

# SOTECIN FACTORY

Open Call 2 for Social Innovators

Annex 6: Sub Grantee Agreement Template

\* This document serves as a reference. The Subgrantee Agreement that will be given to the winning applicants will be finalized during the contracting phase.



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## CONTRACTING PARTIES

INESC TEC - Institute for Systems and Computer Engineering, Technology and Science, established in [legal address], VAT number: [VAT number], represented for the purposes of signing the Agreement by [add legal representative name].

Hereinafter referred as the **“Project Coordinator”**

F6S Network Limited, established in [legal address], VAT number: VAT number, represented for the purposes of signing the Agreement by [add legal representative name].

Hereinafter referred as the **“Treasurer”**

Of the one part,

[COMPANY\_NAME], a company organised under the laws of [COUNTRY], established in [LEGAL\_ADDRESS], with VAT number [VAT\_NUMBER], duly represented by [LEGAL\_REPRESENTATIVE], [LEGAL\_REPRESENTATIVE\_POSITION],

Hereinafter referred as the **“Subgrantee”**

Hereinafter collectively referred as the **“Contracting Parties”**

HAVE AGREED to the following terms and conditions including those in the SoTecIn Factory Open Call 2 for Social Innovators Annexes, which form an integral part of this Subgrantee Agreement (hereinafter referred as the **“Contract”**).

## GENERAL PROVISIONS

The European Commission (hereinafter referred as the “EC”) and the Project Coordinator of the SoTecln Factory consortium, have signed the Grant Agreement no 101058385 for the implementation of the project “Social and Technological Innovation Factory for Low-Carbon and Circular Industrial Value Chains” (Acronym: SoTecln Factory) within the framework of the Programme HORIZON-CL4-2021-RESILIENCE-01-31.

The Subgrantee has received the favorable resolution by the evaluators and therefore is entitled to receive funding and support according to the terms and conditions set out under this Subgrantee Agreement and in accordance with the Open Call 2 for Social Innovators rules.

The SoTecln Factory partner(s) responsible for the provision of said support in the SoTecln Factory project will make themselves available to the Subgrantees.

This Contract aims at defining the framework of rights and obligations of the Contracting Parties.

The funding received by the Subgrantee is the property of the EC. The Project Coordinator and Treasurer are mere holders and managers of the funds.

## ARTICLE 1 – ENTRY INTO FORCE AND TERMINATION OF THE CONTRACT

### 1.1 Entry into force

This contract shall enter into force on [date] subject to its signature by the last Contracting Party. The Project Coordinator and Treasurer shall sign this contract, only after the following documents have been received from the Subgrantee:

Regions:

- The original signed Declaration of Honour (as given in Annex 1 of this Contract)
- Declaration of Conducting Business (as given in Annex 2 of this Contract)
- Copy of ID-card or Passport of legal representative(s) of the organisation
- Copy of the original Extract of organisation registration
- Proof of VAT registration

All Contracting parties must sign this document no later than [date]

Besides the hard copies that will arrive by mail, the Project Coordinator and Treasurer will sign this Subgrantee agreement via **Qualified Electronic Signature [QES]**.

The original documents will be sent to the Project Coordinator for the signature of the legal representative. Afterwards, the Project Coordinator will send these documents to the Treasurer for the signature of the legal representative. The original documents will be archived at the Treasurer’s office.

All documents shall be sent to the SoTecln Factory Consortium first via email to the following address: [sotecinfactory@f6s.com](mailto:sotecinfactory@f6s.com), while they will also be sent as originals, via regular mail, to the following address [INESCTEC email]

The Subgrantee is solely responsible for the accuracy of all data provided to the SoTecln Factory consortium.

## **1.2 Contract termination**

This contract terminates in the event of unjustified withdraw by the Beneficiary of the current fulfilment of its Contract obligations. "Unjustified withdraw" covers any situation out of "Force Majeure" qualification which determines the absence of performance of the Subgrantee's contractual obligations. In this particular case, it entitles the SoTecln Factory consortium the right to claim the Subgrantee the full refund of all payments made to the Subgrantee up to date.

## **ARTICLE 2 – OBLIGATIONS AND RESPONSIBILITIES OF THE SUBGRANTEE**

The obligations and responsibilities of the Subgrantee are defined in detail in the Guidelines for Applicants (Annex 3 of this document).

In order to receive the funding from the SoTecln Factory consortium, the Subgrantee that have been declared the winner of the Open Call 2 for Social Innovators must submit the relevant deliverables. Only after they have been given positive feedback regarding their deliverables from the SoTecln Factory consortium, shall they be entitled to the funding from the SoTecln Factory consortium. Upon receiving positive feedback regarding their deliverables, the Subgrantee must send the Request for Payment to the Treasurer in order to receive the funding.

Additionally, the Subgrantee shall take every necessary precaution to avoid any risk of conflict of interest relating to economic interests, political or national affinities, personal or any other interests liable to influence the impartial and objective performance of the subproject. In case the Subgrantee is involved in a conflict of interest or is in a risk of conflict of interest, the Subgrantee must formally notify this situation to the SoTecln Factory Consortium Partners without delay and immediately take all necessary steps to rectify this situation.

The subgrantee will be invited to fill out the Impact Assessment Tool before starting the third-party project and after finishing it. This tool was developed by the consortium to measure the impacts of third-party projects and social innovators participating in the project. This tool is a simple questionnaire that will be presented to the subgrantee by the SoTecln Factory team at the early stages of the third-party projects and in the end of the project. The questionnaire will not collect sensitive information from the companies. The information collected will be used solely to measure the solutions impacts during the SoTecln Factory duration.

## ARTICLE 3 – BREACH OF CONTRACTUAL OBLIGATIONS

In the event of the breach of the contractual obligations by the Subgrantee, the SoTecIn Factory consortium reserves the right to claim the Subgrantee the full refund of all payments made to the Subgrantee up to date. The breach of the contractual obligations by the Subgrantee shall be determined by the SoTecIn Factory Consortium. The provision of false or misleading declarations by the Subgrantee or any unsolved situation of conflict of interest constitute an example of a breach of contractual obligations by the Subgrantee.

## ARTICLE 4 – FINANCIAL CONTRIBUTION AND FINANCIAL PROVISIONS

### 4.1 Maximum financial contribution

The maximum financial contribution to be granted by the SoTecIn Factory consortium to the Subgrantee will not exceed the amount of Fifteen Thousand Euros (15.000,00€). This financial contribution will be given in 2 instalments.

### 4.2 Distribution of financial contribution

The financial contribution to be granted to the Subgrantee shall be distributed in accordance with the provisions of the Guidelines for Applicants (in Annex 3 of this document).

In any case, the financial grant to be paid will always be subject to:

- Reception of the relevant deliverable(s)
- A favorable resolution by the evaluators and SoTecIn Factory partner responsible for assessing the subproject execution.
- Reception of the Request for Payment electronically.
- The Subgrantee's Bank matches the Instructions for payment issued by the bank of the Subgrantee.
- Payments to the Subgrantee will be made by the Treasurer. In particular:
  - The Treasurer reserves the right to withhold the payments in case the Subgrantee does not fulfil its obligations and tasks as per the Open Call 2 Guidelines for Applicants (in Annex 1).
  - Banking and transaction costs charged by any of the banks related to the handling of any financial resources made available to the Subgrantee by the Treasurer shall be covered by the holder of the bank account which originated the cost. This means that the Treasurer bears the cost of transfers charged by their bank and the Subgrantee bears the costs of transfers charged by the bank of the Subgrantee.
- Payments will be released by the Treasurer no later than ten working days after the notification by the consortium partners.
- The Subgrantee is responsible for complying with any tax and legal obligations that might be attached to this financial contribution.

### 4.3 Payment schedule

The payment schedule is directly linked to the relevant stage of the Subgrantee's subproject as per the Open Call 2 Guidelines for Applicants (in Annex 3 of this document).

## ARTICLE 5 – LIABILITY OF THE SUBGRANTEE

Neither the Project Coordinator, the Treasurer nor the EC can be held liable for any acts or omissions of the Subgrantee in relation to this Contract. At the same time, the Subgrantee is responsible for any act or omission that causes damage to the Coordinator, the Treasurer, and/or the EC in relation to this Contract. The Subgrantee is also solely responsible for any damages that might come to third parties as a result of the Subgrantee's activities.

The Subgrantee shall bear sole responsibility for ensuring that their acts within the framework of this Contract do not infringe third parties' rights. There is no joint liability between the Contracting Parties.

## ARTICLE 6 – CONFIDENTIALITY

With respect to all information of whatever nature or form as is disclosed between the Contracting Parties in connection with the subproject and identified in writing as confidential, the terms of this Article shall apply.

The Contracting Parties agree that such information is communicated on a confidential basis and its disclosure may be prejudicial to the owner of information.

## ARTICLE 7 – FORCE MAJEURE

"Force Majeure" shall mean, any unforeseeable exceptional situation or event beyond the Contracting Parties control, which prevents either of them from fulfilling any of their obligations under the Agreement, which was not attributed to error or negligence on their part, and which proves to be inevitable in spite of exercising 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 Contracting Parties shall take the necessary measures to limit any damage due to force majeure. They shall do their best to resume the implementation of the action as soon as possible.

No contracting party shall be considered to be in breach of its obligations and tasks if such breach is caused by Force Majeure. A Contracting Party will notify the other Contracting Parties of any Force Majeure as soon as possible. In case the Subgrantee is not able to overcome the consequences of Force Majeure within 10 (ten) days after such notification, the SoTecln Factory Consortium will decide accordingly, including the termination of the Contract.

