

**A PROJECT (IN ENGLISH) OF THE ACCELERATION AGREEMENT NO \_\_\_\_\_**

Concluded on \_\_\_\_\_ 2017 in Gdańsk between:

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hereinafter referred to as "PSSE",

And

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hereinafter referred to as "Entrepreneur",

Hereinafter collectively referred to as "the Parties".

On the basis of the provisions of the Act of 11 July 2014 on the Implementation of Cohesion Policy Programs financed in the financial perspective 2014-2020 (Journal of Laws of 2016, item 217, as amended), hereinafter referred to as "the Act", and in particular with regard to the provisions of the following documents and acts of EU and national law:

- 1) Partnership Agreement adopted by the Council of Ministers on 8 January 2014, approved by the European Commission on 23 May 2014;
- 2) Smart Growth Operational Programme 2014-2020, approved by the European Commission on 12 February 2015;
- 3) Detailed description of Smart Growth Operational Program 2014-2020 Priority Axis;
- 4) Regulation (EU) No 1301/133 of the European Parliament and of the European Council of 17 December 2013 on the European Regional Development Fund and the specific provisions on the "Investment for growth and employment" objective and repealing the EC Regulation No 1080/2006 (OJ L 347, 20.12.2013, p. 289);
- 5) Regulation (EU) No 1303/2013 of the European Parliament and of the European Council of 17 December 2013 establishing common rules for the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund; Laying down the general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320, as amended),
- 6) Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain types of aid compatible with the internal market pursuant to Article 5 Articles 107 and 108 of the Treaty, hereinafter referred to as "Regulation No 651/2014";
- 7) Act of 23 April 1964 - Civil Code (Journal of Laws of 2017, item 459);
- 8) Act of 29 January 2004 - Public Procurement Law (Journal of Laws of 2015, item 2164, as amended);
- 9) Act of 27 August 2009 on Public Finance (Journal of Laws of 2016, item 1870, as amended), hereinafter referred to as the "Public Finance Act";

- 10) Act of 9 November 2000 on the establishment of the Polish Agency for Enterprise Development consolidated text (Journal of Laws of 2016, item 359, as amended);
- 11) Regulation of the Minister of Finance of 21 December 2012 on payments under programs financed with European funds and information on such payments (Journal of Laws, 2016, item 75);
- 12) Regulation of the Minister of Regional Development of 18 December 2009 on the conditions and procedure for granting and settling advance payments and the scope and deadlines for submitting applications for payment under programs financed with European funds (Journal of Laws No. 223, item 1786, as amended),
- 13) Regulation of the Minister of Infrastructure and Regional Development of 10 July 2015 on the granting of financial assistance by the Polish Agency for Enterprise Development under the Smart Growth Operational Program 2014-2020 (Journal of Laws, No. 1027, as amended); Reference number of aid program SA.42799 (2015 / X);
- 14) Regulation of the Minister of Development of 29 January 2016 on the conditions of lowering the value of financial corrections and improperly incurred expenses related to the award of contracts (Journal of Laws No. 200)

And considering that PSSE has signed with the Polish Agency for Enterprise Development the Agreement No. UDA-POIR.02.04.01-0024 / 16-00 to grant a grant for project implementation No. POIR.02.04.01-0024 / 16 "Satellite techniques for intermodal transport" Priority Axis II: Support for the environment and capacity of enterprise for R&D activity, Measure 2.4 Cooperation within the framework of the national innovation system, Sub-Action 2.4.1 inno\_LAB center for analysis and piloting of new instruments, on the basis of which the PSSE implements this contract,

BOTH PARTIES TO THIS AGREEMENT HEREINAFTER AGREE AS FOLLOWS:

## **Definitions**

### **§ 1.**

Whenever the following term is used in the Agreement:

1. Agency - this should be understood as the Polish Agency for Enterprise Development,
2. Acceleration Program – this should be understood as the "Satellite Techniques for Intermodal Transport" project, implemented by the PSSE based on the agreement with the Polish Agency for Enterprise Development under Contract No. UDA-POIR.02.04.01-0024 / 16-00 to grant funding under the Smart Growth Operational Program 2014-2020 Priority Axis II: Support for the environment and capacity of enterprise for R&D activity, Measure 2.4 Cooperation within the framework of the national innovation system; Sub-Action 2.4.1 inno\_LAB center for analysis and piloting of new instruments, Scale UP pilot program, to prepare a product or service meeting the needs of a Large Company.
3. Large Company – this should be understood as Entity other than a Micro, Small or Medium Enterpriser, within the meaning of Annex I to Commission Regulation No. 651/2014, including a Company with the participation of State Treasury conducting its business activity on the territory of the Republic of Poland confirmed by the entry in the relevant register which will be involved in the implementation of the Acceleration Program. A Large Company list constitutes the Appendix No. 1 to the Agreement.
4. Investment Committee (IC) – this should be understood as the team appointed to evaluate and supervise the implementation of projects submitted to the Acceleration Program,

5. Conflict of Interests – this should be understood as conflict of interest in accordance with Art. 57 sec. 2 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the European Council of 25 October 2012 on financial rules applicable to the general budget of the European Union and repealing the Council Regulation (EC, Euratom) No 1605/2002 1), i.e. the situation where the impartial and objective function of the entity authorized to perform financial activities or another person, i.e. the entity authorized to perform financial activities and all other persons participating in the implementation of the budget, and the management of the budget, including preparatory actions, as well as auditing or budget control, is endangered for reasons of family, emotional, political or national affinity, economic interest or any other interests shared with the recipient,
6. Support – this should be understood as assistance for start-up Entrepreneurs referred to in Chapter 4 of the Regulation of the Minister of Infrastructure and Development of 10 July 2015 on the granting of financial support by the Polish Agency for Enterprise Development under the Smart Growth Operational Program 2014-2020 given to the Entrepreneur in the form of grants,
7. Operation Program – this should be understood as the Smart Growth Operation Program 2014-2020,
8. Capital or personal relationship – this should be understood as the interrelationships of:
  - a) participating in the company as a civil law partner or partner in partnership,
  - b) holding shares or at least 5%
  - c) acting as a member of a supervisory or management body, proxy, attorney,
  - d) to remain in a legal or factual relationship that may give rise to reasonable doubts as to the impartiality of the choice of performer, in particular marriage, kinship or affinity in a straight line, kinship or affinity in the lateral line to the second degree or in relation to adoption, care or guardianship.
9. Project Implementation – this should be understood as the use of product or service by a Large Company, which has been prepared by the Entrepreneur within the scope of the Project.
10. Project Commercialization – this should be understood as completing a transaction of the Large Company with the Entrepreneur covering the sale of the product or service developed within the Project.

## **Subject of the Agreement**

### **§ 2.**

1. This Agreement describes the terms and conditions of the Entrepreneurs participation in the Acceleration Program during the acceleration phase and to regulate the conditions related to the funding of the project submitted by the Entrepreneur named “.....” (which is described in Appendix 3 to this Agreement), hereinafter referred to as “the Project”, which aims to prepare a product or service meeting the needs of the Large Company. Both Parties agree, that the Acceleration Program will start the acceleration phase from the \_\_\_\_\_ to \_\_\_\_\_ and within that time the Parties are obliged to cooperate on terms of this Agreement (hereinafter referred to as “the Agreement”) subject to the maintenance of obligations of the Entrepreneur resulting from the Agreement for a prolonged period of time.
2. The Entrepreneur is obliged to conduct the Project with due care and use the funding on terms described in the Agreement.

3. As part of the Acceleration Program, the Entrepreneur will receive support in kind, including a service package which consist of:
  - 1) Business mentoring;
  - 2) Technical mentoring;
4. The total amount of support referred to in paragraph 3 above is a maximum 50.000,00 PLN.
5. As part of the Acceleration Program, the Entrepreneur will also receive a cash grant for the Project development in the amount of 15.000,00 PLN (fifteen thousand zlotys) and might receive an additional cash support, described in paragraph 6 below.
6. PSSE based on the decision of the Investment Committee might grant the Entrepreneur for conducting the Project an additional cash grant with a maximum of 185.000,00 PLN (hundred eighty five thousand zlotys). However the Parties agree, that the amount of the additional cash donation granted for the implementation of the Project will result from the decision of the Investment Committee, made on the basis of the financial needs, prepared and justified by the Entrepreneur in the material and financial Project Schedule. Both Parties agree, that the Investment Committee is not obliged to grant the Entrepreneur additional funding and that the Investment Committee might grant the amount of cash or pay its amount depending from the Project efficiency indicators as conducted by the Entrepreneur.
7. The support referred to above provides assistance to start-up entrepreneurs and is provided in accordance with the Regulation of the Minister of Infrastructure and Development of 10 July 2015 on granting financial assistance under the Operational Program by the Polish Agency for Enterprise Development in the form of grants.

### **Entrepreneur's Obligations**

#### **§ 3.**

1. The Entrepreneur is committed to implement the Project within the material and financial Project Schedule specified in Appendix 2 to this Agreement, in accordance with:
  - 1) The Agreement and its Appendices
  - 2) The existing provisions of domestic and European Union law, in particular the principles of EU policies, including those on competition, public aid, public procurement, sustainable development and equal opportunities.
  - 3) All changes in the material and financial schedule require the acceptance of the Investment Committee. The process is described in Article 14 section 7.
2. The Entrepreneur is obliged to spend the funds given to him in form on cash donation from \_\_\_\_\_ to \_\_\_\_\_ only for the development costs related to the Project in order to prepare a product or service meeting the needs of the Large Company.
  - a. The Entrepreneur cannot finance from the funds given to him in form of the financial grant under the Agreement costs related to goods and services (VAT) excluding the cases, where the tax is non-refundable or deductible to the Entrepreneur, which the Entrepreneur confirms by giving a relevant statement during the signing this Agreement with PSSE. In the event that during the Project implementation or after its completion the Entrepreneur will be able to deduct or recover the VAT from services or goods purchased within conducting the Project, then the Entrepreneur is obliged to inform PSSE on it within 7 days. The Entrepreneur is obliged to reimburse the VAT tax for goods and services, which has previously been declared as non-deductible and which has been subsidized from the moment, he obtained the possibility to deduct that tax. Refund of VAT is made in accordance to Article 207 par

1 pt 2 of the Public Finance Act plus interest in the amount determined by as for tax arrears counted from the day the financial support was given.

- b. The Entrepreneur cannot spend the money given to him in form of the financial support under the Agreement for the purchase of service or goods from affiliated entities and persons.
- c. The Entrepreneur is obliged to undertake actions aiming to achieve Project Performance Indicators set by PSSE or its representatives within the timeframe of the material and financial Project Schedule and to take all actions enabling the PSSE to verify them.
- d. The Entrepreneur is obliged to keep separate accounting records of Project costs in a transparent and reliable way, so that individual operations related to the Project can be identified.
- e. The Entrepreneur is not allowed to transfer to other entities rights, obligations or claims arising from the Agreement, without the written consent of PSSE.
- f. The Entrepreneur is obliged to cooperate with the PSSE on terms and conditions specified in the regulations of the Acceleration Program (hereinafter referred to as Regulations), the content of which is attached in Appendix 4 to the Agreement.
- g. The Entrepreneur is obliged to undertake all measures to implement the Project within the timeframe of the Acceleration Program.
- h. The Entrepreneur is obliged to immediately inform the PSSE on all attempts to commercialize the Project, and prior to the conclusion of the transaction involving the commercialization of the Project, the Entrepreneur is obliged to inform the PSSE in writing of all relevant terms and conditions of the future cooperation, with the right of PSSE to make substantiated reservations of the market nature of the terms. PSSE has 7 days to give their comments counted from the date of being informed on the transaction details.
- i. The Entrepreneur is obliged to ensure that all transactions referred to in section 10 above, involving the commercialization of the Project, will be concluded on market terms, and if the PSSE submits their reservations in this matter (in accordance with section 10 above), the Entrepreneur will take them into consideration in the terms and conditions of cooperating with the Large Company.
- j. To avoid any doubts, both Parties agree that under the Agreement, market conditions of the transaction mean that within the Commercialization of the Project product and service sales, will be made at market prices, and if there are no market prices, then the prices will reflect the full cost of the product or service plus the margins established on the basis on margins commonly used by companies operating in a given sector.
- k. The Entrepreneur commits to provide priority transaction to the Large Company, for whom he will implement the Project (according to the Acceleration application submitted by the Entrepreneur), which will cover investment, sale, exclusive release, in whole or in part, for a period of \_\_\_\_\_ days counted from the acceleration phase. This means that in the case of offer submission by a third party covering its investment into the Project, its acquisition or making exclusive availability, in whole or in part, the Entrepreneur is obliged first to submit to the Large Company referred to in the first sentence of this paragraph a written offer of the transaction on the same terms. The Large Company might submit a declaration under pain of invalidity, to accept the offer no later than within 30 days of receiving it.

- I. In case the Entrepreneur acquires an investor other than the investor supporting the Acceleration Program (as specified with the list of investors supporting the Acceleration Program available on the following website: \_\_\_\_\_ and Appendix 8 to this Agreement, hereinafter referred to as "Supporting Investors"), the Entrepreneur undertakes to guarantee for 12 months calculated from the end of the acceleration phase the right for Supporting Investors to join the transaction on terms identical to those set for the investor. Unless the Entrepreneur and investors participating to the transaction decide otherwise, the same terms and conditions should be understood in particular as:
  - a. Number of acquired shares or stock, or stock in the Entrepreneur's company, if the total number of shares or shares purchased by the investor other than the Supporting Investor and Supporting Investors proceeding to the transaction and shares or other stock of the Entrepreneur exceed 100% of the share capital of the company, each investor will have the right to purchase the same amount of shares or stock according to this formula (100% - remaining shares or stock of the Entrepreneur) / investors participating in the transaction
  - b. Price of shares or stock, referred to in point a)
  - c. Terms of payment referred to in point b)

#### **Terms and conditions for financial support**

##### **§ 4.**

1. Assistance referred to in Paragraph 2. section 3 of the Agreement will be provided on terms and conditions indicated in the Regulations.
2. Monetary assistance referred to in Paragraph 2, section 5 and 6 is transferred to the Entrepreneur's bank account no \_\_\_\_\_ maintained by \_\_\_\_\_.
3. In the event of bank account number change, the Entrepreneur is obliged to immediately provide the PSSE with written information of such change. Changing the bank account number does require to provide an annex to this Agreement.
4. The total value of monetary and non-monetary assistance to be received by the Entrepreneur in accordance to Paragraph 2 of the Agreement through the PSSE might not exceed 250.000,00 PLN (two hundred fifty thousand zlotys).
5. The Entrepreneur is obliged to have all documents confirming all costs incurred for the implementation of the Project. The documents should be prepared and stored in accordance with the laws of the Republic of Poland.
6. The Entrepreneur is obliged to book and record all spending from the co-financing received under the Agreement in accordance accounting regulations and the adopted accounting policy, to spend the co-financing in accordance with the principles of sound financial management, in particular in the most favourable value of inputs to outputs, to spend with the principles of fair competition, openness and transparency, in the absence of Conflict of Interests with due diligence, and if applied by law, to apply to the provisions set by the Public Procurement Law.

7. PSSE has the right to inspect the documentation referred to in section 5 at any time during each phase of the Project Implementation and within 10 years from the date of the Agreement signing.

### **Statements and assurances**

#### **§ 5.**

1. The Entrepreneur declares that his Entity is a micro / small enterprise which fulfils the conditions set out in Annex I to Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain types of aid compatible with the common market pursuant to Article 107 and 108 of the Treaty, in accordance with the declaration on meeting the criteria for SMEs, constituting Appendix No. 5 to this Agreement and that the PSSE is authorized to grant financial aid in accordance to the information form provided when applying for aid other than agricultural or fishery aid, de minimis aid or de minimis aid in agriculture or fishery constituting Attachment 6 to this Agreement.
2. The Entrepreneur declares that he meets the conditions referred to in § 21 of the Regulation of the Minister of Infrastructure and Development of 10 July 2015 on the financial assistance provided by the Polish Agency for Enterprise Development under the Smart Growth Operational Program 2014-2020, i.e.:
  - 1) The company does not exist longer than 5 years,
  - 2) Financial Instruments of the Entrepreneur are not listed on any stock exchange,
  - 3) The company did not make any profit distribution,
  - 4) The company was not created by joining of other entities.
3. The Entrepreneur declares and warrants that he has exclusive rights to the Innovative Idea proposed by him under the Accelerator Program and that he is entitled to dispose of the full rights to the Project on his own behalf.
4. The Entrepreneur declares that the Project or its elements are not subject to any rights in rem or pledge to third parties or seized in execution proceedings and the Entrepreneur has not undertaken to dispose of or encumber any substantive or binding right, whole or part of the Project, nor has he in this regard signed a preliminary contract or offer; The statement above also applies to the individual components of the Project and to all rights to the Project including, in particular, intellectual property rights to the Project, which are fully vested to the Entrepreneur.
5. Both Parties also declare that:
  - 1) There are no links between them within the meaning of Art. 6c para. 2 of the Act of Establishment of the Polish Agency for Enterprise Development,
  - 2) There are no capital or personal ties between them,
  - 3) There are no capital or personal ties between them and the Large Companies.
6. In addition, the Entrepreneur declares that there are no and there will be no capital or personal connections between him and entities providing their services under the Acceleration Program.
7. The Entrepreneur declares that the subject of the Project does not relate to activities excluded from the possibility of obtaining the Assistance as referred to in:

- 1) In § 4 sec. 3 of the Regulation of the Minister of Infrastructure and Development of 10 July 2015 on the financial assistance provided by the Polish Agency for Enterprise Development under the Smart Growth Operational Program 2014-2020,
  - 2) In Art. 1 of the (EU) Commission Regulation No 651/2014 of 17 June 2014 declaring certain types of aid compatible with the internal market pursuant to Article 107 and 108 of the EU Treaty,
  - 3) In Art. 3 sec. 3 of EP / Council Regulation (EU) No 1301/2013 of 17 December 2013 on the European Regional Development Fund and specific provisions on the "Investment for growth and employment" objective and repealing the Regulation (EC) No 1080/2006.
8. The Entrepreneur declares that he is not excluded from applying for the aid granted within the Acceleration Program.

### **Control and audit**

#### **§ 6.**

1. Without prejudice to Paragraph 4 section 6 of the Agreements, the controls on the implementation of the Project are carried out at the discretion of the PSSE or the Agency.
2. Inspections may be carried out at any time during the performance of the Agreement and for a period of 10 years from the date of signing the Agreement.
3. Inspections can be conducted both at the premises of the Entrepreneur and at the places where the Project is being implemented.
4. The Entrepreneur shall be notified of the inspection not later than 14 working days before the start date.
5. The findings of the audit are documented in substantive or financial control protocols, which shall be immediately provided to the Entrepreneur in two copies.
6. If no objections stated, the contents of the protocols referred to in section 5 will be signed by the Entrepreneur in two copies and forwards them to the controlling entity.
7. The Entrepreneur may raise objections to the content of the protocols within 7 working days of receiving it.
8. In case of refusal to sign the protocol, the Entrepreneur shall provide a written justification together with one copy of the unsigned protocol within 7 working days of receiving it.
9. The entity conducting the audit shall be obliged to consider the objections raised before the final conclusions of the audit are formulated.
10. On the basis of the protocols referred to in section 5, and after considering any objections of the Entrepreneur, the inspector shall draw up the inspection conclusions, including possible post-inspection recommendations to be carried out within the indicated time limit.
11. Based on the results of the audit, PSSE has the right:
  - 1) to suspend spending of funds pending clarification of possible irregularities;
  - 2) to order the Entrepreneur to return the funding in the amount contested by the protocol referred to in sec. 6, under the terms and conditions as for the return of co-financing specified in § 8 of this Agreement.
12. The Entrepreneur is obliged to provide at his expense the presence of persons who will provide explanations about the disbursement of funds and other issues related to the Project.
13. Failure to perform the duties referred to in section C is treated as preventing inspection.

14. In the case of receiving information on suspicion of irregularities in the implementation of the Project or other significant deficiencies, the entity entitled to control may carry out an ad hoc audit without the prior notification referred to in section 4.
15. The Entrepreneur also undertakes to undergo a check conducted by the managing authority, i.e. the minister responsible for regional development, whose tasks are carried out by the organizational unit in the office serving the minister, responsible for the preparation and implementation of the Operational Program as detailed in the Detailed Description of Priorities of the Smart Growth Operational Program 2014-2020, the certification authority, i.e. the minister responsible for regional development, whose tasks are carried out by the organizational unit at the office serving the minister responsible for the implementation of the certification tasks and indicated in the Detailed Description of the Priorities of the Smart Growth Operational Program 2014 - 2020, General Inspector of Treasury Control, who is responsible for ensuring that audits are carried out to verify the effective functioning of the Smart Growth Operational Program management and control system and audits of operations, the European Commission, or other authority authorized to carry out inspections on the basis of separate regulations or authorizations and to make available, at the request of those institutions, the European Court of Auditors or other entities entitled under the law, any documentation relating to the Agreement.

#### **Mode and conditions of Agreement termination or funding suspension**

##### **§ 7.**

1. The Agreement may be terminated by either Party with a one-month notice period. The termination document should state the reasons why the Agreement is terminated.
2. PSSE may suspend the funding or terminate the Agreement in the manner referred to in section 1, in case when the results of the inspection referred to in § 6 indicate that irregularities occurred during the implementation of the Project which make it impossible or not feasible to further conduct the Agreement.
3. PSSE is entitled to withhold the payment of the funding or terminate the Agreement without notice, if:
  - 1) The Investment Committee does not recommend the idea during the Committee meeting
  - 2) Implementation of the Project has not started for more than 2 weeks from the planned start of the Project and PSSE has not been informed about the reasons for the delay;
  - 3) The Entrepreneur fails to perform the duties referred to in the Regulations;
  - 4) The Entrepreneur has ceased his activity, insolvency proceedings were instituted under the Bankruptcy and Reorganization Act of 28 February 2003 (Journal of Laws of 2015, item 233) or liquidated pursuant to separate acts or remains under Commissar board;
  - 5) The Entrepreneur has allocated the received funds contrary to the material and financial Schedule.
  - 6) False statements or documents were provided to obtain Support, or, upon prior request, incomplete statements or documents were not completed;
  - 7) The information provided in the Agreement or its Attachment does not correspond to facts;
  - 8) The funding was misused;
  - 9) The Entrepreneur is obliged to repay the aid resulting from the decision of the European Commission, which declared the aid unlawful and the internal market;

10) The Entrepreneur refused to submit to inspections or made it difficult to carry it out, does not carry out post-audit recommendations within the period specified in the subsequent follow-up information or does not provide justification containing the reasons for their failure in this period together with a proposal of a new completion date of audit recommendations.

11) The Entrepreneur has not established a collateral referred to in § 13 of the Agreement.

4. In case of Agreement termination in the manner referred to in section 2, The Entrepreneur is obliged to return the Support on the terms specified in § 8 of the Agreement.
5. The Entrepreneur shall not be liable to PSSE or deemed to be in breach of the provisions of the Agreement due to non-performance or improper performance of obligations under the Agreement insofar as such non-performance or improper performance is the result of force majeure.
6. The Entrepreneur is obliged to immediately inform the PSSE about the occurrence of force majeure.
7. In the event of termination of the Agreement for the reasons referred to in this paragraph, the Entrepreneur shall not be entitled to compensation.

#### **Refund of funding**

##### **§ 8.**

1. In the event of Agreement termination pursuant to § 7 (1-3), PSSE shall call upon the Entrepreneur to return all donation obtained under the Agreement in cash within 14 days of the date of summon plus interest calculated as for arrears of the day the funds were transferred to the bank account of the Entrepreneur by the day of their return together with all the benefits received by the Entrepreneur from the moment of receiving the funding. The Entrepreneur shall return the grant to bank accounts indicated by the PSSE.
2. In justified cases, PSSE might demand to return only a portion of the granted money.

#### **Conflict of Interest**

##### **§ 9.**

1. Each Party shall immediately inform the other Party of circumstances giving rise to a reasonable suspicion of Conflict of Interest. The information referred to in the preceding sentence should fully describe the circumstances likely to cause Conflict of Interest and indicate a proposed way of avoiding the Conflict of Interest and, if the Conflict of Interest has already occurred, the manner of its elimination.
2. Immediately, no later than 14 days after its receipt, the Party is obliged to comment on the information referred to in section 1, accepting the proposed solution or indicating another. The new proposed measure is accepted in the mode specified in the preceding sentence.
3. Until the Parties agree on a solution of the Conflict of Interest, the Project Implementation of might be suspended upon request of the PSSE.

## **Obligation of confidentiality**

### **§ 10.**

1. PSSE is obliged to refrain from sharing or disclosing classified information, which is a trade secret of the Entrepreneur.
2. The trade secret of an Entrepreneur means all information relevant to the business of the Entrepreneur, circumstances not covered by public registers or publicly known, and the fact of their public knowledge is not a consequence of a breach of confidentiality rules, technical, technological, organizational, know-how whose disclosure may cause damage to the Entrepreneur's assets.
3. The provisions of section 1, do not include information that:
  - 1) At the time of disclosure by the PSSE they were publicly known or obtained by the PSSE without violating any confidentiality obligation resulting from the law or from the civil law activity;
  - 2) have been publicly or otherwise made available to the public without prejudice to any confidentiality obligation arising from the law or civil law;
4. The Entrepreneur agrees for PSSE to make available the information provided by the Accelerator Program (including the application form for this program) concerning the Project, in particular its description for purposes related to the implementation of the Acceleration Program, including in particular the evaluation of the Project by Members of the Investment Committee.

## **Severability**

### **§ 11.**

1. If it is determined that any of the provisions of the Agreement is void or invalid, this will not affect the validity, effectiveness or enforceability of the remaining provisions, unless it is apparent from the circumstances that without invalid or unenforceable representations, this Agreement would not be concluded.
2. In the situation referred to in section 1, the Parties undertake to conclude an annex to the Agreement in which they formulate substitute provisions whose economic purpose will be equivalent or maximally similar to the purpose of void or invalid provisions.
3. If it is clear from the circumstances that, without the void or invalid provisions, the Agreement would not be concluded, the Parties undertake to enter into negotiations to conclude a new agreement whose economic objective is equivalent or maximally close to the purpose of the Agreement. Pending the completion of the negotiations referred to in the preceding sentence, the Parties will be obliged to perform the obligations provided for in the Agreement to the extent that this shall not be contrary to mandatory provisions of law and to the legitimate interests of the Parties.

## **Rules of liability**

### **§ 12.**

4. PSSE is not liable for damages resulting from the performance of the contract, in particular, the Entrepreneur shall not be entitled to compensation in case of delay in payment of subsidies arising from factors independent of the PSSE.

5. PSSE shall not be liable to third parties for any damages arising in connection with Project implementation by the Entrepreneur.

### **Securing proper performance of obligations under this Agreement**

#### **§ 13.**

1. The financial contribution is paid to the Entrepreneur after the establishment and performance guarantee obligations under this Agreement in accordance with the terms set forth in this paragraph.
2. The Entrepreneur for the whole duration of the Agreement, i.e. for the period of cooperation implementation cooperation referred to in § 2 section 1 of the Agreement establishes a blank promissory note with a notarized signature or a signed notarized signature or deposited in the presence of a person authorized by the PSSE together with a promissory note declaration attached as Appendix 7 to the Agreement. All activities related to protection unregulated by this Agreement are governed by separate laws.
3. The Entrepreneur is obliged to submit to the PSSE a properly issued collateral referred to in section 2, within 3 days of the Agreement's entry into force.
4. Failure to establish or not provide the safeguards referred to in section 2 within the term resulting from the Agreement, is the basis for termination of the Agreement, in the manner referred to in § 7 section 3 of the Agreement.

### **Final Provisions**

#### **§ 14.**

1. Both Parties are that:
  1. All submissions, requests, notices and information sent by electronic mail will be considered delivered within the prescribed time limit if their content has been received by the addressee before the deadline and has been confirmed;
  2. Correspondence will be treated as properly served if the Entrepreneur has not informed about the change of postal address referred to in section 4 or the correspondence sent by the PSSE will be returned with the postal office notice of lack of delivery, such as "the addressee moved", "not taken in time", "unknown addressee";
  3. If the Entrepreneur refuses to accept the letter, the letter is deemed to have been delivered on the day of its refusal by the Entrepreneur;
  4. If the start of a date specified in days is a certain event, the date of the event is not taken into account when calculating this date; The expiry of the last of the number of days is deemed to be the end of the deadline;
  5. If the end of the deadline falls on a public holiday or a Saturday, the last deadline day is considered to be the next business day.
2. Any correspondence, bearing an Agreement number associated with the execution of the Agreement, including in particular any statements which the provisions of this Agreement describe, shall be in writing and addressed as following: Pomorska Specjalna Strefa Ekonomiczna Sp. z o.o. Ul. Władysława IV 9, Sopot 81-703
3. In case of postal addresses change referred to in section 4, the Parties are required to notify the new address in writing, within 14 days of the address change. In absence of notification any correspondence sent to the previous addresses shall be deemed to have been effectively served. Changing the postal address does not require to make an annex to the Agreement.

4. Any delivery of from the Party will be made to the Party address indicated on the application form.
5. All documents submitted to PSSE, which were not originally prepared in Polish, must be presented - upon request of PSSE together with a certified translation into Polish.
6. The Entrepreneur is obliged to deliver electronic versions of the documents referred to in the Agreement at the request of PSSE.
7. In cases not regulated in the Agreement, the relevant provisions of Polish and EU law apply.
8. Subject to the cases expressly stated in the Agreement, any amendments to the Agreement will be made in writing on pain of nullity.
9. If the Parties fail to reach an agreement through consultations, the disputes will be resolved by a common court competent for the seat of the PSSE.
10. The Agreement shall enter into force on the date of its signature by the last Party.
11. The contract was drawn up in three identical copies, two for PSSE and one for the Entrepreneur.
12. Attachments are an integral part of the Agreement:
  1. Attachment No 1 – Large Company List,
  2. Attachment No 2 – Financial and material schedule draft,
  3. Attachment No 3 – Project description in form on submission and presentation,
  4. Attachment No 4 – Regulations of the Space3ac Intermodal Transportation Acceleration Program,
  5. Attachment No 5 – Statement on meeting SME criteria
  6. Attachment No 6 - Information form for applying for aid other than aid in agriculture or fisheries, de minimis aid or de minimis aid in agriculture or fisheries
  7. Attachment No 7 – Blank promissory note along with a bill declaration
  8. Attachment No 8 – List of supporting investors

PSSE

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Entrepreneur

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