GZ BMVIT-

609.986/0011-III/12/2014) and the Federal Minister of Science, Research and Economy (GZ BMWFW-97.005/0003-C1/9/2014).

- 4.2 The personnel costs, which are primarily funded from federal funds, are only eligible to the extent that they are in accordance with the salary scheme of the federal government or are based on relevant provisions specified by law, collective agreements, employment contracts or company agreements.
- 4.3 The value added tax payable on eligible costs is not eligible for funding. If, however, this value added tax can be proven to be actually and definitively borne by the Funding Recipient, i.e. if the latter is not entitled to deduct input tax, then value added tax can be taken into account as an eligible cost element.
- The funding paid by the Funding Provider represents a real subsidy, which is not subject to value added tax since there is no exchange of services and the performance of the research project is in the public interest.
- The funding amount shall be treated as a gross amount. Any additional, separate payment of value added tax – for whatever legal reason – is thus excluded.
- 4.4 If the payback period of a fixed asset (Sec. 285 of the General Civil Code, ABGB) acquired for the performance of the service exceeds the period of performance, only that portion of the cost corresponding to the depreciation according to the Income Tax Act of 1988 (EStG) for the period of performance will be considered eligible for funding.
- 4.5 Federal funding must not be used to create reserves or provisions according to the Income Tax Act of 1988 (EStG), Federal Law Gazette No. 400 or the Enterprises Code (UGB), Federal Law Gazette (dRGI) S 219/1897.
- 4.6 Costs are only eligible for funding if they fall into the eligible cost categories, have been verifiably incurred after submission of the project and after the contractually agreed start of the project.
- 4.7 Any costs incurred by the Funding Recipient or its partners in preparing the Agreement as well as any transfer fees shall be borne by the recipient or partner and are not considered eligible costs. Costs that are not considered eligible costs due to EU competition law provisions shall not be eligible for funding.
- 4.8 Funding provided by FFG to defray costs and expenses for the direct promotion of science and research is paid from public funds and is exempt from taxes pursuant to Sec. 3 para 1 (3.c) of the Income Tax Act (EStG) in conjunction with Sec. 3 para 4 (3) EStG.

## § 5 Payment of funding

- 5.1 Payments will be made after written request to FFG in accordance with the following payment plan:

1 <sup>st</sup> instalment after conclusion of the Funding Agreement	EUR	xx
2 <sup>nd</sup> instalment after the end of the reporting period xx.xx.20xx	EUR	xx
3 <sup>rd</sup> instalment after the end of the reporting period xx.xx.20xx	EUR	xx
4 <sup>th</sup> instalment after the end of the reporting period xx.xx.20xx	EUR	xx
Final instalment after final approval by FFG	EUR	xx

- 5.2 Payments are made to the following account of the Funding Recipient:

Account holder: XXX

Bank: XXX

IBAN: XX

BIC/SWIFT: XXX

- 5.3 The 1<sup>st</sup> instalment of € XXX shall be paid after conclusion of the Funding Agreement and fulfilment of the conditions and requirements agreed in § 6.
- 5.4 The remaining instalments shall be paid subject to fulfilment of all conditions (interim accounts, interim reports etc.) (see § 6, 7 and 11).
- 5.5 The final instalment of at least 10% of the total funding amount approved will only be paid once all conditions (final accounts, final reports etc.) have been fulfilled and FFG has audited and approved the documents evidencing the proper use of the funding (final approval).
- 5.6 The Funding Provider reserves the right to postpone, reduce or suspend the payment of funding if and as long as the proper performance of the funded project cannot be guaranteed (e.g. if the costs are not evidenced as agreed).
- 5.7 If a funding has not been paid in full or in part at the end of the financial year for which the funding has been granted as a result of the Funding Recipient's failure to meet the requirements specified for payment, FFG may extend the funding approval to the end of the subsequent financial year provided that the Funding Recipient is not responsible for the project's delay and that the project is still eligible for funding.

## **§ 6 Project-specific conditions and requirements**

- 6.1 The following (consortium) partners will take part in the present project:  
The participation of partners in Centres is regulated in the relevant agreement.
  - 6.2 A valid agreement must be presented prior to payment of the 1<sup>st</sup> instalment.
  - 6.3 Project-specific conditions and requirements  
XXX
  - 6.4 The Federal Government intends to present the project results in programme-specific brochures and on a website as part of the PR activities and dissemination of the Competence Centre Programme. The Funding Recipients agree to cooperate in this context with the Federal Government and companies commissioned by the Federal Government for this purpose (e.g. FFG) and provide relevant project abstracts.  
  
In addition to participating in programme-specific events organised for the presentation of the project, the Funding Recipients also agree that an outline of the project content including contact details and relevant pictures will be published for this purpose. The Funding Recipients acknowledge the guidelines for reporting and project-specific PR work as a basis for preparing the reports and PR materials.  
  
The Funding Recipient shall make express reference to the Competence Centre Programme and to BMK and BMDW as Funding Provider in all publications and other activities related to the funded project.  
  
The Funding Recipient undertakes to fully cooperate with any institution, federal authority or representative of the funding agency involved in evaluating the project. This obligation shall remain in force after the end of the contractual period.
- 6.4 The Funding Recipient acknowledges

- that the personal data collected during initiation and performance of the contract which are necessary for the performance of a task carried out by the funding provider in the public interest (Art 6 (1) (e) GDPR), for compliance with a legal obligation (Art 6 (1) (c) GDPR) or for safeguarding the legitimate interests pursued by the controller or by a third party (Art 6 (1) (f) GDPR) may be used by the Funding Provider and the Funding Agency for the initiation and performance of the funding contract, for carrying out the tasks assigned to the Funding Provider and for control purposes. It is possible that, in the context of such use, data have to be transmitted or disclosed to other parties, including but not limited to bodies and agents of the federal (regional) government, the Court of Audit and the European Union. The legal basis for this use shall be compliance with a legal obligation (Art 6 (1) (c) GDPR) or the performance of a task carried out in the public interest (Art 6 (1) (e) GDPR). If several federal bodies and/or funding providers wish to grant funding to the same Funding Recipient for the same project (albeit with a different purpose) and need to coordinate with each other, this shall be done either on the basis of a legal obligation according to Art 6 (1) (c) GDPR or for safeguarding the legitimate interests pursued by the controller or by a third party (Art 6 (1) (f) GDPR).
  - that the Funding Provider and the Funding Agency are entitled to collect and/or transfer personal data required for assessing compliance with the funding requirements and for verifying proper use of the funding (beyond the information provided by himself/herself) from and/or to other federal authorities, other legal entities granting or managing relevant funding or other third parties and may also conduct searches in the transparency portal according to Sec. 32 (5) of the Transparency Database Act (TDBG 2012);
  - that the processing activities may be legitimately carried out by the Funding Provider or Funding Agency acting as a controller, or the Funding Provider and the Funding Agency acting as joint controllers or as a controller and a processor.
- 6.6 Detailed information about data processing is available on the website [www.ffg.at](http://www.ffg.at) under Privacy Policy ([www.ffg.at/datenschutz](http://www.ffg.at/datenschutz)).
- 6.7 The Funding Recipient confirms that the disclosure of data of natural persons to the Funding Provider or the Funding Agency is in compliance with the provisions of the GDPR and that the Funding Recipient will inform/has informed the natural persons concerned about the data processing by the Funding Provider and/or Funding Agency.

## **§ 7 Reporting obligations**

- 7.1 The Funding Recipient shall, within three months of project completion, provide the funding agency with a report on the funded project by submitting documents that evidence the proper use of funds, including a technical report and accounts. Additional documents shall be submitted to the funding agency upon request.
- 7.2 A technical interim report and interim accounts must be submitted within one month of the reporting deadline specified in the Funding Agreement by uploading the documents using the eCall reporting function.
- 7.3 If funding has been received for the development of a prototype the Funding Recipient shall inform FFG about the whereabouts and/or further use of the prototype.
- 7.4 The Funding Recipient shall immediately report any possible cases of multiple funding to the Funding Provider. Multiple funding shall be deemed to occur if costs or partial costs (all categories) of a project

are funded by different funding agencies/programmes (national and international). If the Funding Recipient fails to report cases of multiple funding and exceeds the relevant maximum limits specified by the relevant EU provisions he may be liable to criminal prosecution (Sec. 147 et seq. , Sec. 153b Criminal Code, StGB).

## **§ 8 Amendments**

- 8.1 Amendments to this Agreement must be made expressly and in writing in order to be valid. This also applies to any waiver of the written form requirement.
- 8.2 Any subsequent changes to the conditions and requirements specified herein may, in special circumstances, be agreed between the funding agency and the Funding Recipient in the form of written supplemental agreements.

## **§ 9 Applicable law and jurisdiction**

- 9.1 This Agreement and any annexes thereto shall be governed by Austrian law, with the exception of the conflict of laws provisions of the Austrian IPRG (International Private Law Act).
- 9.2 Any legal disputes arising in connection with the granting of funding shall be settled by the court of competent jurisdiction in Vienna. The Funding Provider reserves the right to sue the Funding Recipient at his place of general jurisdiction.

## **§ 10 Severability**

- 10.1 If a provision of this Funding Agreement is held to be invalid the validity of the remaining provisions of this Funding Agreement shall remain unaffected. The contracting parties shall replace any such invalid provision by a provision which comes closest to the purpose of this Funding Agreement.

## **§ 11 Integral parts of the Agreement**

- 11.1 The following documents shall form integral parts of the Funding Agreement:
  - the funding application "Projektname xxx", including any approved conditions and obligations specified in the funding recommendation
  - the Centre Plan adapted in line with the funding recommendation
  - the General Funding Conditions for funding contracts based on the RTI Guidelines (Version 2018)

Other integral parts of the Funding Agreement (as amended):

- the Programme Document dated January 1st 2016 (GZ BMVIT-610.940/0005-III/I2/2016 and GZ BMWFW-98.310/0009-C1/10/2016)

- Guidelines for Mid-Term Evaluation of COMET Centres (K1), 4th Call; (Version 3.1 valid as from July 1th 2019)
- Cost Guidelines version 2.1

These documents shall apply unless expressly provided otherwise in this Agreement.

11.2 The legal basis of this Funding Agreement includes in particular:

- the "Guidelines for the promotion of industrial/technological research, technology development and innovation" ("FTI-Richtlinie 2015"/"Struktur-FTI-Richtlinie"; issued by the Federal Minister of Transport, Innovation and Technology (GZ: BMVIT-609.986/0011-III/12/2014), and the Federal Minister of Science, Research and Economy (GZ: BMWFW-97.005/0003-C1/9/2014). This Guideline was notified to the European Commission for approval based on the GBER 2014.
- 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-GDPR). Federal Act concerning the Protection of Personal Data (DSG), Federal Law Gazette (BGBl) I No. 165/1999

The Funding Recipient confirms that he/she is not subject to an outstanding recovery order of the European Commission and that any repayment of incompatible funding has been completed.

The Funding Recipient confirms that he/she has read and accepts all contractual provisions without restrictions and acknowledges that non-compliance with the contractual provisions entitles the Funding Provider to reclaim the funding.

The funding recipient agrees that the data listed in Art. 9 (1) of the COMMISSION REGULATION (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 187, 26.06.2014 as amended by COMMISSION REGULATION (EU) No. 2017/1084 of 14 June 2017 (OJ L 156/1, 20.06.2017) Annex III can be used for the publication of information.

**For the Funding Provider:**  
**Österreichische Forschungsförderungsgesellschaft mbH (FFG)**

Vienna, on xx.xx.20xx

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Dr. Henrietta EGERTH-STADLHUBER  
Managing Director

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Dr. Klaus Pseiner  
Procurator

**Funding Recipient**

\_\_\_\_\_, on \_\_\_\_\_

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(Signature, please add name and function in block letters, company stamp)

Model Contract