

eMS PROJECT Code....

Priority axis...

Objective....

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

The following co-financing contract between

Ministry of Regional Development, Public Administration and European Funds

16 Libertatii Bvd., north side, 5th sector, 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, Public Administration and European Funds

and

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

represented by

hereinafter referred to as Beneficiary (B)

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

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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 5667/06.08.2015 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.
- GO No. 29/2015 regarding the management and use of external non-refundable funds and of national public co-financing for European Territorial Cooperation Objective
- Rules of application of GO No. 29/2015 regarding the management and use of external non-refundable funds and of national public co-financing for European Territorial Cooperation Objective

§ 1 Award of national co-financing

- 1) The object of this contract is the award of national co-financing by the MA for the

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

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- a. EUR IPA, representing 85 %
 - b. EUR Romanian State Budget co-financing, representing 13 % from the Romanian Beneficiary(s) budget
 - c. EUR Romanian Beneficiary own contribution, representing 2 % from the Romanian Beneficiary (s) budget
 - d. EUR Serbian Beneficiaries own contribution, representing 15% from the Serbian Beneficiary (s) budget
- the total non-eligible value is in amount of..... representing the total of non-eligible expenditure supported by the Lead Beneficiary and beneficiaries 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 2 - Budget of the project. 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 reimbursement claim, 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 beneficiary 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 beneficiary 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/ beneficiary regarding the lack of available funds.
- 6) In the case of net revenue generating projects, MA shall recover the amounts according to the proportionality principle and observing the provisions of the provisions of Regulation (EU) No. 1303/2013.

§ 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 2 - "Budget of the project".
- 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 2 - "Budget of the project".

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- 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 2 -“Budget of the project” 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.
- 5) All preparation costs shall be requested for reimbursement in the first reimbursement claim, otherwise they will be considered non-eligible expenditure.

§ 6 Reimbursement of the expenditures

- 1) The schedule for first level control requests and reimbursement claims of the project is provided in Annex 9.
- 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 6,000 euro.
- 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 9, the MA may decide, after an analysis performed together with the NA, to reduce project funds by reducing the original project budget and the corresponding IPA contribution, as follows:
 - a) 5% reduction of the budget for the beneficiaries 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) 10% reduction of the budget for the beneficiaries 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 reduction of the project`s budget, the Lead beneficiary shall submit to the MA a revised budget and a revised Annex 9, reflecting the reduction, within two weeks following the receipt of MA's notification. In case of failure to respect the deadline, the reduction shall be applied proportionally to all budgetary lines. The modification of the contract in case of reduction 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 both of the subsidy and co-financing contract.
- 5) The reduction 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 of reduction, the Lead beneficiary together with the beneficiaries may decide to give up financing and properly notify the MA within two weeks following the

receipt of MA's notification. In this case, the LB has the obligation to repay to the MA all the funds received.

7) 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 beneficiary 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 LB and its partners must present all documents needed for validation of expenditure via electronic system to the controllers and make sure that all beneficiaries present their documents, in order to be verified before drafting and forwarding the reimbursement claims.

9) In case of clarifications requested from any of the control bodies, the LB/ project beneficiaries must answer in maximum 5 working days from the last clarification request. In case of failure to observe this deadline, the respective expenditure can only be included in the next reimbursement claim.

10) In case beneficiaries 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 beneficiaries 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 beneficiaries, and which becomes part both of the subsidy and co-financing contract.

11) The LB shall submit to Joint Secretariat (JS) the reimbursement claims, according to the schedule mentioned in Annex 9 and based on the conditions provided hereunder.

12) 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 beneficiaries. 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.

13) The beneficiary 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 beneficiary to the project. The expenditures resulted from the exchange rate risk are non-eligible expenditures for the project.

14) 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 lead beneficiary receives all IPA amounts and will transfer the received IPA amounts to all beneficiaries within 5 working days and will make no deduction, retention or further specific charge from the IPA amounts it receives.

15) The interest of the funds transferred by the MA must be resent to the MA.

16) Every three months the LB shall submit consolidated progress reports to the JS, except for the last reporting period, which can have a different duration. The

instructions presented in the reporting models must be followed exactly. All reports must be submitted in English.

17) Even if no expenditure was incurred in a reporting period, the consolidated progress report shall be submitted at the end of each reporting period to the JS via electronic system.

18) The final Progress Report and final Reimbursement Claim have to be submitted to the JS via electronic system 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.

§ 7 Rights and duties of the parties

A 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) 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.
- 4) 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 both of the subsidy

- and co-financing contract wholly or in part;
- e) ensure that 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)
 - g) present its expenditures to the controllers for verification via electronic system at least 75 calendar 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 15 calendar 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 separate accounting system or an adequate accounting code for all transactions relating to the operation and an separate bank account in "lei"; the accounting system must be in line with the national legislation;
 - l) have set at the level of their institution a set of anti-fraud measures;
 - m) to observe the provisions from the Visual Identity Manual (available on the programme website www.romania-serbia.net);
 - n) 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;
- 5) 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;
- 6) 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;
- 7) 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;

- 8) The Beneficiary cannot mortgage, sell or impose any other form of bank guarantee on the goods purchased from the financing throughout the entire validity period of the contract.
- 9) 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 beneficiary's budget.
- 10) 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.
- 11) The Managing Authority reserves the right not to agree with the mortgage or with other form of bank guarantee.
- 12) In case the bank/institution where the credit was obtained imposes on the beneficiary to use its own account, then all the expenditures related to the project implementation must be performed from the respective account.
- 13) In case of projects comprising investment in infrastructure or productive investment, the Lead Beneficiary shall reimburse the MA the amounts received according to art. 71 of 1303/2013 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.

In this case, the beneficiaries shall reimburse the co-financing received for the IPA amounts that must be reimbursed according to art. 71 of 1303/2013.
- 14) 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 beneficiary agrees to cooperate with the JS in the same way as with the MA.

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- 15) In duly justified cases, not imputable to the beneficiaries, when project beneficiaries are in impossibility of fulfilling their obligations according to the contract, they may request through the Lead Beneficiary and with the written agreement of all beneficiaries, 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 beneficiaries. The beneficiaries 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 beneficiaries. During the suspension period no activity shall be performed by any of the project beneficiaries.
- 16) As an exception to the previous paragraph, when the suspension of the contract could harm another beneficiary unaffected by the situation which would justify the suspension, by stopping his activities, LB, with previous agreement of all beneficiaries, may submit a request for prolongation of the implementation period for a period equal to the one for which the suspension would have been necessary, observing the Programme's provisions.
- 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, Public Administration and European Funds), 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 implement the recommendations received after an audit control, otherwise the MA has the right to terminate the contract.
- 20) 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.

- 21) In case of remaining funds/economies, the beneficiaries must notify, through the LB, the MA within 15 days after following the finalization of implementation of public procurement contracts at project level.
- 22) The beneficiaries, through the LB, must clearly specify in the notification the amounts of the remaining funds and if there is a need of re-using these within the project.
- 23) The LB and its partners must ensure the sustainability of the project results and, after the project's implementation period has ended, the following 5 years the LB has the obligation to submit annually a sustainability report (Annex 16).

B Managing Authority

- 1) The MA has the obligation to inform the LB regarding the reports, conclusions and recommendations made by the European Commission or Audit Authority 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 beneficiary. 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 beneficiaries, 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 beneficiary 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 beneficiaries 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 included in the reimbursement claims submitted by the LB, as per the First Level Control Reports issued by the FLC and recommendation of the JS and own verifications.

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 beneficiaries and to the National Authority and posted on the Programme's website. The instructions shall enter into force from the date of their communication and are mandatory for the LB and beneficiaries.

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

13) Subject to availability of funds, the Managing Authority shall pay the total due amount of eligible public expenditure no later than 90 days from the date of submission of the reimbursement claim by the Lead Beneficiary.

14) The payment deadline mentioned in paragraph 14 may be interrupted by the Managing Authority in accordance with the provisions of Article 132 (2) of the Regulation (EU) no. 1303/2013;

15) The payment deadline shall be resumed once the cases mentioned above have been solved

16) The Managing Authority may decommit/use the remaining funds following the finalization of public procurement procedures and/or public procurement contracts at project level.

§ 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: www.romania-serbia.net or on request at the Joint Secretariat).

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

6) 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.

7) 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).

8) 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.

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

10) 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.

11) 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.
- d.

§ 9 Confidentiality

- 1) With the exception of the situations foreseen at art. 7 A 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 repayment of the funding

- 1) ““Irregularity” according to the current Contract means any breach of Union law,

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or of national law relating to its application, resulting from an act or omission by Beneficiaries or 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 or the national budgets by charging an unjustified item of expenditure to the budget of the Union 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 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 Romanian beneficiary is responsible for reimbursing to the MA the co-financing amount affected by the irregularity.

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 beneficiaries shall fully return the amounts specified in the notification, without deducting any bank charges.

8) For the irregularities committed by a project beneficiary, the LB is entitled to request these amounts from the responsible project beneficiary in order to be repaid to the MA. In specific cases, for irregularities discovered after payment of the final reimbursement claim, the beneficiaries may repay the due amounts directly to the MA, notifying the LB about this option.

9) Any extra payment done by the MA is considered unduly paid amount, and the B has to repay the respective amounts within 30 days from the receipt date of such notification from the MA.

10) 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.

11) 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 beneficiary regarding the unduly paid co-financing amount, and the B has the obligation to return, within 30 days as of the receiving date of the notification, the amount, including bank charges.

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

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13) Starting with the 31st day as of the expiry of the deadlines stipulated at paragraphs 7,9,11 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.

14) 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 by applying the same flat rate.

15) 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 beneficiary (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) Any modification to the present contract shall be done with the agreement of both parties , with the exception of the situations foreseen at Articles 6(), 6(6), 7 A(16) -Beneficiary section and 7 B (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 Co-financing 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 addenda to the Contract has to be signed by both parties. The beneficiaries

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can submit maximum 3 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:
 - a. 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;
 - b. Change of the legal representative of the project beneficiaries shall be notified to the MA within 15 days following the change of the legal representative;
 - c. Replacement of the project team members, except the project manager.
- 4) 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.
- 5) As an exception from para. 4, 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.
- 6) Addenda become effective in the day of the signature by the last party.
- 7) Only from the moment the addenda or notifications enter 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.
- 8) Costs incurred prior to the entry into force of addenda or notifications are with the financial risk for the beneficiary.
- 9) The LB/beneficiary agrees and understands that the MA has the right to refuse the signature of the addenda or approve notifications.
- 10) 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 addenda.
- 11) Modifications incurred in Annex 6, 7, 8, 10, 11, 12, 13, 14, 15, become effective from the date the revised version is communicated to the beneficiaries and to the National Authority and posted on the Programme's website, without

being confirmed through addenda.

- 12) The LB has the obligation to inform all beneficiaries about the approval by the MA of the addenda or any other contract modification within maximum 10 working days from its entry into force.
- 13) As an exception from the previous provisions, any other changes must be duly justified and shall be subject to the Programme Joint Monitoring Committee's approval (changes of beneficiaries, changes in budget lines over € 50.000,00, changes between beneficiary budgets, etc.) and will be operated by addenda to the present contract. In this case, the MA may decide to suspend the implementation of the project until the JMC Decision.
- 14) 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 of the financing, including any interest and/or related bank charges.
- 2) The MA is entitled to terminate this contract, after a previous conciliation procedure, and to demand repayment of the co-financing amounts already paid for the following cases, but not limited to these:
 - 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 beneficiary closes down; or
 - d) The MA finds that during the implementation period of the project including 5 years after the final payment, the LB or any project beneficiary 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

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- affecting its nature, objectives or implementation conditions which would result in undermining the original objectives);
- e) The beneficiary fails to observe the provisions of article 7 paragraphs 9-12 of the present contract;
 - f) 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
 - g) The MA finds that, during the implementation period of the project, including 5 years after the final payment, the LB or any project beneficiary wholly or partly sells the project/goods purchased from the financing granted herein to a third party; or
 - h) 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
 - i) The MA finds that the beneficiary made false declarations regarding the VAT eligibility and state aid.
 - j) 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
 - k) 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
 - l) the LB or the project beneficiaries has/have impeded or prevented the auditing or control; or the recommendations resulted from the audit missions are not observed; or
 - m) a fraud is discovered at the LB/project beneficiary level; or
 - n) the LB/beneficiary has failed to fulfill any other conditions or requirements stipulated in this contract; or
 - o) The LB/beneficiary fails to submit two Progress reports within the reporting deadlines; or
 - p) 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.
- 3) In case the indicators are not reached as mentioned in the approved

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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.

- 4) In case the European Commission takes the decision of interrupting or totally suspending the funds, the Managing Authority may terminate the contract.
- 5) In all cases where, if the MA exercises its right of termination, the beneficiary is obliged to transfer the reimbursed amounts to the MA. The amounts must be repaid within 30 days following the date of the receipt of the notification by the beneficiary; the due date will be stated explicitly in the termination decision. 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).
- 6) If any of the circumstances stipulated at paragraph 2 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.
- 7) For all cases of contract breach, the beneficiary is legally late.

§ 15 Force majeure and fortuitous event

- 1) Force majeure is any external even considered unforeseeable, absolutely invincible and inevitable, occurred after the conclusion of the present contract that prevents a party from performing any of its obligations. Force majeure, established under the law, exonerates the party in case of failure of performing the obligations under this Contract, in whole or in part, as long as they act only if the other party has been duly notified. It is not considered force majeure any event similar to those above which, without creating an impossibility of execution, determines one or the other party to perform its obligations with extremely high costs.
- 2) The party invoking force majeure shall notify the other party of the force majeure event, within five days from the date when the event occurred. The party invoking force majeure has the obligation to send to the other party the document stating the existence of force majeure, within 15 (fifteen) days from the date of its communication by the competent entity. The party invoking force majeure has the obligation to communicate the date of termination of the force majeure, within five (5) calendar days from its termination/it ceased to exist.
- 3) The responsible party will support all costs of the notification procedure.
- 4) The parties shall endeavour to take all necessary measures/to perform all necessary actions at in order to limit the consequences of Force Majeure.

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- 5) If the party invoking the force majeure does not properly notifies the commencement and termination of the force majeure, the terms and conditions laid down in the present contract will not be exempted from its responsibility and will be held responsible for any loss caused by the lack of notice to the other party. 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” 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 Parties will meet within a period not exceeding ten (10) days after the three months period expires, to agree on how to continue, modify or terminate the Contract.

Fortuitous case does not exonerates the parties of their obligations foreseen in 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 Transparency

1. The present contract, including its annexes, together with the information and documents regarding its implementation represent public information according, respecting the exceptions foreseen by law and of those established by the present contract.

2. The following elements, as they are in the present contract and its annexes, including addenda, if the case, cannot be considered confidential:

- a) The name of the project, full name of the beneficiary and of the partners, commencement and end date, contact information - at least an email address and a phone number - functional for the project team, place of implementation of the project - town, county, region and, if the projects implements activities which are addressed to the public, the exact address and contact details for spaces dedicated to these activities in the project;
- b) Total value of the non-refundable financing, the intensity of support expressed both as a concrete amount, and as a percentage of total eligible project cost and the amount of payments done;
- c) The dimension and characteristics of the target group and, case by case, the final beneficiaries of the project;
- d) Information regarding the human resources of the project, namely: name, position, working time;
- e) The estimated results of the project and the ones already achieved, including the ones corresponding to the objectives, as well as the ones corresponding to the activities, addressing the indicators established;
- f) Name of the suppliers, services providers and works enterprises contracted within the projects, as well as the object of the contract, its value and the amount of payments done
- g) Elements regarding the sustainability of the projects results and the durability of the infrastructure or productive investments - information provided according to the contract and according to art.71 of EC Regulation 1303/2013.

§ 18 Protection of personal data

1. Personal data, as defined by Directive (EU) 680/2016, namely any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity, collected in the project are used in order to meet project objectives, for statistic purposes, considering the provisions of the applicable legislation.

2. Personal data of the target groups and, case by case, of the final beneficiaries of the project, cannot be processed or published, for public information, without previously informing them about the purpose of processing or publication thereof and obtaining their consent, considering the provisions of the applicable legislation.

§ 19 Data communication

1. The Lead Beneficiary agrees that the documents and information mentioned in art.17, para.(2) referring to transparency will be provided by the MA/JS, in case the

programme authorities receive a request in this sense, observing the provisions of the contract.

§ 20 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 bindery 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.

§ 21 Signatures

- 1) This co-financing Contract is issued in three originals, 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: Subsidy contract

Annex 2: Budget of the project

Annex 3: Approved application form

Annex 4: Signed Partnership Agreement

Annex 5: Applicant`s Guide

Annex 6: Public procurement procedure

Annex 7: List of eligible expenditures

Annex 8: Monitoring Measures

Annex 9: Schedule for first level control requests and reimbursement claims

Annex 10: Advance request template

Annex 11: Reimbursement claim template

Annex 12: Progress report template

Annex 13: Addendum template

Annex 14: First Level Control manual

Annex 15: Sustainability report

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