

eMS PROJECT Code....

Priority axis...

Objective....

Subsidy contract

from IPA

No...../.....

The following subsidy 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

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

represented by

hereinafter referred to as Lead Beneficiary (LB)

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

- Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external actions;
- Commission implementing regulation (EU) No 447/2014 of 2 May 2014 on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession assistance (IPA II);
- Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006;
- Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal;

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

§ 1 Award of subsidy

- 1) The object of this contract is the award of IPA financing by the MA for the implementation of the [code and title of the project], herein referred to as “project”, according to the decision of the Joint Monitoring Committee no..... on [date] in [place].
- 2) The LB receives funding on the basis of the provisions of the present contract and its annexes, which the LB declares to know and accept.
- 3) The LB accepts the funding and shall coordinate the implementation of the project 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 subsidy contract becomes effective on the date the last party signs it. The last party signing has the obligation to note the date.
- 2) The implementation of the project starts the day after the date when the contract becomes effective.
- 3) The implementation period of the project is months.
- 4) The subsidy contract ends in 5 years from the final payment to the lead beneficiary.

§ 3 Budget of the project

- 1) The total budget of the operation is EUR <amount in figures> of which:
 - the total eligible value EUR (non-refundable financing and the contribution of the beneficiary), out of which:
 - a. EUR IPA, representing 85 %
 - b. EUR Romanian State Budget co-financing, representing 13 % from the Romanian Beneficiary (s) budget
 - c. EUR Romanian Beneficiaries 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 isEUR <amount in figures>/<amount in letters>, representing the maximum total IPA eligible value of the project according to Annex 2 - Budget of the project;
- 2) The MA will transfer the IPA funds on the basis of the eligible expenditure requested in a Reimbursement Claim. MA will make the transfer of IPA in the limit of the existent balance at the date of reimbursement claim, and in case of insufficient funds, payment process will be suspended until the European Commission credits the program's account with the amounts representing the IPA funds.
- 3) The Lead Beneficiary commits itself to support its own contribution and the non-eligible expenditures as well as to ensure the temporary availability of funds for the proper implementation of the project until they are reimbursed by the MA.
- 4) In the case of net revenue generating projects, the MA shall recover the amounts according to the proportionality principle and observing 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”.

- 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 for Romanian beneficiaries and between 26.09.2014 and the submission of the Application Form for Serbian beneficiaries.
- 5) All preparation costs for all beneficiaries shall be requested for reimbursement in the first reimbursement claim, otherwise they will be considered non-eligible expenditure.

§ 6 Advance payment and reimbursement of the expenditures

- 1) An advance may be granted from IPA funds, upon request of the Lead Beneficiary, according to the relevant legislation in an amount of maximum 15% from the value of the present contract and within the limits of the IPA funds available.
- 2) In order to receive the advance, the Lead Beneficiary must send an advance request in original to the MA. This request shall stipulate the percent and the bank account, and the MA shall ensure the availability of advance payments on the basis of financial flows drafted on the basis of advance requests.
- 3) After MA receives the advance payment request, it shall verify the request for advance in maximum 15 days from the registration date at the MA level. The MA may suspend this deadline in case clarifications, modifications or other additional information are needed, data that must be provided by the beneficiary in maximum 5 working days from the request. The deadline shall be recalculated from the date when the MA receives the requested information/clarifications/additional documents.
- 4) The MA shall transfer the advance to the Lead beneficiary in maximum 10 days from the date of the approval of the advance payment request. The payment date is considered to be the date when the payment is done from the MA account.
- 5) The advance will be recovered by deducting 25% from the eligible value of the next reimbursement claims from the financing source they were granted, until the advance amount is recovered in total.
- 6) The entire advance shall be recovered before the last reimbursement claim.
- 7) If the advance was not recovered before the final payment or before the contract is terminated, the amounts not recovered must be paid by the Lead Beneficiary to the MA in 15 days from the receipt of the MA's notification; the Lead Beneficiary has the obligation to send to the MA a copy of the payment order, in 5 working days from the paying date, in order to justify the transfer of the amounts.
- 8) In case Lead beneficiary/ beneficiary does not send the amounts to the MA in

due time, the MA may charge penalties at 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; the final payment is done only after recovering the unduly paid amounts.

