

**Agreement between lead beneficiary and project partners
in the project {name, project code}
financed under the Interreg - IPA CBC Romania – Serbia Programme
PARTNERSHIP AGREEMENT**

Having regard to

- 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.

the following agreement is concluded between

..... [Name, address, fiscal registration number], represented by
(lead beneficiary)

and

..... [Name, address, fiscal registration number], represented by
(project partner 2),

..... [Name, address, fiscal registration number], represented by
(project partner 3),

for the implementation of the project [index and title of the project], approved by the Joint Monitoring Committee of the “Interreg - IPA CBC Romania – Serbia Programme” - on [date] in [place].

§ 1 Object

- 1) The object of this agreement is the organisation of a partnership in order to implement the project [index and title of the project], selected under the Interreg - IPA CBC Romania – Serbia Programme.
- 2) Through the present agreement, the parties establish their right and duties, the way of achieving their tasks and the relations between Lead beneficiary and project partners, which shall apply in order to achieve the goals of the above-mentioned project.
- 3) The terms and conditions herein are acknowledged and accepted by all parties.

§ 2 Duration of the agreement

- 1) The agreement enters into force on the signature date the last party signs. The last party signing has the obligation to note the date.
- 2) The beginning date of the implementation of the project starts on the day the subsidy contract becomes effective.
- 3) The implementation period of the project is months.
- 4) During the implementation period of the project as well as after the end of the implementation period for a 3 years period from 31 December following the submission of the accounts in which expenditure of the project is included, all project partners have the obligation to preserve and to present, to the Joint Secretariat (within the Regional Office for Cross-Border Cooperation Timisoara, Romania), MA (within the Ministry of Regional Development and Public Administration from Romania), NA (within Serbian European Integration Office) Certifying Authority (within the Romanian Ministry of Regional Development and

Public Administration), Audit Authority (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 related 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.

4) The agreement is valid for 5 years from the final payment.

§ 3 Value of the project

1) The total eligible value is EUR <amount in figures> (non-refundable financing and the contribution of the beneficiaries-), out of which:

- i. ... <amount in figures> EUR IPA, representing 85 %
- ii. ... <amount in figures> EUR State Budgets Co-financing, representing ...%
- iii. ... <amount in figures> EUR Beneficiaries own contribution, representing ...%

2) The non-eligible value is in amount of..... and represents the total of non-eligible expenditure supported by the LB and beneficiaries.

§ 4 Financing of the project

1) MA awards a non-repayable contribution from the IPA of maximum<amount in figures> /EUR <amount in letters>, representing maximum 85 % of the total eligible value of the project mentioned at article 3.1 a) from the present agreement.

2) MA awards to Romanian beneficiaries a non-repayable contribution from the national state budget ofEUR <amount in figures> /<amount in letters> Euro, representing maximum 13% of the total eligible value of the project specified at article 3 paragraph 1 a) from the present agreement.

3) The Lead beneficiary and project partners participate in the project with their own contribution representing<amount in figures> /<amount in letters>, representing maximum% of the total eligible value of the project mentioned in article 3 paragraph 1 a)) of the present agreement and support the non-eligible expenditure according to its contribution to the project.

4) The total eligible budget of LB/ Project partner 2/ Project partner 3 is ... out of which ...% represents IPA, ...% represents national co-financing and ...% represents its own contribution¹.

5) The Lead Beneficiary is responsible in front of the Managing Authority for the sound financial management of the project.

6) The Lead Beneficiary receives the amounts mentioned at paragraph 1 directly from the MA, and is responsible for transferring the amounts to each project partner, according to the subsidy contract.

¹ This article shall be completed for each beneficiary.

- 7) The Romanian project partners receive the amounts mentioned at paragraph 2 directly from the MA, according to the cofinancing contract.
- 8) Any modification of the project has to be agreed by all project partners, justified and submitted by the LB to the Joint Secretariat in a written form.

§ 5 Eligible Expenditures

- 1) Activities and related costs for the project are eligible if they were contracted after the entry into force of the subsidy 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 1st of January 2014 and the submission of the Application Form for Romanian project partners and between the date of the approval of the programme by the European Commission and the submission of the Application Form for Serbian project partners.
- 5) All preparation costs shall be requested for reimbursement in the first reimbursement claim.

§ 6 Advance payment and 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 LB has the possibility to deviate from the spending forecasts and submit reimbursement claims to the MA at any given time for one or more project partners, 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. A reimbursement claim shall be submitted at least every 3 months.
- 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, 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) 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.
- 7) The LB must present all documents to the controllers and make sure that all partners present their documents, in order to be verified before drafting and forwarding the reimbursement claims. All supporting documents should be uploaded by the LB and its partners via electronic system.
- 8) 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 LB/partners, and which becomes part of the contract.
- 9) The LB must submit to Joint Secretariat (JS) the reimbursement claims, according to the schedule mentioned in Annex 2 and based on the conditions provided hereunder and in the applicable legislation.
- 10) 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.
- 11) Every three months the LB shall submit progress reports to the JS. The instructions presented in the reporting models must be followed exactly. All reports must be submitted in English.
- 12) Even if no expenditure was incurred, the progress report shall be submitted in due time to the JS.
- 13) 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.
- 14) The funds are reimbursed only in Euro and will be transferred into a special bank account opened exclusively for the project, indicated by the LB. The

exchange rate differences are non-eligible expenditures for the project. The exchange rate risk is borne by the partner concerned.

15) 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. The LB transfers the received IPA amounts to all partners within 5 working days as of cashing in the amounts from the MA and will make no deduction, retention or further specific charge from the IPA amounts it receives.

§ 7 Rights and duties of the parties

Lead Beneficiary

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

- 1) The LB guarantees that it is entitled to represent all beneficiaries participating in the project and that it will strive towards establishing with the beneficiaries the division of the responsibilities regarding the project in the form of agreements.
- 2) The LB has the responsibility of implementing the project according to the provisions of the present contract, of the application form approved by the Joint Monitoring Committee and its annexes, of the Partnership Agreement (annexed to the present contract) and of the national and European legislation in force. The LB shall be responsible in front of the MA for the implementation of the obligations assumed in the Contract and in the Partnership Agreement, for the implementation of the project and for achieving the goals stipulated in the contract and its Annexes.
- 3) The LB guarantees furthermore that itself and all partners have complied with all legal requirements and that all necessary approvals for the proper implementation of the project have been obtained.
- 4) The LB ensures the implementation of the entire project and has to:
 - a. assume responsibility for ensuring implementation of the entire project;
 - b. ensure that expenditure presented by all project partners has been incurred in implementing the project and corresponds to the activities agreed between all the project partners, and is in accordance with the provisions of the subsidy contract;
 - c. inform the MA, within 5 working days from the occurrence of such circumstances, 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;
 - d. comply with the regulations referred to in the preamble to this contract as well as with relevant national and European legislation;
 - e. know and observe the provisions of the Applicant Guide and of the present subsidy contract.
 - f. observe and make sure that all project partners observe the national and European legislation on state aid, equal opportunities, sustainable development, environmental protection;
 - g. make sure and satisfy itself that all project partners make all expenditure according to the programme relevant public procurement rules
 - h. ensure that all the project partners select the final beneficiaries of the projects (target groups) by a transparent procedure;
 - i. present and to ensure that the project partners present their 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.
 - j. ensure that all project partners submit their contributions to the reimbursement claim at least 10 days before the deadline for submitting the

reimbursement claim to the JS;

- k. ensure that all project partners have a proper analytical accounting system and the expenditure is properly registered; the accounting system must be in line with the national legislation;
 - l. observe and make sure that all project partners observe the provisions from the Visual Identity Manual (published on the programme website www.romania-serbia.net).
- 5) The LB verifies that the first level controllers have verified the expenditure presented by the project partners participating in the project.
 - 6) When drafting the reimbursement claim, LB is liable towards the MA for consolidating the information from all project partners requesting reimbursement of the expenditure, being responsible for collecting documents and information from every partner. Irrespective of the time when reimbursement claims are submitted, LB submits every three months consolidated progress reports, being responsible for collecting documents and information from every partner.
 - 7) LB is liable towards the MA for ensuring that all of its partners have a legal status, that they have the capacity to manage the project, that they observe the provisions from the Applicant's Guide. Moreover the LB is liable towards the MA for ensuring that its partners fulfill their obligations regarding the implementation of the project. The LB is also liable towards the MA for all irregularities, even those committed by the project partners.
 - 8) The LB must answer all written requests from the MA, JS or other bodies involved in the implementation of the Programme within the deadline stipulated in the respective request. The LB is responsible for gathering the information from all partners in due time.
 - 9) The LB takes full responsibility for the damages caused to third parties from its own fault during the implementation of the project. MA has no responsibility for the damages caused to third parties as a result of executing the contract.
 - 10) The LB must not receive or have received money from other Programmes for the same project. The LB ensures that the project partners respect the same obligation.
 - 11) Any results or rights related to the project, including author's rights and/or any other intellectual or industrial property rights, obtained from the implementation or as a result of the implementation of the contract, except the cases where such rights exist before the contract, shall represent the property of the LB and/ or his partners, as the case may be.
 - 12) The LB cannot mortgage or impose any other form of bank guarantee on the goods purchased from the financing throughout the implementation period of the project and 5 years after the final payment.
 - 13) By exception from the provisions of the previous paragraph, the Lead Beneficiary or any other project partner may mortgage or impose other form of bank guarantee on the capital asset/s that represent/s the subject of financing from the financing throughout the implementation period of the project, provided the value of the credit obtained does not exceed the total value of the partner's budget.

- 14) 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.
- 15) The Managing Authority reserves the right not to agree with the mortgage or with other form of bank guarantee.
- 16) In case the bank/institution where the credit was obtained imposes on the project partner to use its own account, then all the expenditures related to the project implementation must be performed from the respective account.
- 17) 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.
- 18) The Lead Beneficiary understands and agrees that the MA has delegated tasks to the JS, according to the Implementing Agreement concluded between the MA and the JS and therefore the Lead Beneficiary agrees to cooperate with the JS in the same way as with the MA.
- 19) In duly justified cases, not imputable to the beneficiaries, when a project beneficiary is in impossibility of fulfilling its obligations according to the contract, the partner 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 project 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.
- 20) If the MA demands repayment of the IPA in accordance with this contract, the LB is liable to the MA for the total IPA that has been reimbursed to him.
- 21) The LB 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. The LB guarantees that all of its project partners fulfill this

duty.

22) 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 Interreg IPA CBC Romania-Serbia, the LB has the obligation to preserve and to present, to the Joint Secretariat (within the Regional Office for Cross-Border Cooperation Timișoara, Romania), MA, Certifying Authority (within the Romanian Ministry of Regional Development and Public Administration), Audit Authority (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.

23) The LB must observe the recommendations received after an audit control, otherwise the MA has the right to terminate the contract. The LB ensures that the project partners fulfill this obligation.

Project partners (including the Lead Beneficiary where applicable)

- 1) Implements the part of the project for which it is responsible, in due time, according to the descriptions of the (individual components) Application Form approved by the Joint Monitoring Committee and other documents agreed between the MA and the LB.
- 2) The project partner has the responsibility of implementing the project according to the provisions of the present agreement of the national and European legislation in force.
- 3) Notifies the Lead Beneficiary regarding any situation that may lead to the temporary or permanent impossibility or to any other drawback in the implementation of the project in maximum 3 days from the event causing the impossibility.
- 4) Do the utmost to obtain the necessary approvals, agreements and construction authorizations within 6 months from the signing of subsidy contract.
- 5) Observe the national and European legislation in general and especially on public procurement, state aid, equal opportunities, sustainable development, environmental protection.
- 6) Is responsible for its budget up to the amount it participates in the project.
- 7) Shall maintain a proper analytical accounting system and separate bank accounts for the project.
- 8) Supports the lead beneficiary in drawing up progress reports and the final report by providing the required data on time; drafts and submits to the Lead Beneficiary all necessary data for the reimbursement claims.
- 9) The project partners have the obligation to respond to any request of the Lead Beneficiary in the deadline stipulated in the respective requests.
- 10) Each project partner is responsible for uploading in the electronic system the accounting reports and any other documents, including copies of each

supporting document (bills, documents related to the procurement procedure, banking declarations etc) in due time and signed by the legal representative of the beneficiary, bearing the mentions “according to the original” and also the project code.

- 11) The beneficiaries must present the documents related to the expenditures to the first level control with 60 days prior to the deadline for submitting a reimbursement claim, according to the spending forecast
- 12) 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 project and 5 years after the final payment.
- 13) By exception from the provisions of the previous paragraph, the project partner may mortgage or impose other form of bank guarantee on the capital asset/s that represent/s the subject of financing from the financing throughout the implementation period of the project, if the following conditions are observed:
 - a. All the other beneficiaries agreed;
 - b. MA previously approved the intention of mortgage or imposing other form of bank guarantee
 - c. The value of the credit obtained does not exceed the total value of the project partner’s budget
- 14) In order to obtain the MA agreement mentioned at paragraph 14 a), the project partners, via the Lead Beneficiary has to present the following documents:
 - a. Request of approval for the intention of mortgage or imposing other form of bank guarantee (including the value of the credit that it is going to be obtained)
 - b. The evaluation of the asset (if the asset was already delivered), performed by an bank or independent evaluator.
- 15) In case the abovementioned conditions are not observed, the MA approval shall not be granted.
- 16) In case the MA approval is granted, the project partner via the Lead Beneficiary shall present a copy of the contract in maximum 10 working days from their signing. In case of mortgage, also a copy of the documents related to the registration of the mortgage in the relevant public registers shall be presented.
- 17) In case the bank/institution where the credit was obtained imposes on the project partner to use its own account, then all the expenditures related to the project implementation must be performed from the respective account.
- 18) Each project partner must submit to the Lead Beneficiary any documents necessary for drafting specific documents requested by the MA/JS or other implementing bodies of the programme.
- 19) The project partner will produce all documents required for the audit, control or evaluation, provide necessary information and give access to its business premises. The lead beneficiary and the project partner are at all times obliged to retain for audit and control purposes all files, documents and data about the project for 3/2 years from 31 December following the submission of the accounts in which the expenditure of the project is included. The documents must be properly archived. Also, the MA must be informed on the location of

these documents.

- 20) The project partners must implement the measures included in the action plan, at the stipulated deadlines, set by the Lead Beneficiary/MA/JS, according to the recommendations resulted from the audit missions of the European Commission, Audit Authority or other empowered audit and control bodies.
- 21) All project partners understand that the Managing Authority (MA) and the National Authority (NA) are entitled to verify and to control the proper use of funds by the LB or by project partners. The verifications to be carried out by the Managing Authority/National Authority shall cover administrative, financial, technical and physical aspects of projects, as appropriate. The MA and NA shall be responsible for the control of the proper use of funds by the LB or by beneficiaries, by preventing, detecting and correcting irregularities and recovering amounts unduly paid together with interest on late payments where appropriate.
- 22) The project partners understand and agree that the MA may delegate tasks to the JS, therefore JS may act in the name and on behalf of MA.
- 23) In case an irregularity is discovered, the project partner is responsible to reimburse the IPA amounts affected by the irregularity to the Lead Beneficiary, even if the irregularity was committed by a sub-contractor, in 20 days from notification; starting the 21st day the Lead Beneficiary may request delay penalties bigger with 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.
- 24) Any extra payment done by the Lead Beneficiary to a project partner is considered unduly paid amount, and the project partner has to repay the respective amounts in 30 days from the receiving date of the notification from the Lead Beneficiary.
- 25) In case the unduly paid amounts are not reimbursed to the Lead Beneficiary in due time, the project partner has to pay delay penalties bigger with 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. The penalties are calculated to the value that has to be recovered.
- 26) The bank charges resulted from reimbursing the unduly paid amounts are borne exclusively by the project partner making the reimbursement.
- 27) Each project partner, including the Lead Beneficiary, shall be responsible to the other project partners and shall pay for the damages resulted from not observing the tasks and obligations established by the present agreement and its annexes.
- 28) Each beneficiary is responsible for the damages caused to third parties from its own fault during the implementation of the project.
- 29) Participates at the setting up of the Joint Steering Committee of the Project and at drafting its rules of procedure.

§ 8 Joint Steering Committee of the Project

- 1) The parties shall set up a Joint Steering Committee of the Project, made up of representatives of all project partners, which shall supervise the proper

implementation of the project and perform any other tasks stipulated in the rules of procedure for this committee.

- 2) The Lead Beneficiary is responsible for setting up the Joint Steering Committee of the Project before the first reimbursement claim is submitted.
- 3) The tasks of the Joint Steering Committee of the Project shall be established through the Rules of Procedure of this Committee and shall automatically include the tasks stipulated in this agreement:
 - a. settle any dispute between partners;
 - b. preparing the list with members of the arbitration court;
 - c. terminating the partnership agreement.

§ 9 Publicity

- 1) The Lead Beneficiary must inform and must ensure that all project partners 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 Lead Beneficiary and all project partners are responsible for the implementation of the information and publicity activities related to the non-reimbursable financial assistance received through the programme.
- 3) The Lead Beneficiary must ensure and must satisfy itself that all project partners 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 partners (including the Lead Beneficiary) must observe the Visual Identity Manual (available on the programme website: www.romania-serbia.net 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 partners, the Lead Beneficiary must ensure that they 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 Lead 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 partners.
- 9) By accepting the funding, the LB and its beneficiaries 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 LB ensure the proper means of communication between the project and the programme, including:
 - a. participation, whenever requested, in LB 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. 22 and art. 8, the Managing Authority and the Lead 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 II funds, shall not be considered as having confidential status.
- 3) The Managing Authority has the right to release information regarding the project on request by 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.

is any failure to observe the law, regulation and compliance with the provisions of the Financing agreements regarding the Community funds and related co-financing, as well as with the provisions of the contracts concluded according to these agreements, resulting from an action or inaction of the Lead Beneficiary, which by an ineligible expenditure prejudices or may prejudice the general budget of the European Communities or the budgets these manage in their name and/or the budgets granting the related co-financing.

- 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 Lead 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 LB 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 Disputes between project partners

Should any dispute arise between lead beneficiary and/or any other partner of the project, each project partner shall be obliged to submit the dispute to the Joint Steering Committee of the Project in order to reach a settlement.

- 1) Should the Joint Steering Committee of the Project fail to reach a compromise, lead beneficiary and/or any other partner of the project shall be obliged to request and accept arbitration carried out by an ad-hoc arbitration court. This will consist of two people of both nationalities, appointed by the Joint Steering Committee of the Project from the list of persons nominated beforehand. Should this committee fail to designate all the expert arbitrators within one month from the Lead Beneficiary's request, the Lead Beneficiary shall have the authority to appoint both expert arbitrators.
- 2) Lead beneficiary and/or any other partner of the project shall be obliged to accept and apply the decisions of the arbitration court, subject to the applicable law hereby agreed upon and in compliance with the provisions of the Community law.
- 3) Any dispute that, from any reason, fails to be solved by the Joint Steering Committee of the Project and which involves the Lead Beneficiary shall be governed by the law applicable to the Lead Beneficiary, while, if the Lead Beneficiary does not take part in the dispute, the applicable law is the one of the petitioner.

§ 13 Audit, control and evaluation of the project

- 1) 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.
- 2) A first level control system has been established both in Romania and Serbia in order to check the expenditure made by the project beneficiaries 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.
- 3) The MA is entitled to verify and to control the proper use of funds by the LB or by its project partners. The verifications to be carried out by the managing authority shall cover administrative, financial, technical and physical aspects of project, as appropriate. The MA shall be responsible for the control of the proper use of funds by the LB or by its project partner beneficiaries, in particular through preventing, detecting and correcting irregularities and recovering amounts unduly paid together with interest on late payments where appropriate.
- 4) The LB will provide all documents required for the audit, control or evaluation, provide necessary information and give access to its business premises. The LB and its project beneficiaries are at all times obliged to retain for audit and control purposes all files, documents and data about the project for a period of three/two years from 31 December following the submission of the accounts in which the expenditure of the project is included. The documents must be properly archived.

Also, the MA must be informed on the location of these documents.

5) The LB must have separate accounts for the project, according to the national legislation.

6) The LB is obliged to guarantee that both the LB and all of its project beneficiaries fulfill the duties stipulated above.

7) The LB and its project beneficiaries must observe the recommendations received after an audit control, otherwise the MA has the right to terminate the contract.

§ 14 Assignment, legal succession

1) The Lead Beneficiary and/or any other partner of the project cannot renounce totally or partially the rights and obligations resulted from the present contract unless it has the clear agreement of the Joint Steering Committee of the Project.

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

§ 15 Amendment of the agreement

1) Any modification to the present agreement is made only with the agreement of all parties and takes the form of an addendum to the present agreement.

2) As an exception from the provisions of paragraph 1, the Partner may make the following changes, with the notification of the other partners:

i. change of headquarter may be done and shall be forwarded to the MA within 15 days following the change of Address.

ii. material errors in the text of the agreement

3) Addenda enter into force the next day after their signing by the last party, except the case when the addendum confirms modifications occurred in the national/European applicable legislation with impact on the implementation of the present agreement, modifications that become effective from the date the respective legal acts enter into force.

4) Any breach of the provisions of the present Agreement may result in the termination of the present Agreement and in decommitment of financing and repayment of amounts unduly paid.

§ 16 Working language

1) The working language shall be (according to the decision of the partners).

2) Any official internal document of the project shall be made available in the language of the subsidy contract.

§ 17 Termination of the agreement

- 1) In exceptional and duly justified cases, including “force majeure”, the Lead Beneficiary may decide on terminating the Agreement, by a written notification, the obligations the parties have towards the MA remaining valid until the MA or the Joint Monitoring Committee decide to terminate de subsidy contracts.
- 2) The termination of the subsidy contract is possible only with prior approval of the MA or of the Joint Monitoring Committee, according to each case.
- 3) The Agreement is terminated, by decision of the Joint Steering Committee of the Project, at the proposal of a project partner, without any other delay or formality, the project partner being obliged to repay to the Lead Beneficiary the amounts already received, in whole
 - a. an inconstancy between the reality and the declarations of the beneficiary in the application form is found, regarding the financing of the project from national or European public funds, or regarding the financing from other national or European programmes;
 - b. the subsidy awarded has been partially or entirely misapplied for other purposes than those agreed upon, including 5 years after the final payment;
 - c. insolvency proceedings are instituted against the assets of a beneficiary or insolvency proceedings are dismissed due to lack of assets for cost recovery, provided that this appears to prevent or risk the implementation of the project;
 - d. a project partner closes down;
 - e. In case of projects comprising investment in infrastructure or productive investment, the MA finds that during the implementation period of the project including 5 years after the final payment, the LB or any project partner are subject to any of the following:
 - 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 public body an undue advantage;
 - A substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives
 - f. The LB fails to observe the provisions of article 7 paragraphs 12-17 of the present Agreement;
 - g. in case the project is no longer eligible, if during its implementation such modifications appear that affect the implementation conditions/ create for a third party an unjustified advantage, or if the modification is the result of a change in the nature of the property/ ceasing/ change of the location of the investment;
 - h. a project partner did not notify the Lead Beneficiary in due time on a case of conflict of interests or the necessary measures for ending such a situation were not taken;

- i. the project partner did not start the implementation of the project according to the provisions of the approved Application Form;
- 4) The Joint Steering Committee of the project, at the proposal of a project partner, has the right to terminate this Agreement 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
project; or
 - b. the project partner has failed to submit in the deadlines the required reports or proofs, or to supply necessary information, in the deadline and has not duly justified these delays; or
 - c. the project partner has impeded or prevented the auditing; or the recommendations resulted from the audit missions have not been observed; or
 - d. a fraud is discovered at project partner level; or
 - e. the project partner has failed to fulfill any other conditions or requirements stipulated in this agreement.

§ 18 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 Partnership Agreement 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 Partnership agreement is suspended during the period of “force majeure” or fortuitous event, for the period the event exists.
- 7) In case the Partnership agreement 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 Partnership agreement.

§ 19 Correspondence

- 1) The correspondence for the present agreement shall be submitted to the following addresses:

- Lead Beneficiary.....
 - Project partner 2.....
 - Project partner 3.....
- 2) The reports and reimbursement claims, as any other official document submitted for the implementation of the project must be signed by the legal representative of the project partner or by its mandate.
 - 3) The entire correspondence regarding the present agreement shall be done in written form, by mentioning the title of the project, the project code and shall have a registration number (entry and exit).

§ 20 Applicable law

- 1) The parties undertake to comply in good faith with all and every provision hereof according to the binding value of the agreement entered into by the parties.
- 2) The agreement is governed by the law of the country of the Lead Beneficiary.

§ 21 Signatures

- 1) The present agreement is concluded in ... copies. Each copy must be countersigned by every project partner.
- 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

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

Lead Beneficiary

Legal representative:

Name:

Signature

Date

Project partner 2

Legal representative:

Name:

Signature

Date

Project partner 3

Legal representative:

Name:

Signature:

Date: