



# Future Internet Open Data Expansion

Sub-grant Agreement  
TEMPLATE

This document is a template which includes the regulation between FINODEX consortium and the future sub-grantees of FINODEX 2<sup>nd</sup> Open Call

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## Contracting parties

ZABALA INNOVATION CONSULTING S.A., a private law company organized under the laws of Spain, established in Paseo Santxiki, 3 bis • E-31192 Mutilva (Navarra) – Spain, with VAT ES-A31419773, duly represented by Mrs AINHOA ZABALA, administrative director, acting as Coordinator of the consortium Future Internet Open Data Expansion (hereinafter referred as “FINODEX”),  
hereinafter referred as the “Contractor”

Of the one part,

{  
[COMPANY\_NAME], a private law company organized under the laws of [COUNTRY], established in [LEGAL\_ADDRESS], with VAT nr [VAT\_NUMBER], duly represented by [LEGAL\_REPRESENTATIVE], [LEGAL\_REPRESENTATIVE\_POSITION], hereinafter referred as the “Beneficiary”  
}

Of the other part

{  
[NAME\_SURNAME], a self-employee/natural person, with ID [ID\_NUMBER] established in [ADDRESS and COUNTRY].  
Hereinafter referred as the “Beneficiary”

Of the other part

}  
*[In case there are several entrepreneurs acting jointly we will add them to the list]*

Hereinafter collectively referred as the “Contracting Parties”

HAVE AGREED to the following terms and conditions including those in the following Annexes, which form an integral part of this sub-grant agreement (hereinafter referred as the “Contract”)

## General Provisions

The European Commission (hereinafter referred as the “EC”) and the Contractor on behalf of the consortium have signed the Grant Agreement no 632838 for the implementation of the Future Internet Open Data Expansion within the framework of the Specific Programme "Cooperation" of the 7th Framework Programme for Research and Development.

The Contract aims at defining the framework of rights and obligations of the Contracting Parties under the Project [PROJECT\_ACRONYM], [PROJECT\_FULL\_NAME].

The Beneficiary has received the favourable resolution by the external evaluators and therefore is entitled to receive funding and services according to the terms and conditions set out under the Contract.

The funds received by the Beneficiary are owned by the EC. The Contractor is a mere holder and manager of the funds.

## Definitions

**Project:** means the set of activities described in Annex I of this Contract.

**Generic Enabler:** means Application Programme Interface of FIWARE technologies, which needs to be used within the development of the Project.

**Open data:** means data published under an open license and that which needs to be used within the development of the Project.

## Article 1 - Entry into force of the contract and Termination

This Contract shall enter into force on the day of its signature by the last Contracting Party. The termination of the Contract will be subject to the terms and conditions set out in Annex 2 – Guidelines for Applicants.

## Article 2- Obligations and Responsibilities of the Beneficiary

The obligations and responsibilities are defined in detail in the Annex 2 - Guidelines for Applicants.

Additionally, the Beneficiary shall take every necessary precaution to avoid any risk of conflict of interest relating to economic interests, political or national affinities, family or emotional ties or any other interests liable to influence the impartial and objective performance of the project.

## Article 3 - Breach of Contractual obligations

In the event the Contractor identifies that the Beneficiary:

- i) Breached its obligations under the Contract
- ii) Stopped to carry out its business object of this Contract and therefore is not able or willing to continue the Project.
- iii) Is engaged in a bankrupt or receivership process.

The Contractor will give written notice requiring that such breach to be remedied within 30 days.

In case the Beneficiary has not brought remedies from the notice, the Contractor may decide to terminate the contract unilaterally.

Moreover, in the event the breach of the contractual obligations has been manifestly intentioned or with gross negligence, the Contractor may request the Beneficiary the refund of the payments made to date.

## Article 4- Price and Financial provisions

### 4.1 Maximum financial contribution

The maximum financial contribution to be granted to the Beneficiary shall not exceed the amount one **hundred seventy thousands euros (170.000,00 EURO)**.

### 4.2 Distribution of the financial contribution

The financial contribution to be granted to the Beneficiary shall be calculated and distributed in accordance with the provisions of the Guidelines for Applicants.

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

- A favourable resolution by FINODEX external evaluators responsible for assessing the Project in each of the stages.
- The availability of funds in FINODEX bank account during the relevant payment period.
- The prior writing notice to the Beneficiary of the date and amount to be transferred to its bank account (Annex 7 - Bank account information form), giving the relevant references.
- Payments to the Beneficiary will be made by the Contractor. In particular:
  - The Contractor reserves the right to withhold the payments in case the Beneficiary does not fulfil with its obligations and tasks as per Annex 2 - Guidelines for Applicants.
  - Banking and transaction costs related to the handling of any financial resources made available to the Beneficiary by the Contractor shall be covered by the Beneficiary.

Payments will be released no later than fifteen (15) natural days after the notification by the Contractor.

### 4.3 Payments schedule

The payment schedule is directly linked to the relevant phase of the Project as per the article 5 of Annex 2 - Guidelines for Applicants.

Expected date of payment	Amount to be paid	Linked Phase
December 2015	10.000 EUR	Phase 2
May 2016	40.000 EUR	Phase 3
February 2017	Up to 120.000 EUR	Phase 4 and prizes

The Beneficiary is entitled to receive exclusively those payments allocated to each specific stage of the Project provided that the conditions under Article 4.2 are met.

## Article 5- Liability of the Beneficiary

The Contractor cannot be held liable for any acts or omissions of the Beneficiary in relation to this Contract

The Beneficiary shall bear sole responsibility for ensuring that their acts within the framework of this Contract do not infringe third parties rights.

## Article 6- Confidentiality

### 6.1 Principles

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

### 6.2 Obligations

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

- i) it will not, during the term of the Project and for a period of five (5) years from the expiration date of the Project, use any such information for any purpose other than in accordance with the terms of the Contract.
- ii) it will, during the term of the Project and for a period of five (5) years from the expiration date of the Project, treat the same as (and to procure that the same be kept) confidential provided always that such agreement and undertaking shall not extend to any information which the receiving Party can show:
  - was, at the time of disclosure to the Subcontractor, published or otherwise generally available to the public, or
  - has, after disclosure to either of the Contracting Parties, been published or become generally available to the public otherwise than through any act or omission on the part of the receiving Party, or
  - was already in the possession of the Contracting Parties, without any restrictions on disclosure, at the time of disclosure to the Party, or
  - was rightfully acquired from others without any undertaking of confidentiality; or
  - is subsequently independently developed by the Contracting Parties without use of the information provided by the disclosing party.

In case of breach of the confidential rules hereinabove set, the Contracting Party breaching the confidentiality will remain solely liable towards possible claims.

## Article 7- Intellectual property rights

### 7.1 Results of the Project

The results developed during the Project shall be exclusively property of the Beneficiary.

### 7.2 Use and Ownership of the FIWARE technologies

As a matter of fact, the Beneficiary shall not claim any rights of ownership over FIWARE technologies used for the development of its own results which shall remain exclusive property of its actual owner(s).

The use of the Generic Enablers or any other FIWARE technologies, even if needed for the commercialisation of the results developed during the Project will be subject to the licensing terms set out by the “owner” as specified in the online Generic Enablers Catalogue (<http://catalogue.fi-ware.org>) or any other document published by the owner of the technology.

## Article 8- 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

attributable to error or negligence on their part or on the other part of subcontractors, involved in the implementation of the Project and which proves to be inevitable in spite of the 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 Party of any Force Majeure as soon as possible. In case the Beneficiary is not able to overcome the consequences of Force Majeure within thirty calendar (30) days after such notification, the Contractor will decide accordingly including the termination of the Contract.

## Article 9-Information and communication

### 9.1 Information and communication towards the EC

The Beneficiary shall, throughout the duration of the Project, take appropriate measures to engage with the public and the media about the project and **to highlight the financial support of the EC**. Unless the EC requests otherwise, any publicity, including at a conference or seminar or any type of information or promotional material (brochure, leaflet, poster, presentation etc.), must specify that the project has received research funding from the EC and display the European emblem. 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 Beneficiary 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 Beneficiary in respect of the project, in whatever form and on or by whatever medium, must 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 EC shall be authorised to publish, in whatever form and on or by whatever medium, the following information:

- the name of the Beneficiary
- contact address of the Beneficiary
- the general purpose of the project
- the amount of the financial contribution of the EC foreseen for the project; 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 Beneficiary 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 details/references and the abstracts of scientific publications relating to foreground and, where provided pursuant to EC-Grant Agreement Article II.30.4, the published version or the final manuscript accepted for publication;
- the publishable reports submitted to it;
- any picture or any audiovisual or web material provided to the EC in the framework of the project.



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

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

## 9.2 Information and communication among the Contracting Parties

Any notice to be given under this Contract shall be in writing to the addresses and recipients listed above.

Any change of persons or contact details shall be notified immediately to the Contractor. The address list shall be accessible to all concerned.

## Article 10 - Financial audits and controls

The EC may, at any time during the implementation of the Project and up to five years after the end of the project, 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 Beneficiary 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. This information and data must be precise, complete and effective.

The Beneficiary shall keep the originals or, in exceptional cases, duly authenticated copies – including electronic copies - of all documents relating to the grant agreement for up to five years from the end of the project. 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 Beneficiary 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 Beneficiary'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 project. They shall ensure that the information is readily available on the spot at the moment of the audit and, if so requested, that 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 authorised representative to the beneficiary concerned, which may make observations thereon within one month of receiving it. The Commission may decide not to take into account observations conveyed or documents sent after that deadline. The final report shall be sent to the beneficiary 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 Commission in order to protect the European Communities' financial interests against fraud and other irregularities.

## Article 11 - Language

This Consortium Agreement is drawn up in **English**, language which shall govern all documents, notices, meetings and processes relative thereto.

## Article 12 - Amendments

Amendments or changes to this Contract shall be made in writing and signed by the duly authorised representative of the Contracting Parties.

Nevertheless, In the event the EC modifies the conditions, the Contractor will amend the Contract accordingly.

## 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 two (2) 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 Party 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 to enforce an arbitration award in any applicable competent court of law.

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**AS WITNESS:**

The Contracting Parties have caused this Contract to be duly signed by the undersigned authorized representatives **in three (3) copies** the day and year first above written:

<p>For [SME_NAME] (the Beneficiary) Mr/Ms [NAME SURNAME] [POSITION_IN_COMPANY] Signature</p> <p>Done at _____ on DD/MM/201Y</p>	<p>For Zabala Innovation Consulting Ms AINHOA ZABALA Administrative Director Signature</p> <p>Done at _____ on DD/MM/201Y</p>
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## Annexes

### Annex 1. Project text

[This refers to the proposal after introducing the changes, if any, during the negotiation between phase 1 and phase 2]

### Annex 2. Guidelines for applicants

[This refers to the Guidelines for applicants published by the time the call is open]

### Annex 3. Administrative data form

[This refers to the form submitted with the proposal in phase 1]

### Annex 4. Declaration of honour

[This refers to the declaration submitted by the proposers in phase 1]

### Annex 5. SME status information

[Only for SMEs

This refers to:

- the document submitted by the SMEs in phase 1.
- SMEs check list
- Status information form
- Legal existence documents
- Any other supporting information.

]

### Annex 6. Individuals' status information

[For SMEs

This refers to ID-card or passport copy of the legal representative of the SME

]

[For individuals

This refers to ID-card or passport copy of every participant

]

### Annex 7. Bank account information form

[This refers to the document including the bank account information where the funds will be transferred]