- 9) The interest of the funds transferred by the MA must be resented to the MA.
- 10) The Schedule for first level control requests and reimbursement claims of the project is provided in Annex 9.
- 11) The LB has the possibility to submit reimbursement claims to the MA at any given time for one or more beneficiaries, provided that the reimbursement claim is not lower than 6,000 euro.
- 12) 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.
- 13) 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, and which becomes part of the contract.
- 14) 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.
- 15) 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.
- 16) 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.
- 17) 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.
- 18) 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.
- 19) 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 LB/beneficiaries, and which becomes part of the contract.

- 20) 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.
- 21) 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.
- 22) 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.
- 23) Even if no expenditure was incurred, the consolidated progress report shall be submitted at the end of each reporting period to the JS via electronic system.
- 24) 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.
- 25) 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 beneficiary concerned.
- 26) 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 via electronic system for verification to the first level controller. The LB transfers the received IPA amounts to all beneficiaries 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.
- 27) For the Serbian project beneficiaries: If Project beneficiary does not agree with the validated amount it has the possibility to submit an appeal to Managing Authority (MA) through the lead beneficiary. The MA will subsequently forward the appeal to the National Authority (NA) for an opinion. Commission is established by the NA for considering appeals against Serbian FLC decisions on ineligible expenditure (hereinafter “Appeals Commission”). The subject of appeal may not be expenditures declared by FLC as ineligible due to the lack of supporting documents.

The appeal must specify at least the following information: the identification data of the beneficiary submitting the appeal, the number of the financing contract and the title of the project, the e-MS code of the project, the purpose of the appeal, including the data regarding the documents and/or the public procurement procedures subject to appeal, the budgetary chapter in which the

expenditure is enclosed, the amount contested, the motivation and justification of the appeal. The Head of NA shall draw up, based on the Commission's final minutes, an NA Conclusion on the relevant appeal; such Conclusions shall set out the NA's opinion and reasoning, as well as providing an overview of the steps taken to establish/confirm the facts in question. They shall be signed by the Head of the NA, registered as outgoing, and dispatched to the MA, with a copy to the Serbian FLC.

§ 7 Rights and duties of the parties

A Lead Beneficiary

In addition to the obligations of the LB 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 established with the beneficiaries the division of the responsibilities regarding the implementation of the project in the form of agreements. To this end the LB has concluded a Partnership Agreement laying down its relations with all beneficiaries participating in the project and comprising inter alia provisions guaranteeing the sound management of the funds allocated, including the arrangements for recovering unduly paid amounts.
- 2) The LB is liable towards MA for implementing the project in a proper and timely manner 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 and of the national and European legislation in force. The LB shall also be liable towards MA for achieving the results and indicators stipulated in the contract and its annexes.
- 3) The LB guarantees furthermore that itself and all beneficiaries 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 beneficiaries incurred for implementing the project corresponds to the activities agreed between all beneficiaries 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 beneficiaries observe the national and European legislation on state aid, equal opportunities, sustainable development,

environmental protection;

g) make sure and satisfy itself that all beneficiaries make all expenditure according to the programme relevant public procurement rules;

h) ensure that all the beneficiaries select the final beneficiaries of the projects (target groups) by a transparent procedure;

i) 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;

j) present and ensure that the beneficiaries present their 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.

k) ensure that all beneficiaries submit their contributions to the reimbursement claim at least 15 calendar days before the deadline for submitting the reimbursement claim to the JS;

l) ensure that all beneficiaries have a separate accounting system or an adequate accounting code for all transactions relating to the operation; the accounting system must be in line with the national legislation;

m) ensure that all beneficiaries have set at the level of their institution a set of anti-fraud measures;

n) observe and make sure that all beneficiaries observe the provisions from the Visual Identity Manual (published on the programme website www.romania-serbia.net);

o) ensure that all the procurement procedures to be launched in the project, including those of the project beneficiaries will be transmitted to the JS to be published on the website of the programme;

p) accept to be included in the list of operations published on the programme website www.romania-serbia.net.

q) The LB makes sure that the first level controllers have verified the expenditure presented by the beneficiaries participating in the project.