## ARTICLE 8 – INFORMATION AND COMMUNICATION

The Subgrantees are allowed to promote the subproject, the SoTeIn Factory project and its results, by providing the description of their project upon request from the SoTeIn Factory Consortium and highlight the financial support of the EC.

Unless the European Commission or the SoTeIn Factory coordinator requests or agrees otherwise or unless it is impossible, any communication activity related to the action (including in electronic form, via social media, etc.), 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 funded by the grant must:

- (a) display the EU emblem.
- (b) display the SoTeIn Factory logo and
- (c) include the following text:

*For communication activities: “This project has received funding from the European Union’s Horizon Europe programme under project SoTeIn Factory (grant agreement No 101058385)”.*

*For infrastructure, equipment and major results: “This [infrastructure][equipment][insert type of result] is part of a sub-project that has received funding from the European Union’s Horizon Europe programme under project SoTeIn Factory (grant agreement No 101058385)”.*

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 exempted from the obligation to obtain prior permission from the EC to use the emblem. Further detailed information on the EU emblem can be found on the Europa web page.

Any publicity made by the Subgrantee in respect of the subproject, in whatever form and on or by whatever medium, must specify that it reflects only the author’s views and that the EC or SoTeIn Factory project is not liable for any use that may be made of the information contained therein.

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

- the official name of the Subgrantee;
- contact address of the Subgrantee;
- the general purpose of the subproject;
- the amount of the financial contribution foreseen for the subproject; after the final payment, and the amount of the financial contribution actually received;
- the geographic location of the activities carried out;
- the list of dissemination activities and/or of patent (applications) relating to foreground;
- the details/references and the abstracts of scientific publications relating to foreground and, if funded within the subproject, the published version or the final manuscript accepted for publication;



- the publishable reports submitted to SoTecln Factory;
- any picture or any audio-visual or web material provided to the EC and SoTecln Factory in the framework of the subproject.

The Subgrantee shall ensure that all necessary authorisations for such publication have been obtained and that the publication of the information by the EC and SoTecln Factory does not infringe any rights of third parties.

Upon a duly substantiated request by the subproject representative, the SoTecln Factory consortium, if such permission is provided by 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.

Any publicity made by the Subgrantee in respect of the subproject accepted by the SoTecln Factory consortium, in whatever form and on or by whatever medium, must specify that it reflects only the author's views and that the Project Coordinator, SoTecln Factory consortium or EC are not liable for any use that may be made of the information contained therein.

SoTecln Factory consortium and EC shall be authorized to publish, in whatever form and on or by whatever medium the following information:

- The legal name of the Subgrantee
- Contact address of the Subgrantee
- The general purpose of the project
- The amount of financial contribution of the EC

The Subgrantee shall ensure that all necessary authorizations for such publication have been obtained and that the publication of the information by the Project Coordinator, SoTecln Factory consortium or EC does not infringe any rights of third parties.

Upon a duly substantiated request by the Project Coordinator on the 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.

## ARTICLE 9 – DATA PROTECTION

### 9.1 Data protection obligations

The contracting 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 with regard to 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 specified purposes and adequate, relevant and limited to what is necessary in relation to the purposes for which it is processed.

The Subgrantee will use and process the data only for the purposes of this Contract and during the length of the Contract. Any unauthorised use is forbidden. In any event, neither the Coordinator nor the Treasurer will be held responsible for any abusive use of data incurred into by the Subgrantee.

The Subgrantee shall not try to re-identify anonymised data. In the event that re-identification occurs, the Subgrantee commits not to use such data.

The Subgrantee shall delete, at the end of this Contract, the data to which the Subgrantee has been granted access during the incubation process, except where an agreement is entered into with the Data Provider.

## **9.2 New data produced**

The Subgrantee acknowledges that they will be the “data controller” of any new dataset of personal information that the Subgrantee may produce in the course of the SoTeIn Factory project.

## **ARTICLE 10 – FINANCIAL AUDIT AND CONTROLS**

The EC may, at any time during the implementation of the Project and up to five years after the end of the SoTeIn Factory project, arrange for financial audits to be carried out, by external auditors, or by the EC services themselves including in the European Anti-Fraud office (OLAF), on the Subgrantee. 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 detailed information and data that may be requested by the EC or any representative authorised by it, with a view to 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. The 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 relating to the Contract until 2030. These shall be made available to the EC where requested during any audit under the Grant Agreement.

In order 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 subproject. They shall ensure that the information is readily available on the spot at the moment of audit and, if so requested, the data be handed over in an appropriate form.

On the basis of the findings made during the financial audit, a provisional report shall be drawn up. It shall be sent by the EC or its authorized representative to the Subgrantee concerned, which may make observations thereon within one month of receiving it. The EC may decide not to take into account 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.

On the basis of 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 in order to protect the European Communities' financial interests against fraud and other irregularities.

## ARTICLE 11 – AMENDMENTS

Amendments or changes to this Contract shall be made in writing and signed by the duly authorized representative of the Contracting Parties. Nevertheless, in the event the EC modifies the conditions, the SoTecln Factory Consortium partners will amend the Contract accordingly.

## ARTICLE 12 – LANGUAGE

The contract is drawn up in English language, which shall govern all documents, notices, meetings and processes relative thereto.

## ARTICLE 13 – APPLICABLE LAW

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

## ARTICLE 14 – SETTLEMENT OF DISPUTES

If the Contracting Parties are unable to resolve a dispute amicably, such dispute will be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three (3) arbitrators in Brussels.

Each of the Contracting Parties to the dispute shall appoint one (1) arbitrator, and the three (3) arbitrators so appointed shall elect the presiding arbitrator. Should a Party to the dispute, which should appoint an arbitrator, fails to do so within fourteen (14) days of the delivery of the written notice, to do so from the other Party to the dispute or should the appointed arbitrators fail to reach agreement on the presiding arbitrator within fourteen (14) days after their appointment, such arbitrator shall be appointed in accordance with the Rules upon request of any of the Parties to the dispute.

The seat of arbitration shall be Brussels.

The Contracting Parties agree that the language of the arbitration, including oral hearings, written evidence and correspondence, shall be English.

A duly rendered arbitration award shall be final and binding on the Contracting Parties to the dispute. Each Contracting Parties to the arbitration conducted in accordance with this section hereof shall bear its own expenses incurred in connection with such arbitration, including fees of its legal counsels. All other costs and expenses shall be apportioned between the Contracting Parties to the arbitration in accordance with the decision of the arbitrators.

Nothing in this Contract shall limit the Contracting Parties' right to seek injunctive relief or enforce an arbitration award in any applicable competent court of law.

## ARTICLE 15 – ORIGINALITY OF THE SUB-GRANTED PROJECTS

It is required that applications submitted are based on original works by the applicants and that their foreseen developments are free from third party rights. SoTeIn Factory consortium is not obliged to verify the authenticity of the ownership of the foreseen products/ services. Any issues delivered from third party claims that arise a result of the sub-granted projects are on the sole responsibility of the applicant.

## ARTICLE 16 – IPRS

Each subgrantee that generates results owns the attached Intellectual Property Rights (IPRs) generated during the development process and will own results that are not IPRs. Each contractor is responsible for the management and protection of its IPRs and bears the costs associated with this.

The Subgrantees funded within SoTeIn Factory project will be the unique owners of the technologies created within the framework of their sub-granted projects. Parts of their works will be requested to be public for SoTeIn Factory dissemination purposes.

## ARTICLE 17 – DO NOT SIGNIFICANT HARM

Subgrantees must always respect the 'Do Not Significant Harm Principle'. The Commission Communication on the European Green Deal introduced the green oath to 'do no harm'. The 'Do not Significant Harm' (DNSH) principle has been further specified in the EU Regulation on the establishment of a framework to facilitate sustainable investments, commonly defined as the 'EU Taxonomy Regulation'. Six environmental objectives are listed in Article 913 of the EU Taxonomy and Article 17 specifies what can constitute a 'significant harm' for these objectives. Thus, the regulation provides that no measure should lead to significant harm to any of the six environmental objectives within the meaning of Article 17 of the Taxonomy Regulation.

<p>For INESCTEC (the Project Coordinator) Ms [legal representative name surname] [Position_in_company].</p> <p>Signature</p> <p>Done at Porto on DD/MM/YYYY</p>	<p>For F6S Network Limited (the Treasurer) [legal representative name surname] [Position_in_company].</p> <p>Signature</p> <p>Done at Dublin on DD/MM/YYYY</p>
	<p>For [beneficiary] (the Subgrantee) Mr/Ms [legal representative name surname] [Position_in_company].</p> <p>Signature</p> <p>Done at _ on DD/MM/YYYY</p>

## ANNEX 1

### DECLARATION OF HONOUR

By signing this document, I declare that

- 1) I have the power of legally binding the legal entity mentioned below, to the conditions stated in this form.
- 2) I and the business entity that I legally represent are fully aware and duly accept all open call 2 rules and conditions as expressed in the open call 2 documents and will fully respect any evaluation decision and application selection under SoTecIn Factory Open Call 2 for Social Innovators. All provided information in this declaration is true and legally binding.

#### Applying Entity Legal Representative Contact Information:

<b>Title (Mr, Mrs, Dr)</b>	
<b>Name</b>	
<b>Surname</b>	
<b>Position in the entity</b>	
<b>Full Address</b>	
<b>Country</b>	
<b>Email Address</b>	
<b>Telephone</b>	
<b>Mobile</b>	
<b>Signature and stamp</b>	

#### Declaration of Honour on exclusion criteria and absence of conflict of interest

By signing this declaration of honour, I declare that all provided information below is true and legally binding both for me and for the business entity that I legally represent:

1. I declare that the mentioned entity is not in one of the following situations:

- a) it or persons having powers of representation, decision making or control over it have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;
  - b) it has been guilty of grave professional misconduct proven by any means which the contracting authority can justify including by decisions of the European Investment Bank and international organizations;
  - c) it is not in compliance with its obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or with those of the country of the contracting authority or those of the country where the contract is to be performed, to be proved by the deliverance of official documents issued by the local authorities, according to the local applicable rules;
  - d) it or persons having powers of representation, decision making or control over it have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization or any other illegal activity, where such illegal activity is detrimental to the Union's financial interests;
  - e) is subject to an administrative penalty for being guilty of misrepresenting the information required by the contracting authority as a condition of participation in a grant award procedure or another procurement procedure or failing to supply this information or having been declared to be in serious breach of its obligations under contracts or grants covered by the Union's budget.
2. I declare that the natural persons with power of representation, decision-making or control over the above-mentioned entity are not in the situations referred to in a) to f) above;
  3. I declare that:
    - a) Neither myself or any person that I know is subject to a SoTecln Factory conflict of interest;
    - b) I have not made false declarations in supplying the information required by participation in the Open Call 2 of SoTecln Factory Project or have failed to supply the information required;
    - c) I am not in one of the situations of exclusion, referred to in the abovementioned points a) to f).
    - d) I am aware and fully accept all SoTecln Factory conditions and rules as expressed in SoTecln Factory Open Call 2 documents Annex 1, Annex 2, Annex 3, Annex 4, Annex 5, Annex 6
  4. I certify that the entity that I represent:
    - is committed to participating in the SoTecln Factory Open Call 2 subproject, should my application get selected for funding;
    - has stable and sufficient sources of funding to maintain its activity throughout its participation in the SoTecln Factory Open Call 2 subproject and to provide any counterpart funding necessary;
    - has or will have the necessary resources as and when needed to carry out its involvement in the SoTecln Factory Open Call 2 subproject.
  5. I confirm that all proposed services, including the means of their delivery and upkeep, have been reviewed to ensure compliance with all relevant legislation on data protection, privacy, and fundamental rights.
  6. I declare that the solution I am presenting in my application for the SoTecln Factory Open Call 2 is not being funded by any other source from the budget of the European Union and that should my application be selected for funding in Open Call 2, it will not be used to apply for other EU grants.

Full name: <input style="background-color: #ff00ff;" type="text"/>  On behalf of entity: <input style="background-color: #ff00ff;" type="text"/>	Signature and stamp (if applicable)
Done at (place) <input style="background-color: #ff00ff;" type="text"/> the (day) <input style="background-color: #ff00ff;" type="text"/> (month) <input style="background-color: #ff00ff;" type="text"/> (year)	

## ANNEX 2 - DECLARATION OF CONDUCTING BUSINESS (ONLY FOR SME)

### Glossary

**SME** – an entity that complies with the following European Commission Recommendation 2003/361/EC criteria:

- Headcount in Annual Work Unit (AWU) less than 250.
- Annual turnover less or equal to €50 million OR annual balance sheet total less or equal to €43 million

**Dominant influence** – An influence that can be exercised over a company to achieve the operating and financial policies desired by the holder of the influence, notwithstanding the rights or influence of any other party. If one organization exerts such a dominant influence over a company, this company should be treated as a subsidiary of the organization and consolidated into the group accounts of the organization – in other words, it should be treated as a linked entity.

**Holding** – share of capital or voting rights, whichever is higher.

**Partner enterprises** - If holdings with other enterprises rise to at least 25% but not more than 50%, the enterprises in questions are treated as partner enterprises.

**Linked enterprises** – If holdings with other enterprises exceed the 50% threshold, these enterprises are considered linked enterprises.

**Autonomous enterprise** – If the enterprise is either completely independent or has one or more minority partnerships (each less than 25%) with other enterprises, it is considered an autonomous enterprise. These are also some cases where an enterprise is considered autonomous even if the holding thresholds of 25% and 50% are exceeded – if that percentage is held by the following categories of investors:

- I. Public investment corporations, venture capital companies, individuals or group of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses ("business angels"), provided the total investment of those business angels in the same enterprise is less than 1,250,000€,
- II. Universities or non-profit research centres,
- III. Institutional investors, including regional development funds,
- IV. Autonomous local authorities with an annual budget of less than EUR 10 million and less than 5,000 inhabitants

**Consolidation** – to consolidate means to combine assets, liabilities and other financial items of two or more entities into one. In the context of financial accounting, the term consolidate often refers to the consolidation of financial statements wherein all subsidiaries report under the umbrella of a parent company. In case an enterprise draws up consolidated accounts voluntarily, without being required to do so under the Seventh Directive (Council Directive 83/349/EEC), the enterprise is not necessarily linked and can be considered only a partner.

**Headcount** – The number of people who are employed by a company.



**AWU (Annual Working Unit)** - One AWU corresponds to one person who worked full-time in the enterprise in question or on its behalf during the entire reference year. The headcount is expressed in AWUs.

**VAT Number** – A unique number that identifies a taxable person (business) or non-taxable legal entity that is registered for VAT. Every country issues its own national VAT number.

**Principal director** – Chairman, CEO, Director-General or equivalent.

## Declaration on information on the Legal Entity Status

### Precise identification of the applicant enterprise

Business name .....

Address (of registered office) .....

Registration / VAT number .....

Names and titles of the principal director(s) .....

### Type of applicant (see explanatory note)

Tick to indicate which case(s) applies to the applicant enterprise:

<input type="radio"/> Autonomous enterprise	In this case the data filled in the box below result from the accounts of the applicant enterprise only. Fill in the declaration only, without annex.
<input type="radio"/> Partner enterprise <input type="radio"/> Linked enterprise	Fill in and attach the annex (and any additional sheets), then complete the declaration by copying the results of the calculations into the box below.

\*In order for an applicant to be considered a Freelancer, they must not exert dominant influence in another enterprise, nor have a holding of 25% or more in another enterprise.

### Data used to determine the category of enterprise

Calculated according to Article 6 of the Annex to the Commission Recommendation 2003/361/EC on the SME definition

Reference period (*)		
Headcount (AWU)	Annual turnover (**)	Balance sheet total (**)
(*) All data must be relating to the last approved accounting period and calculated on an annual basis. In the case of newly established enterprises whose accounts have not yet		

been approved, the data to apply shall be derived from a reliable estimate made in the course of the financial year.

(\*\*) EUR 1,000.

**Important:**

Compared to the previous accounting period there is a change regarding the data, which could result in a change of category of the applicant enterprise (micro, small, medium-sized or big enterprise).

No

Yes (in this case fill in and attach a declaration regarding the previous accounting period).

**Signature**

Name and position of the signatory, being authorised to represent the enterprise:

.....

I declare on my honour the accuracy of this declaration and of any annexes thereto.

Done at

.....

Signature

## EXPLANATORY NOTE ON THE TYPES OF ENTERPRISES TAKEN INTO ACCOUNT FOR CALCULATING THE HEADCOUNT AND THE FINANCIAL AMOUNTS

In order for an applicant to be considered a Freelancer, they must not exert dominant influence in another enterprise, nor have a holding of 25% or more in another enterprise.

### I ENTERPRISES

The definition of an SME<sup>1</sup> distinguishes three types of enterprise, according to their relationship with other enterprises in terms of holdings of capital or voting rights or the right to exercise a dominant influence<sup>2</sup>.

#### **Type 1: Autonomous Enterprise**

This is by far the most common type of enterprise.

It applies to all enterprises which are not one of the two other types of enterprise (partner or linked).

An applicant enterprise is autonomous if it:

- does not have a holding of 25%<sup>3</sup> or more in any other enterprise,
- and is not 25%<sup>3</sup> or more owned by any enterprise or public body or jointly by several linked enterprises or public bodies, apart from some exceptions<sup>4</sup>,
- and does not draw up consolidated accounts and is not included in the accounts of an enterprise which draws up consolidated accounts and is thus not a linked enterprise<sup>5</sup>.

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<sup>1</sup> Henceforth in the text, the term "Definition" refers to the Annex to Commission Recommendation 2003/361/EC on the definition of SMEs.

<sup>2</sup> Definition, Article 3

<sup>3</sup> In terms of the share of the capital or voting rights, whichever is higher is applied. To this percentage should be added the holding in that same enterprise of each enterprise, which is linked to the holding company (Definition, Article 3 paragraph 2)

<sup>4</sup> An enterprise may continue being considered as autonomous when this 25% threshold is reached or exceeded, if that percentage is held by the following categories of investors (provided that those are not linked with the applicant enterprise):

- a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses ("business angels"), provided the total investment of those business angels in the same enterprise is less than EUR 1 250 000,
- b) universities or non-profit research centres,
- c) institutional investors, including regional development funds,
- d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5000 inhabitants

<sup>5</sup> If the registered office of the enterprise is situated in a Member State which has provided for an exception to the requirement to draw up such accounts pursuant to the Seventh Council Directive 83/349/EEC of 13 June 1983, the enterprise should nevertheless check specifically whether it does not meet one or other of the conditions laid down in Article 3 paragraph 3 of the Definition.

- There are also some very rare cases in which an enterprise may be considered linked to another enterprise through a person or a group of natural persons acting jointly (Definition, Article 3 paragraph 3).

- Conversely, there are very few cases of enterprises drawing up consolidated accounts voluntarily, without being required to do so under the Seventh Directive. In that case, the enterprise is not necessarily linked and can consider itself only a partner. To determine whether the enterprise is linked or not, in each of the three situations it should be checked whether or not the enterprise meets one or other of the conditions laid down in Article 3 paragraph 3 of the Definition, where applicable through a natural person or group of natural persons acting jointly.

## Type 2: Partner Enterprise

This type represents the situation of enterprises which establish major financial partnerships with other enterprises, without the one exercising effective direct or indirect control over the other. Partners are enterprises which are not autonomous, but which are not linked to one another.

The applicant enterprise is a partner of another enterprise if:

- it has a holding or voting rights equal to or greater than 25% in the other enterprise, or the other enterprise has a holding or voting rights equal to or greater than 25% in the applicant enterprise,
- the enterprises are not linked enterprises within the meaning defined below, which means, among other things, that the voting rights of one in the other do not exceed 50%,
- and the applicant enterprise does not draw up consolidated accounts which include the other enterprise by consolidation, and is not included by consolidation in the accounts of the other enterprise or of an enterprise linked to it<sup>5</sup>.

## Type 3: Linked Enterprise

This type corresponds to the economic situation of enterprises which form a group through the direct or indirect **control of the majority of the voting rights** (including through agreements or, in certain cases, through natural persons as shareholders), or through the ability to exercise a dominant influence on an enterprise. Such cases are thus less frequent than the two preceding types.

In order to avoid difficulties of interpretation for enterprises, the Commission has defined this type of enterprise by taking over – wherever they are suitable for the purposes of the Definition – the conditions set out in Article 1 of Council Directive 83/349/EEC on consolidated accounts<sup>6</sup>, which has been applied for many years.

An enterprise thus generally knows immediately that it is linked, since it is already **required** under that Directive to **draw up consolidated accounts** or is included by consolidation in the accounts of an enterprise which is required to draw up such consolidated accounts.

The only two cases, which are however not very frequent, in which an enterprise can be considered linked although it is not already required to draw up consolidated accounts, are described in the first two indents of endnote 5 of this explanatory note. In those cases, the enterprise should check whether it meets one or other of the conditions set out in Article 3 paragraph 3 of the Definition.

## III. THE HEADCOUNT AND THE ANNUAL WORK UNITS<sup>7</sup>

The headcount of an enterprise corresponds to the number of annual work units (AWU).

### Who is included in the headcount?

- The employees of the applicant enterprise,
- persons working for the enterprise being subordinate to it and considered to be employees under national law,
- owner-managers,

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<sup>6</sup> Seventh Council Directive 83/349/EEC of 13 June 1983, based on Article 54(3)(g) of the Treaty and concerning consolidated accounts (OJ L 193, 18/7/1983, p. 1), as last amended by Directive 2001/65/EC of the European Parliament and of the Council (OJ L 283, 27/10/01, p. 28).

<sup>7</sup> Definition, Article 5.

- partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not taken into account in the headcount.

**How is the headcount calculated?**

One AWU corresponds to one person who worked full-time in the enterprise in question or on its behalf during the entire reference year. The headcount is expressed in AWUs.

The work of persons, who did not work the entire year, or who worked part-time - regardless of its duration - and seasonal work is counted as fractions of AWU.

The duration of maternity or parental leaves is not counted.

ANNEX TO THE DECLARATION CALCULATION FOR THE PARTNER OR LINKED TYPE OF ENTREPRISE

**Annexes to be enclosed if necessary:**

- **Annex A** if the applicant enterprise has at least one **partner** enterprise (and any additional sheets)
- **Annex B** if the applicant enterprise has at least one **linked** enterprise (and any additional sheets)

**Calculation for the partner or linked type of enterprise (see explanatory note):**

<b>Reference period<sup>8</sup>:</b>			
	<b>Headcount (AWU)</b>	<b>Annual turnover (*)</b>	<b>Balance sheet total (*)</b>
1. Data <sup>9</sup> of the applicant enterprise or consolidated accounts (copy data from box B (1) in annex B)			
2. Proportionally aggregated data of all partner enterprises (if any) (copy data from box A in annex A)			
3. Added up data of all linked enterprises (if any) – if not included by consolidation in line 1 (copy data from box B(2) in annex B)			
<b>TOTAL</b>			
(*) EUR 1,000			

The data entered in the "Total" row of the above table should be entered in the box "Data used to determine the category of enterprise" in the declaration.

<sup>8</sup> All data must be relating to the last approved accounting period and calculated on an annual basis. In the case of newly established enterprises whose accounts have not yet been approved, the data to apply shall be derived from a reliable estimate made in the course of the financial year.

<sup>9</sup> The data of the enterprise, including the headcount, are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

ANNEX A

**Partner enterprises**

For each enterprise for which a 'partnership sheet' has been completed (one sheet for each partner enterprise of the applicant enterprise and for any partner enterprises of any linked enterprise, of which the data is not yet included in the consolidated accounts of that linked enterprise), the data in the 'partnership box' in question should be entered in the summary table below:

**BOX A**

Partner enterprise (name/identification )	Headcount (AWU)	Annual turnover (*)	Balance sheet total (*)
1.			
2.			
3.			
4.			
5.			
<b>TOTAL</b>			
(*) EUR 1,000			

(attach sheets or expand the present table, if necessary)

**Reminder:**

This data is the result of a proportional calculation done on the 'partnership sheet' for each direct or indirect partner enterprise.

The data entered in the "Total" row of the above table should be entered in line 2 (regarding partner enterprises) of the table in the Annex to the declaration.

## PARTNERSHIP SHEET

### 1. Precise identification of the applicant enterprise

Business name .....

Address (of registered office) .....

Registration/VAT number .....

Names and titles of the principal director(s).....

### 2. Raw data regarding that partner enterprise

Reference period			
	Headcount (AWU)	Annual turnover (*)	Balance sheet total (*)
Raw data			
(*) EUR 1,000			

**Reminder:** These raw data are derived from the accounts and other data of the partner enterprise, consolidated if they exist. To them are added 100% of the data of enterprises which are linked to this partner enterprise, unless the accounts data of those linked enterprises are already included through consolidation in the accounts of the partner enterprise. If necessary, add “linkage sheets” for the enterprises which are not yet included through consolidation.

### 3. Proportional calculation

a) Indicate precisely the holding of the enterprise drawing up the declaration (or of the linked enterprise via which the relation to the partner enterprise is established) in the partner enterprise to which this sheet relates:

.....

Indicate also the holding of the partner enterprise to which this sheet relates in the enterprise drawing up the declaration (or in the linked enterprise):

.....

b) The higher of these two holding percentages should be applied to the raw data entered in the previous box. The results of this proportional calculation should be given in the following table:

**‘Partnership box’**

Percentage:	Headcount (AWU)	Annual turnover (*)	Balance sheet total (*)
Proportional results			
(*) EUR 1,000			

These data should be entered in Box A in Annex A.



ANNEX B

Linked enterprises

**DETERMINE THE CASE APPLICABLE TO THE APPLICANT ENTERPRISE:**

<input type="radio"/> <b>Case 1</b>	The applicant enterprise draws up consolidated accounts or is included by consolidation in the consolidated accounts of another enterprise. (Box B(1))
<input type="radio"/> <b>Case 2</b>	The applicant enterprise or one or more of the linked enterprises do not establish consolidated accounts or are not included in the consolidated accounts. (Box B(2)).

**Please note:** The data of the enterprises, which are linked to the applicant enterprise, are derived from their accounts and their other data, consolidated if they exist. To them are aggregated proportionally the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included through consolidation.

**CALCULATION METHODS FOR EACH CASE:**

**In case 1:** The consolidated accounts serve as the basis for the calculation. Fill in Box B(1) below.

<b>Box B(1)</b>			
	<b>Headcount (*)</b>	<b>Annual turnover (**)</b>	<b>Balance sheet total (**)</b>
<b>Total</b>			
(*) Where in the consolidated accounts no headcount data appears, the calculation of it is done by adding the data from the enterprises to which the enterprise in question is linked (**) EUR 1,000			

The data entered in the "Total" row of the above table should be entered in line 1 of the table in the Annex to the declaration.

Identification of the enterprises included through consolidation			
Linked enterprise (name / identification)	Address (of registered office)	Registration / VAT number (*)	Names and titles of the principal director(s) (**)
1.			
2.			
3.			
4.			
5.			
6.			
<b>Total</b>			
(*) To be determined by the Member State according to its needs (**) Chairman (CEO), Director-General or equivalent.			

**Important:** Partner enterprises of such a linked enterprise, which are not yet included through consolidation, are treated like direct partners of the applicant enterprise. Their data and a 'partnership sheet' should therefore be added in Annex A.

**In case 2:** For each linked enterprise (including links via other linked enterprises), complete a "linkage sheet" and simply add together the accounts of all the linked enterprises by filling in Box B(2) below.

Box B(2)			
Enterprise No.:	Headcount (AWU)	Annual turnover (**)	Balance sheet total (**)
1 (*)			
2 (*)			
3 (*)			
Total			
(*) attach one "linkage sheet" per enterprise (**) EUR 1 000.			

The data entered in the "Total" row of the above table should be entered in line 3 (regarding linked enterprises) of the table in the Annex to the declaration.

LINKAGE SHEET

(only for linked enterprises not included by consolidation in Box B)

**1. Precise identification of the applicant enterprise**

Name or Business name .....

Address (of registered office) .....

Registration/VAT number .....

Names and titles of the principal director(s) .....

**2. Data on enterprise**

Reference period			
	Headcount (AWU)	Annual turnover (*)	Balance sheet total (**)
<b>Total</b>			
(*) EUR 1,000			

These data should be entered in Box B(2) in Annex B.

Important: The data of the enterprises, which are linked to the applicant enterprise, are derived from their accounts and their other data, consolidated if they exist. To them are aggregated proportionally the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included through consolidation.

Such partner enterprises are treated like direct partner enterprises of the applicant enterprise. Their data and a 'partnership sheet' have therefore to be added in Annex A.

## ANNEX 3 – OPEN CALL 2 GUIDELINES FOR APPLICANTS

[THE FINAL VERSION WILL BE ADDED HERE]