

PROJECT Code....

Priority axis...

Objective....

**Co-financing contract**  
**from Romanian State budget**  
**No...../.....**

**The following co-financing contract between**

Ministry of Regional Development and Public Administration

17 Apolodor Street, Bucharest, Romania, tax registration no.:.....

acting as Managing Authority for the Interreg - IPA CBC Romania - Serbia Programme,  
hereinafter referred to as MA,

represented by

....., Minister of Regional Development and Public Administration

and

..... [Name and address, fiscal registration number],

represented by .....

hereinafter referred to as Lead Beneficiary (LB)

**is concluded on the basis of the approved application no. <e-MS code>, having as legal basis:**

- Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external actions;
- Commission implementing regulation (EU) No 447/2014 of 2 May 2014 on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession assistance (IPA II);
- Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on 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 and laying down 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;

- Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal;
- Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II) (hereafter IPA II Regulation);
- Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002;
- Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union
- Commission Delegated Regulation (EU) No. 481/2014 of 4 March 2014 supplementing Regulation (EU) No. 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal;
- Commission Decision No... approving the Interreg - IPA CBC Romania - Serbia Programme for 2014-2020 period;
- Financing Agreement signed between the European Commission, Republic of Serbia and the Managing Authority.

### **§ 1 Award of subsidy**

- 1) The object of this contract is the award of national co-financing by the MA for the implementation of the ..... [code and title of the project], herein referred to as “project”, according to the decision of the Joint Monitoring Committee no..... on ..... [date] in ..... [place].
- 2) The Beneficiary receives financing in the terms and conditions stipulated in the present contract. The annexes are part of the contract; the Beneficiary must observe the provisions of both the contract and its annexes.
- 3) The Beneficiary accepts the funding and shall implement the part of the project for which it is responsible in due time according to the provisions of the present contract and of the national and European legislation.

### **§ 2 Duration of the contract**

- 1) The contract becomes effective on the date the last party signs. The last party signing has the obligation to note the date.
- 2) This contract is effective under the condition that subsidy contract is valid. Thus, the contract ends at the same date as the subsidy contract between the lead beneficiary and MA.
- 3) The implementation of the project starts the day after when the subsidy contract becomes effective.
- 4) The implementation period of the project is ..... months.
- 5) The co-financing contract ends in 5 years from the final payment to the beneficiary.

### **§ 3 Budget of the project**

- 1) The total eligible value is ..... EUR <amount in figures> (non-refundable financing and the contribution of the partner), out of which:
  - a. .... EUR IPA, representing 85 %
  - b. .... EUR Romanian State Budget co-financing, representing 13 % from the Romanian Partner (s) budget
  - c. .... EUR Romanian Partners own contribution, representing 2 % from the Romanian Partner (s) budget
  - d. .... EUR Serbian Partners own contribution, representing 15% from the Serbian Partner (s) budget
- 2) The total non-eligible value is in amount of.....and shall be supported by the LB and beneficiaries according to the approved budget.

### **§ 4 Value of the contract**

- 1) The value of the present contract is .....<amount in figures> EUR/ .....<amount in letters>, representing the value of the financing from the MA budget from the total eligible value of the project, proportional to the eligible value of the activities realized by the beneficiary and according to Annex 1-Budget. MA commits itself to transfer these funds to the beneficiary, in Lei representing maximum 13% of the total eligible value of the activities realized by the beneficiary.
- 2) Irrespective of possible fluctuation between the exchange rate used for calculation of lei amounts hereunder at the moment when the contract is signed and the exchange rate applicable at the date when any amounts are paid by the MA to the beneficiary, the total value of the contract in Euro cannot be increased.
- 3) MA will make the transfer of co-financing funds from the state budget in the limit of the existent balance at the date of advance/reimbursement request, and in case of insufficient funds, payment process will be suspended until the Ministry of Public Finance credit the program's account with the amounts representing the co-

financing funds from the state budget.

- 4) The partner commits itself to support its own contribution and the non-eligible expenditures.
- 5) In case the MA cannot reimburse the expenditures due to lack of available funds at Programme level, the partner commits to support from its own budget the funds necessary for the implementation of the project, according to the approved Application Form and observing the provisions of the present contract and its annexes and of the European and national legislation in force. The MA shall notify the LB/partner regarding the lack of available funds.

### **§ 5 Eligible Expenditures**

- 1) Activities and related costs for the project are eligible if they were contracted after the entry into force of the present contract and before the end of the implementation period of the project and paid during 1 month after this period at the latest and provided they are necessary for the project and are stipulated in Annex A.1 -“Budget”.
- 2) As an exception from the above paragraph audit activities are eligible if implemented during one month after the end of the implementation period and paid during 1 month after this period at the latest and provided that they are necessary for the project and are stipulated in Annex A.1 -“Budget”.
- 3) The expenditures related to the project are eligible provided that they respect the applicable European and national legislation in force, that they are stipulated in Annex A.1 -“Budget” and provided that they comply with the terms and conditions stipulated in the present contract.
- 4) As an exception from the provisions of paragraph 1, project preparation costs are eligible if they were incurred between 1<sup>st</sup> of January 2014 and the submission of the Application Form.
- 5) All preparation costs shall be requested for reimbursement in the first reimbursement claim.

### **§ 6 Reimbursement of the expenditures**

- 1) The schedule for first level control requests and reimbursement claims of the project is provided in Annex 2.
- 2) The beneficiary has the possibility to submit reimbursement claims to the MA through the LB at any given time, provided that the reimbursement claim is not lower than 5,000 euro IPA. The total amount to be requested for first level control mentioned at the half of the implementation cannot be changed. All other estimated data can be changed by notification.
- 3) In case the total amounts requested for first level control verification are lower compared to the total amounts forecasted for the half of the implementation period in Annex 2, the MA is entitled to decommit project funds by reducing the original project budget and the corresponding IPA contribution, as follows:

- a) 10% reduction of the budget for the partners who have requested amounts for first level control lower than 75% of the initial amounts included in the schedule for first level control requests.
  - b) 25% reduction of the budget for the partners who have requested amounts for first level control less than 50% of the initial amounts included in the schedule for first level control requests.
- 4) In case of a decision on the decommitment of the project, the Lead beneficiary shall submit to the MA a revised budget, reflecting the decommitment, within two weeks following the receipt of MA's notification. In case of failure to respect the deadline, the decommitment shall be applied proportionally to all budgetary lines. The modification of the contract in case of decommitment at project level shall take the form of a decision of the representative of the Managing Authority signing the contract, which will be notified to the lead beneficiary/ beneficiary, and which becomes part of the contract.
- 5) In case of decommitment, the Lead beneficiary together with the partners may decide to give up financing, but in this case all the funds paid as advance/ reimbursed shall be recovered by the Managing Authority. The decommitment shall be done without prejudice for beneficiaries' obligation to implement all the activities and achieve all the results, according to the approved application form.
- 6) In case partners decide not to externalize activities, as foreseen in the approved Application Form, and decide to implement them "in house", without requesting the reimbursement of the respective amounts from the Programme, the project budget shall be reduced automatically with the respective amounts. To this end the partners have the obligation of informing the MA in due time, through the LB, regarding the decision taken and request the reduction of the budget. The reduction of budget shall take the form of a decision of the representative of the Managing Authority signing the contract, which will be notified to the partners, and which becomes part of the contract.
- 7) A first level control system has been established both in Romania and Serbia in order to check the expenditure made by the project partners from each country. Therefore, each partner has the obligation to ensure that its expenditures are checked and validated by a controller from the state on whose territory it is located, before the reimbursement request is submitted.
- 8) The partners have to submit all supporting documents and request the first level control according to the deadlines mentioned in Annex 2 and based on the conditions provided hereunder and in the applicable legislation. The partners must present all documents to the controllers in order to be verified.
- 9) The reimbursement claims submitted by the LB shall contain only validated expenditure and shall be supported by the First Level Control Report issued by the controllers of the project partners. The expenditures that were not validated by the controllers are deemed to be non-eligible for the programme and shall not be requested for reimbursement.
- 10) The lead beneficiary receives all IPA amounts and will transfer the received IPA amounts to all partners within 5 working days and will make no deduction, retention or further specific charge from the IPA amounts it receives.

- 11) The partner will receive the 13%, in Lei from the national budget directly, in the account indicated, and opened separately for this project, according to the contribution of the partner to the project. The expenditures resulted from the exchange rate risk are non-eligible expenditures for the project.
- 12) The expenditure incurred in a currency other than the euro shall be converted into euro by using the monthly accounting exchange rate of the Commission in the month during which that expenditure was submitted for verification to the first level controller.
- 13) The partners through the lead beneficiary have to provide proof of progress of the project as described in the approved application. Therefore the lead beneficiary has to present progress reports, at every three month. The instructions presented in the reporting models must be followed exactly.
- 14) Even if no expenditure was incurred in a reporting period, the progress report shall be submitted in due time to the JS.
- 15) The final Progress Report and final Reimbursement Claim have to be submitted to the JS at the latest within five months after the end date of the implementation period of the project. Not observing this deadline may result in not reimbursing the amounts.
- 16) In case an irregularity is committed, the partner is responsible for reimbursing the entire amount to the MA.

## **§ 7 Rights and duties of the parties**

### **Beneficiary**

In addition to the obligations of the beneficiary already stated, the beneficiary undertakes the following duties:

- 1) The beneficiary has the obligation to start the implementation of the operation at the date stipulated at article 2, paragraph 3 from the present Contract.
- 2) The beneficiary has the responsibility of implementing the operation according to the provisions of the present contract, of the Partnership Agreement and of the national and European legislation on force. The beneficiary shall be responsible in front of the MA and lead beneficiary for the implementation of the obligations assumed in the Contract and in the Partnership Agreement, for the implementation of the operation and for achieving the goals stipulated in the contract and its Annexes.
- 3) In case of lack of available funds at Programme level, the beneficiary has the obligation of ensuring from its own budget the necessary funds for implementing the operation according to the approved Application Form, the present contract and the national and European legislation in force. The MA shall notify the LB/beneficiary regarding the lack of available funds.
- 4) The Beneficiary has to participate in an agreement laying down the arrangements for its relations with the beneficiaries participating in the operation comprising, inter alia, provisions guaranteeing the sound management of the funds allocated to the operation, including the arrangements for recovering amounts unduly paid.
- 5) The beneficiary has to:
  - a) observe the national and European legislation on, state aid, equal opportunities, sustainable development, environmental protection;
  - b) make all expenditure according to the programme relevant public procurement rules.
  - c) select the final beneficiaries of the operation (target groups) by a transparent procedure;
  - d) inform the MA, through the lead beneficiary, in 5 working days if one of the disbursement conditions ceases to be fulfilled, or circumstances arise which entitle the MA to reduce payment or to demand repayment of the subsidy wholly or in part;
  - e) all changes regarding the partnership, activities or budget must have the approval of the Project's Steering Committee and of the MA/JS;
  - f) know and observe the provisions of the Applicant Guide (published on the programme website [www.romania-serbia.net](http://www.romania-serbia.net))
  - g) present its expenditures to the controllers for verification at least 60 working days before the deadline for submitting the reimbursement claim, so that the deadline for submitting the reimbursement claim to the JS will be met. Requests for first level control not accompanied by appropriate supporting documents will not be taken into consideration.
  - h) submit its contributions to the reimbursement claim at least 10 days before the deadline for submitting the reimbursement claim to the JS;

- i) The List of eligible expenditure submitted by the beneficiary to the lead beneficiary shall contain only validated expenditure and shall be supported by the First Level Control Report issued by the Controllers of the Project Beneficiary.
  - j) to submit in due time to the lead beneficiary, who has to coordinate the submission of the reimbursement claims and progress reports all necessary documents in order to observe the spending forecast;
  - k) have a proper analytical accounting system and an separate bank account in “lei”; the accounting system must be in line with the national legislation;
  - l) to observe the provisions from the Visual Identity Manual (available on the programme website [www.romania-serbia.net](http://www.romania-serbia.net));
  - m) to reply to any written requests from the lead beneficiary, MA, NA, JS or any other bodies involved in the implementation of the Programme in the deadlines stipulated in the respective requests;
- 6) The beneficiary declares on its own responsibility that the operation is not being financed from national or European public funds, and that it did not receive financing from national or European Programmes for the same project;
- 7) Any goods or rights resulted from the implementation of the operation, including author rights and/or any other rights resulted from the execution or as a result of the execution of the contract, except the case where such rights were present before the contract, are the property of the beneficiary;
- 8) The beneficiary takes full responsibility for the damages caused to third parties from its own fault during the implementation of the operation. MA and lead beneficiary have no responsibility for the damages caused to third parties as a result of executing the contract, except the case when the damage is the direct result of the beneficiary following an express instruction from the MA/NA/ lead beneficiary;
- 9) The Beneficiary cannot mortgage or impose any other form of bank guarantee on the goods purchased from the financing throughout the implementation period of the operation and 5 years after the final payment.
- 10) By exception from the provisions of the previous paragraph, the beneficiary may mortgage or impose other form of bank guarantee on the capital asset/s that represent/s the subject of financing throughout the implementation period of the operation, provided the value of the credit obtained does not exceed the total value of the partner’s budget.
- 11) The beneficiary, via the Lead Beneficiary has to inform the Managing Authority and present the following documents in maximum 10 working days from the signing of the contract:
- a. The evaluation of the asset (if the asset was already delivered), performed by a bank or independent evaluator.
  - b. A copy of the contract or, in case of mortgage a copy of the documents

related to the registration of the mortgage in the relevant public registers.

- 12) The Managing Authority reserves the right not to agree with the mortgage or with other form of bank guarantee.
- 13) In case the bank/institution where the credit was obtained imposes on the partner to use its own account, then all the expenditures related to the project implementation must be performed from the respective account.
- 14) In case of projects comprising investment in infrastructure or productive investment, the Lead Beneficiary shall reimburse the MA the amounts received if within 5 years of the final payment it is subject to any of the following:
  - a) a cessation or relocation of a productive activity outside the programme area;
  - b) a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage;
  - c) a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives
- 15) The beneficiary understands and agrees that MA has delegated tasks to the JS, according to the Implementing Agreement concluded between the MA and the JS and therefore the partner agrees to cooperate with the JS in the same way as with the MA.
- 16) In duly justified cases, not imputable to the beneficiaries, when a beneficiary is in impossibility of fulfilling its obligations according to the contract, the beneficiary may request through the Lead Beneficiary and with the written agreement of all partners, the suspension of the implementation period, for a clearly determined period of time. After verifying the conditions, the MA may approve, under its specific conditions, through a written decision of the representative of MA signing the contract, the suspension of the contract starting with the date indicated by the partner. The partner requesting the suspension of the implementation period has the obligation to inform MA in maximum 3 days from the date when he took notice of the situation, in any written form (including e-mail) and the Lead Beneficiary has the obligation to submit all the relevant documents in maximum 5 working days, including the written agreement of all partners. The suspension may be requested only once during the implementation period. During the suspension period no activity shall be performed by any of the project partners.
- 17) The beneficiary is at all times obliged to retain for audit purposes all files, documents and data about the project on customary data storage media in a safe and orderly manner.
- 18) During the implementation period of the project as well as after the end of the implementation period of the project, for a 3 years period after the official closure of the Programme, the beneficiary has the obligation to preserve and to present, to the Joint Secretariat (JS, within the Regional Office for Cross-Border Cooperation Timisoara, Romania), MA, Certifying Authority (CA, within the Romanian Ministry of Regional Development and Public Administration), Audit Authority (AA, within the Romanian Court of Accounts), European Commission

(EC), European Court of Auditors and any other body designated to perform controls on the use of the financing, all project documents, including the inventory for the actives gained as a result of using the funds. The time period shall be interrupted either in the case of legal proceedings or by a duly justified request of the Commission. The documents must be properly archived. Also, the MA must be informed on the location of these documents.

- 19) The beneficiary must observe the recommendations received after an audit control, otherwise the MA has the right to terminate the contract.

### **Managing Authority**

- 1) The MA shall inform the beneficiary, directly or through the lead beneficiary, on any reports, conclusions or recommendations made by the European Commission that may affect the implementation of the present contract.
- 2) Additional obligatory deadlines to submit a reimbursement claim may be set by the MA in order to avoid decommitment of IPA contribution at programme level. The additional deadlines shall be communicated at least 2 months in advance to the LB/beneficiary.
- 3) In case one of the obligations of the beneficiary is not fulfilled, the MA may suspend the execution of the contract.
- 4) In case of suspending the subsidy contract, the MA may suspend the execution of the present contract.
- 5) In case of suspending the contract, the MA notifies the beneficiary regarding this decision, suspension period, corrective measures and also the related financial measures. The MA also notifies the beneficiary when the suspension period is finished before the initially set deadline.
- 6) The MA has the right to decide on the eligibility of expenditure related to the reimbursement claims.
- 7) The MA is entitled to verify and to control the proper use of funds by the partner. The verifications to be carried out by the managing authority shall cover administrative, financial, technical and physical aspects of the project, as appropriate. The MA shall be responsible for the control of the proper use of funds by the LB or by its partners, in particular through preventing, detecting and correcting irregularities and recovering amounts unduly paid together with interest on late payments where appropriate.
- 8) The responsible auditing bodies of the EU and the two partner states and, within their responsibility, the Audit Authority from Romania and the group of auditors as well as the MA are entitled to audit the proper use of funds by the LB or by its project partners or arrange for such an audit to be carried out by authorized persons.
- 9) MA is entitled to verify the sustainability of the project for a period of 5 years

after the final payment.

10) The MA shall authorize all eligible expenditures related to the reimbursement claims submitted by the LB, as per the First Level Control Reports issued by the FLC and recommendation of the JS.

11) The Managing Authority has the right to issue instructions for clarification of the provisions of the present contract, which shall be communicated to the Partners and posted on the Programme's website. The instructions shall become part of the contract and are mandatory for the LB and partners.

12) The MA is entitled to publish data regarding the project in accordance with Article 115(2) of Regulation (EU) no. 1303/2013.

### **§ 8 Publicity**

1) The beneficiary must inform the public by means of the measures laid down in Annex XII of Regulation (EU) no. 1303/2013, about the assistance obtained from the Funds.

2) The beneficiary is responsible for the implementation of the information and publicity activities related to the non-reimbursable financial assistance received through the programme.

3) The Beneficiary must ensure transparency and accurate information to the mass media on the projects financed under the Programme.

4) All information and publicity actions developed by the project beneficiary (including the Lead Beneficiary) must observe the Visual Identity Manual (available on the programme website or on request at the Joint Secretariat).

5) The publications edited within a project financed under the Programme shall include the name of the project and reference to the EU co-financing of the Programme, on the first and the last cover. The publications shall also contain contacts (persons, institution/organization, phone, fax, email and postal address) for the persons interested in finding out further details. The responsibility for the content of materials belongs solely to the beneficiary.

6) For all information and publicity actions developed by the project beneficiaries, they must archive in a single place (hard copy and/or electronically) the documents related to these activities (eg: information and publicity materials they produced: printed materials, audio-video materials).

7) The beneficiary is responsible to inform the Joint Secretariat regarding the information and publicity measures taken in order to promote the projects financed under IPA.

8) The rules stipulated in the Visual Identity Manual are mandatory for the Lead Beneficiary and all project beneficiaries.

9) By accepting the funding, the beneficiary give their acceptance for their inclusion

in the list of projects published in accordance with Article 115(2) of Regulation (EU) no. 1303/2013.

- 10) The beneficiary shall ensure the proper means of communication between the project and the programme, including:
  - a. participation, whenever requested, in trainings organized by the JS;
  - b. participation, whenever requested, in other events organised by the Programme with the purpose of presenting/ discussing/ developing/ sharing project results and creating synergies with other projects and relevant organisations.
  - c. providing a visible link on the project's website to the Programme website.

### **§ 9 Confidentiality**

- 1) With the exception of the situations foreseen at art. 7, para. 18 and art. 8, the Managing Authority and the beneficiary undertake to preserve the confidentiality of any document, information or other material communicated to them in confidence until at least five years from the official closure of the Programme. The release of information to persons involved in implementing/ verifying/ controlling/ auditing the project shall be performed on confidential basis and shall cover the information that is necessary for implementing the project.
- 2) The data used for publicity purposes, for informing on and promoting the use of IPA funds, shall not be considered as having confidential status.
- 3) The Managing Authority has the right to release information regarding the project at the request of public institutions, investigating the project.
- 4) The contracting party shall bare no responsibility for releasing information on the contract if:
  - a. the information was released with the written agreement of the other contracting party; or
  - b. the contracting party was legally forced to release the information.
- 5) Failing to observe the confidentiality obligation gives the damaged party the right to claim compensations from the damaging party.

### **§ 10 Conflict of interests**

- 1) In the present Contract, the conflict of interests represents any circumstances that have affected or may affect the execution of the contract by the parties in an objective and impartial manner. Such circumstances may result from reasons involving family, emotional life, economic interests, political or national affinities or any other shared interest with the recipient.
- 2) The parties take upon themselves to take all necessary measures in order to avoid any conflict of interests and to keep each other informed, in up to 5 (five) days from

finding out, on any circumstances that have generated or may generate such a conflict. Any conflict of interests that arises during the implementation of the contract shall be immediately notified to the JS. The MA reserves the right to verify such circumstances and take the necessary measures, where necessary.

### **§11 Irregularities and reimbursement of the funding**

- 1) “Irregularity” according to the current Contract means any breach of the Union law, or of the national law relating to its application, resulting from an act or omission by an economic operator involved in the implementation of the IPA funds, which has or would have the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union.
- 2) MA shall show zero tolerance to any suspected cases of fraud and shall take all necessary measures to prevent and correct such cases.
- 3) In case of irregularity, the MA shall impose to the beneficiary all the necessary measures for the elimination or diminishing of the consequences on the implementation of the project.
- 4) MA may suspend or terminate the contract in case the beneficiaries fail to take the measures imposed.
- 5) In case an irregularity is committed, the LB is responsible for reimbursing to the MA the amount affected by the irregularity, even if the irregularity was committed by one of the project partners.
- 6) The MA takes the decision for suspending/terminating the contract, after verifying the reasons presented by the LB and/or JS and the related documents.
- 7) In case the contract shall be terminated, the MA notifies the beneficiary regarding this decision and the related financial measures. In this case, within 30 days from receiving such notification, the LB and / or project partners shall fully return the amounts specified in the notification, without deducting any bank charges.
- 8) For the irregularities committed by a project partner, the LB is entitled to request these amounts from the responsible project partner in order to be repaid to the MA. In specific cases, for irregularities discovered after payment of the final reimbursement claim, the partners may repay the due amounts directly to the MA, notifying the LB about this option.
- 9) If the Lead Beneficiary does not manage to recover the unduly paid IPA contribution from the project partners, it will inform the MA and will send all necessary documents for the MA to be able to take all necessary measures stipulated by the legislation in force.
- 10) Any extra payment done by the MA is considered unduly paid amount, and the LB has to repay the respective amounts within 30 days from the receipt date of such notification from the MA.
- 11) In case the irregularity is discovered before the final payment, the MA is entitled to diminish the reimbursed amount starting with the next payment until the total

recovery of the debt, to which the bank charges are added.

12) In case the irregularity resulting in an unduly paid amount is discovered after the final payment or the debt was not entirely recovered, the MA shall notify the LB regarding the unduly paid amount, and the LB has the obligation to return, within 30 days as of the receiving date of the notification, the amount, including bank charges.

13) The final payment will be made only after the recovery of any known debts from the lead beneficiary and/or any other partner of the project.

14) In duly justified cases and based on a statement given by the LB in which he takes the responsibility to transfer the debt amount to the MA in 5 days from the date the final payment is paid by MA, the MA can transfer the amounts related to the final reimbursement claim.

15) Starting with the 31st day as of the expiry of the deadlines stipulated at paragraphs 7,10,12 an interest rate bigger with one and a half points than the rate applied by the European Central Bank as in force on the first working day from the month of the deadline date shall be applied to the owed amounts.

16) In case the European Commission applies financial corrections to the Programme on the basis of extrapolation or flat rate, the Managing Authority may decide to cover these corrections from the projects' budgets, concerned by the corrections.

17) In case of observations and/or reservations raised by the Commission on the description of the Management and Control System of the Programme or in case of a system error detected, the MA has the right to temporarily withhold payments to a particular partner (LB or P) or the project as a whole. Payment suspension(s) shall be lifted as soon as observations and/or reservations raised by the Commission have been withdrawn and the MA has received sufficient evidence on the solution of the systemic error(s) detected.

## **§ 12 Assignment, legal succession**

1) The beneficiary cannot renounce totally or partially the rights and obligations resulted from the present contract unless it has the clear agreement of the MA/ the Joint Monitoring Committee.

2) In case of legal succession, e.g. where the beneficiary changes its legal form, the Beneficiary is obliged to transfer all duties under this contract to the legal successor. The beneficiary shall notify the lead beneficiary and the MA about any change with 15 working days beforehand.

## **§ 13 Amendment**

1) With the exception of the situations foreseen at Articles 6(4), 6(6), 7(16) - Beneficiary section and 7(11) - Managing Authority section of the present contract, any modification to the present contract shall be done with the agreement of both

parties.

2) Any request for modification of the Subsidy Contract has to be justified and submitted by the LB to the Joint Secretariat in a written form. The Joint Secretariat will analyze the request and may request additional information and other clarifications and submits it for approval to the Managing Authority or the Joint Monitoring Committee according to the type of the modification requested. The Addendum to the Contract has to be signed by both parties. The partners can submit maximum 2 addenda during the lifespan of the project. In exceptional and duly justified cases the MA may accept additional addenda.

3) As an exception from the provisions of paragraph 1, the beneficiary may operate the following changes, through a notification with justification sent to the MA:

4) Any changes inside or between budget line or lines, in limit of 10% of the total budget of each partner should be made with the previous notification of the Managing Authority through the Joint Secretariat, as long as the maximum amount of funding awarded remains unchanged and the goals of the operation are not affected

5) Changes in the Annex 2 - "Schedule for advance and reimbursement claims", duly justified by the LB, may be done only with the notification of the MA. The MA has to be notified with at least 15 working days of the previous month of the month included in this annex, in which the reimbursement claim should have been submitted. Annex 2 - "Schedule for advance and reimbursement claims" can be modified through maximum 3 notifications.

6) Change of headquarter, bank account may be done and shall be forwarded to the MA within 15 days following the change of address, bank account.

7) Change of the legal representative of the project partners shall be notified to the MA within 15 days following the change of the legal representative.

8) For the modification of the contract through notifications, these shall be sent to the JS which shall send it, after verification, to the MA in maximum 5 working days from its receipt from the beneficiary. If clarifications are needed, these shall be requested from the beneficiary and the beneficiary is obliged to answer in maximum 5 working days. Following MA's agreement, the JS shall inform the beneficiary in maximum 2 working days.

9) For the modification of the contract through addenda, these shall be sent to the JS, together with the No objection letter issued by NA for Serbian LBs, with minimum 47 working days before the additional act produces its effects. JS shall send it, after verification, to the MA in maximum 7 working days from its receipt from the beneficiary. If clarifications are needed, these shall be requested from the beneficiary and the beneficiary is obliged to answer in maximum 5 working days. Following MA's approval, the JS shall inform the beneficiary in 1 working day.

10) As an exception from para. 9, for the modification of the contract through addenda which are extending the implementation period of the project, these shall be sent to the JS with minimum 67 calendar days before the additional act produces its effects. JS shall send it, after verification, to the MA in maximum 7 working days from its receipt from the beneficiary. If clarifications are needed, these shall be requested from the beneficiary and the beneficiary is obliged to answer in maximum 5

working days. Following MA's approval, the JS shall inform the beneficiary in 1 working day, notifying also the NA.

- 11) Addenda become effective in the next day after their signing by the last party.
- 12) Only from the moment the addendum or notification enters into force may the beneficiary claim reimbursements for the activities effectively carried out/costs actually incurred that are subject to the stated addendum or notification.
- 13) Costs incurred prior to the entry into force of such addendum or notification is with the financial risk for the beneficiary.
- 14) The LB agrees and understands that the MA has the right to refuse the signature of the addenda or approve notifications.
- 15) Modifications incurred in the respective national/ European applicable legislation with impact on the implementation of the contract, become effective from the date the respective legal act enters into force without being confirmed through an Addendum.
- 16) The LB has the obligation to inform all partners about the approval by the MA of the addendum or any other contract modification within maximum 10 working days from its entry into force.
- 17) Contingency may be spent only with prior agreement of MA, by re-distribution to other budgetary lines and will be operated by an addendum to the present Contract.
- 18) Changes in the budget including, budget chapter, over the limit of 10% and under € 50.000 are allowed, with the previous approval of the Managing Authority through the Joint Secretariat and No-objection letter from NA, through an addendum to the present contract) and as long as the maximum amount of funding awarded remains unchanged and the major goals of the operation are not affected.
- 19) As an exception, any other changes must be duly justified and shall be subject to the Programme Joint Monitoring Committee's approval (changes of partners, changes in budget lines over € 50.000,00, changes between partner budgets, etc.) and will be operated by an addendum to the present contract. In this case, the MA may decide to suspend the implementation of the project until the JMC Decision.
- 20) Modifications of the contract or of the operation, that were agreed by both parties, cannot, under any circumstance, lead to the increase of the non-refundable financing value (IPA and co-financing) and/or of the percentage it represents from the total eligible value of the operation specified in article 3 paragraph 1 of the present Contract.

#### **§ 14 Termination**

- 1) Any breach of the provisions of the present contract may result in the termination of the present contract and in the recovery in whole or in part of the financing, including any interest and/or related bank charges.
- 2) In exceptional and duly justified cases, including the occurrence of "force majeure", the MA may decide on terminating the contract, by a written notification, without requesting the reimbursement of the already paid amounts.
- 3) The MA is entitled to terminate this contract, in whole or in part, without any

other formality, and to demand repayment of the amounts already paid, if:

- a) The MA finds an inconsistency between the reality and the declarations of the beneficiary in the application form, regarding the financing of the project from national or European public funds, or regarding the financing from other national or European Programmes; or
  - b) The MA or audit bodies find that the subsidy awarded has been partially or entirely misapplied for purposes other than those agreed upon herein, including 5 years after the final payment; or
  - c) The MA finds that insolvency proceedings are instituted against the assets of the beneficiary or insolvency proceedings are due to lack of assets for cost recovery, provided that this appears to prevent or risk the implementation of the project, or
  - d) the beneficiary closes down; or
  - e) The MA finds that during the implementation period of the project including 5 years after the final payment, the LB or any project partner wholly or partly sells or transfer in any form the right of property of the goods purchased from the financing, including under the conditions of article 71 from Regulation 1303/2013 (a cessation or relocation of a productive activity outside the programme area, a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage or a substantial change affecting its nature, objectives or implementation conditions which would result in undermining the original objectives);
  - f) The beneficiary fails to observe the provisions of article 7 paragraphs 9-13 of the present contract;
  - g) The MA decides that the project is ineligible, if during its implementation, including 5 years after the final payment modifications appear that affect the implementation conditions/ create for a third party an unjustified advantage, and the modification is the result of a change in the nature of the property/ ceasing/ change of the location of the project; or
  - h) The MA finds that, during the implementation period of the project, including 5 years after the final payment, the LB or any project partner wholly or partly sells the project/goods purchased from the financing granted herein to a third party; or
  - i) The MA finds that the beneficiary failed to notify the MA in the deadline on a case of conflict of interests or the necessary measures for ending such a situation were not taken; or
  - j) The MA finds that the beneficiary made false declarations regarding the VAT eligibility and state aid.
- 4) The MA is entitled to terminate this contract, with a previous conciliation procedure, and to demand repayment of the amounts already paid amounts if:
- a) the project has not been or cannot be fully implemented by carrying out the

planned activities, the planned outputs and results or the project cannot or could not be realized in due time

- b) the beneficiary has failed to submit within the deadlines required reports or proofs, or to supply necessary information, within the set deadline and has not justified these delays; or
  - c) the LB or the project partners has/have impeded or prevented the auditing or control; or the recommendations resulted from the audit missions are not observed; or
  - d) a fraud is discovered at the LB/project partner level; or
  - e) the LB has failed to fulfill any other conditions or requirements stipulated in this contract; or
  - f) The LB fails to submit two Progress reports within the reporting deadlines; or
  - g) the beneficiary fails to provide immediate information about circumstances that delay, hinder or make impossible the realization of the project, as well as about any circumstances that trigger a change of the reimbursement conditions and frameworks as laid down in this contract or which entitle the Managing Authority to reduce or demand repayment of the IPA contribution wholly or in part.
- 5) In case the indicators are not reached as mentioned in the approved Application Form, the MA has the right to decide the termination of the contract and to demand the repayment of already reimbursed funds, or, with the previous approval of the Joint Monitoring Committee, to accept the partial completion of the project and reduce the project's budget accordingly.
- 6) In case the European Commission takes the decision of interrupting or totally suspending the funds, the Managing Authority may cancel the contract.
- 7) If the MA exercises its right of termination, the LB is obliged to transfer the reimbursed amounts to the MA. The amounts are due within 30 days following the date of the notification by which the member state asserts the repayment claim; the due date will be stated explicitly in the order for recovery. In case of non-payment at the due date, penalties bigger with 1.5 (one and a half) point than the rate applied by the Central European Bank from the first working day from the month of the deadline date shall be applied to the owed amounts. These penalties will not be supported from the contract value (they are non-eligible expenditure).
- 8) If any of the circumstances stipulated at paragraph 3 appear before the entire amount is paid to the beneficiary, the payments will cease and there will be no requests from the Lead Beneficiary for the reimbursement of the remaining amount.
- 9) For all cases of contract breach, the beneficiary is legally late.

### **§ 15 Force majeure and fortuitous event**

- 1) Force majeure is any external event, which cannot be foreseen, unavoidable

and absolutely invincible.

2) Fortuitous event is defined as an event which cannot be foreseen or prevented by the party which would have been called to take action if the event would not have occurred.

3) Force majeure and fortuitous event exonerate the parties of their obligations/part of their obligations affected by the force majeure/fortuitous event.

4) If a party is or will be prevented from performing any of its obligations under the contract by Force Majeure or fortuitous event, then it shall give notice to the other party of the event or circumstances constituting the Force Majeure or fortuitous event and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 10 days after the party became aware, (or should have become aware), of the relevant event or circumstance constituting Force Majeure or fortuitous event.

5) The responsible party will support all related costs (if any) if the notification procedure is not observed.

6) The execution of the contract is suspended during the period of “force majeure” or fortuitous event, for the period the event exists.

7) In case the contract must be suspended from this reason on a period longer than three months, the MA has the right to decide on the continuation/modification/termination of the contract.

### **§ 16 Correspondence**

1) Any legally binding correspondence and any official notifications can be lawfully served at the following address:

1. For the MA -.....[Name, address, telephone, fax, email address, fiscal registration number] (as MA)

2. For the JS -.....[Name, address, telephone, fax, email address, fiscal registration number] (as JS)

3. For the Beneficiary- .....[Name, address, telephone, fax, email address, fiscal registration number]

2) All correspondence between the MA and the beneficiary shall be done through the JS, in English.

3) Any change of headquarters shall be forwarded to the other party of this contract within 15 days following the change of Address.

### **§ 17 Final provisions**

1) In case a dispute arises between the MA and the beneficiary, regarding the implementation of the present contract, a friendly conciliation shall be attempted. The competent legal authorities from Bucharest shall solve the dispute in case no

mutual agreement can be reached.

2) Romanian law governs the present contract.

3) The present contract forces the parties to observe in all and with good faith every provision, according to the principle of the binding legal force of the contract between parties.

4) If any provision in this contract proves to be wholly or partially ineffective, the parties to this contract undertake to replace it by an effective one which comes as close as possible to the purpose of the ineffective provision.

### **§ 18 Signatures**

1) This Contract is issued in three copies, in English language, one for the beneficiary, one for the Managing Authority and one for the Joint Secretariat.

2) The following Annexes shall be deemed to form and be read and constituted as part of this contract:

Annex 1: Budget of the project

Annex 2: Schedule for first level control requests and reimbursement claims

Annex 3: Approved application form

Annex 4: Public procurement manual

3) The contract and its Annexes are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

a) Co-financing contract

b) Any subsequent amendments of the contract and its Annexes made in accordance with the provisions of Article 13

**Managing Authority**

**Beneficiary**

**Legal representative:**

**Legal representative:**

**Name:**

**Name:**

**Signature**

**Signature**

**Date**

**Date**