5) When drafting the reimbursement claim, LB is liable towards the MA for consolidating the information from all project beneficiaries requesting reimbursement of the expenditure, being responsible for collecting documents and information from every beneficiary. Irrespective of the time when reimbursement claims are submitted, LB submits every three months consolidated progress reports, except for the last reporting period, which can have a different duration, being responsible for collecting documents and information from every beneficiary regarding progress of activities/project.

6) LB is liable towards the MA for ensuring that all beneficiaries 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 beneficiaries fulfil 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 beneficiaries.

7) 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 beneficiaries in due time.

8) 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.

9) The LB must not receive or have received money from other Programmes for the same project. The LB ensures that the project beneficiaries respect the same obligation.

10) 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 beneficiaries, as the case may be.

11) The LB must ensure that any beneficiary (including LB) cannot sell, mortgage or give up in any form or impose any other form of bank guarantee on the goods purchased from the financing throughout the entire validity period of the contract.

12) By exception from the provisions of the previous paragraph, the Lead Beneficiary or any other project beneficiary 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 beneficiary's budget.

13) 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.

14) The Managing Authority reserves the right not to agree with the mortgage or with other form of bank guarantee.

15) In case the bank/institution where the credit was obtained imposes on the project beneficiary to use its own account, then all the expenditures related to the project implementation must be performed from the respective account.

16) 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 Regulation (EU) no. 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.

17) 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.

18) In fully 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 project beneficiaries. During the suspension period no activity shall be performed by any of the project beneficiaries.

19) 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.

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 project beneficiaries 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, Public Administration and European Funds), 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 implement the recommendations received after an audit control, otherwise the MA has the right to terminate the contract. The LB ensures that the project beneficiaries fulfill this obligation.

24) 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.

25) In case of remaining funds/economies, the LB must notify the MA within 15 days following the finalization of implementation of the public procurement contracts at project level.

26) 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.

27) 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 shall make available the information regarding the official closure date of the Programme to the LB within 5 working days from the date of the receipt of the Commission's official notification in this respect.

2) The MA has the right to decide on the eligibility of expenditure included in the reimbursement claims.

3) The MA has the obligation to support the LB by providing necessary information and clarifications for the implementation of the project.

4) The MA has the obligation to reply to any written request from the LB in maximum 30 days from the date the MA receives the request.

5) In case of observations and/or reservations raised by the Commission on the description of the management and control system of the Interreg - IPA CBC Romania – Serbia Programme or in case of a system error detected, the MA has the right to temporarily withhold payments to the projects. 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.

6) The MA is entitled to verify and to control the proper use of funds by the LB or by project beneficiaries. 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 beneficiaries, in particular through preventing, detecting and correcting irregularities and recovering amounts unduly paid together with interest on late payments where appropriate.

7) 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 project beneficiaries or arrange for such an audit to be carried out by

authorized persons.

8) MA is entitled to verify the sustainability of the project for a period of 5 years after the final payment.

9) The MA shall authorize and reimburse to the LB all eligible expenditures included in the reimbursement claims submitted, as per the First Level Control (FLC) Reports issued by FLC and recommendation of the JS and own verifications.

10) 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.

11) 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.

12) In case one of the obligations of the Lead Beneficiary is not fulfilled, the MA may suspend the execution of the contract.

13) In case of suspending the contract, the MA shall notify the Lead Beneficiary regarding this decision, duration of the suspension period, the proposed corrective measures and also the related financial measures. The MA shall also notify the Lead Beneficiary if the suspension period is cancelled prior to the initially set deadline.

14) 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, in conformity with the deadline mentioned at the article 132 (1) of the Regulation (EU) no. 1303/2013.

15) 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;

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

17) 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.

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

19) 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 Lead Beneficiary must inform and must ensure that all project beneficiaries 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 beneficiaries 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 beneficiaries 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 beneficiaries (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, 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).
- 8) 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.
- 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 shall 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 organized 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 A, 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 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, or of national law relating to its application, resulting from an act or omission by LB, 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 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 beneficiaries.

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

8) For the irregularities committed by a beneficiary, the LB is entitled to request these amounts from the responsible 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) If the Lead Beneficiary does not manage to recover the unduly paid IPA contribution from the beneficiaries, 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 LB shall pay the bank charges resulted from the reimbursing of the amounts to the MA.

14) 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.

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 by applying the same flat rate.

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 beneficiary (LB or B) 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.

18) In the Republic of Serbia, all potential irregularities that have been detected are to be firstly reported to the National Authority that executes the procedure for examining the irregularity and takes the final decision, closes the irregularity case and reports to the relevant bodies, in line with the internal procedure.

§ 12 Assignment, legal succession

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

2) In case of legal succession, e.g. where the LB changes its legal form, the LB is obliged to transfer all duties under this contract to the legal successor. The LB shall notify 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 notifications detailed in para.3 of this article and of the situations foreseen at Articles 6(13), 6(19), 7 A (18) - Lead beneficiary section and 7 B (17), (19)- Managing Authority section of the present contract. For these exceptions, the Lead Beneficiary will send to the MA a notification and/or the MA (if the case) will send the LB a Decision signed by its legal representative.

2) Any request for modification of the Subsidy Contract has to be justified and submitted by the LB to the Joint Secretariat in a written form. The Joint Secretariat will analyze the request and may request additional information and other clarifications and submits it for approval to the Managing Authority or the Joint Monitoring Committee according to the type of the modification requested. The addenda to the Subsidy Contract have to be signed by both parties. The beneficiaries can submit maximum 3 addenda during the lifespan of the project. In exceptional and duly justified cases the MA may accept additional addenda.

3) The Lead 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 their signing by the last party.
- 7) Only from the moment the addenda enter into force or notifications are received by MA 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 prior to the receipt of notifications by the MA is with the financial risk for the beneficiary.
- 9) The LB agrees and understands that the MA has the right to refuse the signature of the addenda..
- 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 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 LB 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 LB closes down; or
 - d) The MA finds that during the entire validity period of the contract, 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 affecting its nature, objectives or implementation conditions which would result in undermining the original objectives);
 - e) The LB fails to observe the provisions of article 7 A paragraphs 11-14 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 LB 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 Lead 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 LB 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/ beneficiary level; or
 - n) the LB has failed to fulfill any other conditions or requirements stipulated in this contract; or
 - o) The LB fails to submit two Progress reports within the reporting deadlines; or
 - p) the LB 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 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) If the European Commission fails to make the funds available, the MA is entitled to terminate this contract and any claim by the LB against the MA for whatever reason is excluded.
- 6) In case of decommitment according to art.6(15), after the receipt of the notification form the LB, the MA shall proceed to the termination of the contract and recovery of all amounts paid as advance/ reimbursed.
- 7) In all cases where, if the MA exercises its right of termination, the LB 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 LB; 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).
- 8) If any of the circumstances stipulated at paragraph 2 appear before the entire amount of the subsidy is paid to the Lead Beneficiary, the payments will cease and there will be no requests from the Lead Beneficiary for the

reimbursement of the remaining amount.

- 9) For all cases of contract breach, the Lead 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.

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.

8) 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:

- For the MA -.....[Name, address, telephone,

fax, email address, fiscal registration number] (as MA)

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

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

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

2) All correspondence between the MA and the LB 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 LB, 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 Subsidy Contract is issued in four originals, in English language, one for the Lead Beneficiary, one for the Managing Authority, one for Serbian National 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: Co-financing 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) Subsidy contract

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

Managing Authority

Legal representative:

Name:

Signature

Date

Lead Beneficiary

Legal representative:

Name:

Signature

Date

National Authority

Legal representative:

Name:

Signature:

Date: