

# Interreg - IPA CBC Italy - Albania - Montenegro



## SUBSIDY CONTRACT

In Bari, ITALY, at Corso Sonnino, 177, today .....

### Between

Regione Puglia

Dipartimento Sviluppo Economico Innovazione Istruzione Formazione e Lavoro

Corso Sonnino, 177

70121 Bari

Italy

legally represented by its Director

acting as Managing Authority of the Interreg IPA CBC Italy – Albania – Montenegro Programme 2014/2020

- hereinafter referred to as Managing Authority (**MA**)

### and

«Name of the Lead Partner (original language) »

«Department/Office»

«Address»

legally represented by «Legal Representative»

acting as lead beneficiary, as defined in Article 13 (2) of Regulation (EU) 1299/2013

- hereinafter referred to as Lead Partner (**LP**)

is concluded on the basis of the rules and documents as specified in the framework of the regulations and provisions of this contract and lays down the implementing arrangements for the project

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(project acronym / ref. Number)

herein referred to as the “Parties”

**With regard to the framework of the regulations and provisions hereunder:**

1. 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) hereinafter referred to as IPA II Regulation

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2. 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)
3. Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 on 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 on 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
4. Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006
5. 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
6. Regulation (EU, Euratom) No 1046/2018 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 966/2012
7. Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings
8. Regulation (EU) No 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid
9. Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation Programmes
10. Rules on procurement as set in Chapter 1 of Title VII of Regulation (EU, Euratom) No 1046/2018 and of Chapter 3 of Title II of Part Two of Delegated Regulation (EU) No 1268/2012. Additionally, for Italian partners: Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC; Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC; Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, as well as the applicable national legislation. Additionally, for Montenegrin and Albanian partners: The respective financial agreements, the applicable national legislation, as well as the practical guide (PRAG) on public procurements.

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11. 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 action
12. Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 1046/2018 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union
13. The Commission Implementing Decisions C(2015) 9491 and C(2016) 2803 adopting the Programme Interreg IPA CBC Italy-Albania-Montenegro CCI 2014TC16I5CB008 (hereafter referred to as the Programme)
14. The respective financing agreements for Albania and Montenegro;
15. The funding decision on 18 December 2018 of the Joint Monitoring Committee (Annex 1) and the approved Application Form (Annex 2)
16. All Manuals, Guidelines and any other documents relevant for project implementation (e.g. Programme Manual) in their latest version as published on the programme website or handed over to the LP directly during the project implementation
17. The laws of the Republic of Italy as applicable law to this contractual relationship

**In case of amendment of the above-mentioned legal norms and documents, and any other documents of relevance for the contractual relationship (e.g. application form) the latest version shall apply.**

**have agreed and accepted the following provisions:**

**Article 1: AWARD OF SUBSIDY**

1. Based on the application of the LP in its latest version and the supplementing/amending documents in their latest version (altogether hereinafter referred to as “application documents”), in accordance with the decision of the Joint Monitoring Committee of the Programme (hereinafter referred to as JMC), dated 18 December 2019 (and possible amending decisions) an earmarked subsidy is awarded to the LP for the **project /No. / Targeted Call for Project Proposals**, from funds of the Interreg IPA CBC Italy – Albania – Montenegro Programme 2014/2020.

<b>Maximum IPA amount of funding awarded</b>	[REDACTED] Euro (€)
<b>Approved Partners’ co-financing</b>	[REDACTED] Euro (€)
<b>Approved project budget</b>	[REDACTED] Euro (€)
<b>Grant rate of the funding</b>	<b>85%</b>

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2. Grant rate of the funding is understood as being the percentage rate which results from dividing the funding awarded from the Programme (IPA funding) by the Interreg IPA CBC Italy – Albania – Montenegro Programme 2014/2020 eligible budget of the project (IPA funding + national co-financing by IPA CBC Italy – Albania – Montenegro, both public or private co-financing). The grant rate can change in the course of the implementation of the project. However, the maximum amount of IPA contribution as approved by the JMC cannot be exceeded.

The grant rate for the project is up to 85% of the eligible costs for partners located in the eligible Countries and Territories of CP.

**Pre-financing (where applicable)**

3. Whereas requested, the LP shall receive a pre-financing amount of 20% of IPA contribution upon signature of the present subsidy contract and the pre-financing amount shall be transferred upon payment and without delay to the project partners pro quota regarding their respective budget.

The pre-financing shall be compensated - in equal shares - with the first three payments due to the Lead Partner, according to actually incurred and validated expenditure included in the related Joint Progress Reports.

In case the concerned partners do not manage to submit enough validated expenditure for compensating the pre-financing received, they shall return the difference to the Managing Authority upon request and without any delay.

**Article 2: TERMS OF FUNDING**

1. The subsidy is awarded exclusively for the project as it is described in the latest version of the application documents in accordance with the conditions set out by the JMC. The application form and its annexes as approved by the JMC form an integral part of this contract.

2. Disbursement of the subsidy is subject to the condition that the European Commission makes the funds available to the extent described above and that all applicable EU and national rules are observed by the Partnership. In case of non-availability of funds, the MA cannot be deemed responsible for late or missing payments.

3. If the European Commission fails to make the funds available due to reasons that are outside of the sphere of influence of the Programme, the MA is entitled to terminate this contract and any claim by the LP or the PPs against the MA for whatever reason is excluded. In such a case, the LP will be duly notified by the MA and guided on the respective steps to be taken.

4. The LP accepts the subsidy and undertakes to carry out the project under its own responsibility as laid out in the European Structural and Investment Funds Regulations, delegated and implementing acts or the programme rules based thereon.

5. Should it become evident that the project will not spend the maximum amount of IPA-co-financing awarded to it by the JMC, the JMC may decide to reduce the award accordingly following the procedure as specified in the Programme Manual.

6. Disbursement of the subsidy is subject to the condition that this subsidy contract is signed by the parties to this contract.

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7. In case one or more output and result targets, as set in the latest approved version of the application form, are not successfully reached, corrective measures may be put in place to ensure the project performance as well as to minimise the impact at programme level (e.g. adaptation of the project to the changed situation) following the procedures specified in the Programme Manual.
8. In case a project fails to respect the contractual arrangements on timeliness, budget absorption and achievement of outputs and results, as defined in the latest approved version of the application form, the programme may also reduce the IPA allocated to the project or, if necessary, stop the project by terminating the subsidy contract.
9. The national co-financing of Italian public bodies is regulated separately from this contract.

**Article 3: DURATION OF THE PROJECT AND OF THE CONTRACT**

1. The project has a duration of [REDACTED] months starting from [REDACTED].
2. Upon request, Lead Partner may claim a project preparation lumpsum within the first joint progress report as specified in the Programme Manual.
3. Administrative duties of the LP and PPs related to the closure, incurred after project end date shall be also claimed as a lumpsum within the final joint progress report. Further specifications on project closure are laid out in the Programme Manual.
4. Without prejudice to the provision concerning the implementation of the project and the eligibility of expenditure as well as to the rules governing State aid, this contract expires in accordance with obligations on availability of documents as defined in Article 140 of Regulation (EU) No 1303/2013 and the Programme Manual.

**Article 4: ELEGIBILITY OF COSTS**

1. Costs which qualify for a subsidy pursuant to § 1.1 of this contract shall exclusively consist of eligible costs as listed in the approved application form. The eligibility of costs for IPA co-funding is regulated in the European Structural and Investment Funds Regulations (Article 6 and Art. 65 to 70 of Regulation (EU) No 1303/2013, Article 18 of Regulation (EU) No 1299/2013), the Commission Delegated Regulation (EU) No 481/2014 as well as in the programme's eligibility rules as included in the Programme Manual based thereon. All programme rules are published on the programme website and it is presumed that they are known by the Lead Partner.
2. The LP undertakes to carefully analyze and obey those eligibility rules and principles and to contractually forward this obligation to its project partners.
3. The non-compliance with the relevant rules could lead the programme authorities to take corrective measures and exclude from the project budget ineligible expenditure.
4. The costs of the Project are eligible as from the starting date to the end date of the Project as specified in the Annex C, according to and within the limits of art. 43 p. 1 of Regulation (EU) No 447/2014.

**Article 5: REQUEST FOR PAYMENTS AND PAYING OUT OF THE SUBSIDY**

1. The LP may only request payments of the IPA contribution on behalf of the project by providing proof of progress of the project towards the achievement of the outputs and results as set in the approved

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application form, in compliance with the principle of sound financial management (as determined by the principles of economy, efficiency and effectiveness) and by demonstrating the utility derived from any purchases. To this purpose the LP has to present periodic joint progress reports and a final joint progress report to the Joint Secretariat (JS) and MA via the eMS platform as described in § 6 of this contract and the Programme Manual.

2. Payment of costs claimed together with the above-mentioned reports is made subject to the provision that the payment of the amount is due according to the schedule as mentioned in § 6.1 of this document and that the European Commission has paid corresponding amounts beforehand.

3. Furthermore, payment of funds is subject to the condition that the legality and regularity of activities underlying the expenditure declared can be sufficiently demonstrated as stipulated in the European Structural and Investment Funds Regulations, Delegated and Implementing Acts or the Programme rules based thereon and that all supporting documents and certificates necessary for the assessment of the MA/JS are submitted in due time.

4. The MA reserves the right not to accept – in part or in full – certificates of expenditure as described in § 7 of this contract if due to the results of its own checks and/or controls or audits performed by another authority such a certificate or the facts stated therein prove to be incorrect or if the underlying activities are not in line with the legal framework as set out in this document. In such a case, the MA will either reduce the claimed certified amount, demand repayment of funds already paid out unduly or set them off against the next payment claim submitted by the LP, if possible. In compliance with Article 132 of Regulation (EU) 1303/2013, payments to the project can be suspended partially or in full in cases of suspicion of an irregularity. The MA or Certifying Authority (hereinafter referred to as CA) is entitled to withhold any payment to a particular beneficiary (LP or PPs) or the project as a whole until all unclear issues related to the implementation, management and reporting are clarified.

5. The MA, also through the JS, may request relevant information at any time. That information must be supplied by the LP within the demanded time frame. The LP will also provide information and/or requested documents to other programme authorities, courts of auditors or other control institutions acting within their respective sphere of responsibility.

6. In case of observations and/or reservations raised during the programme designation process as provided for in Art. 123 of Regulation (EU) No 1303/2013, delays in the said procedure, or in case of system errors detected within audits, the MA and CA also have the right to temporarily withhold payments. Payment suspension(s) shall be lifted as soon as observations and/or reservations raised by the relevant bodies have been withdrawn.

7. The CA ensures that the LP receives payments of the approved contribution from the programme in time and in full. No deduction, retention or further specific charges which would reduce the amount of the payment shall be made, without prejudice of provisions as above in this article. Opposite, the IPA contribution paid shall not exceed the share of IPA resulting from the eligible amount validated by each responsible control authority in compliance with § 7 of this document.

8. The disbursement of funds is subject to the provision by the LP, in addition to the presentation of the certificates of expenditures, of at least the following information: identification of national controllers (as referred to in § 7) of partners claiming costs, bank account of the LP, location of project documents at the premises of the LP and each PPs, evidence of the occurred signature of the partnership agreement (as set out in § 9 of this document).

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9. The funds will be disbursed in Euro (EUR; €) only. In case of expenditures denominated in currencies other than Euro, costs shall be converted in Euro using the monthly accounting exchange rate of the EC in the month during which expenditure was submitted for verification to the First Level Controller. Any exchange rate risk will be borne by the LP. The subsidy will be transferred to the account as indicated by the LP in the supplementary information section of the application form. Whenever possible, this account should be of specific project use.

10. By paying out the subsidy according to this contract the MA fulfils its obligations resulting from the present contract.

11. In accordance with Article 13 (3) of Regulation (EU) No 1299/2013) the LP shall ensure that the PPs receive the total amount of their respective share of the IPA as quickly as possible and in full. No amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce that amount for the PPs.

12. Payments not requested in time and in full or not in compliance with the payment schedule as indicated in § 6.1 and the overview table of reporting targets and deadlines annexed to this contract may be lost.

#### **Article 6: REPORTING**

1. In order to demonstrate the progress of the project implementation as described in § 5.1 of this document the LP has to submit periodic joint progress reports and a final report to the MA via eMS platform according to the timeframe indicated in the overview table of reporting targets and deadlines annexed to this contract. The LP shall agree with all Project Partners and national controllers, as well as assure the compliance with, suitable deadlines for submission of partner reports, for verification of expenditure by the national controllers and submission of the joint progress report within the deadlines set in this contract. Changes of these periods require prior approval of the MA. Further details on the reporting procedures are specified in the Programme Manual.

2. The LP and PPs accept the "Terms of service for the use of the Interreg IPA CBC Italy-Albania-System electronic Monitoring System (eMS)" in the current valid version published in the eMS platform.

3. Each periodic progress report consists of an activity part and a financial part.

4. The final report is to be sent to the MA via eMS at the latest four months after the project end date as mentioned in § 3 of this document and the overview table of reporting targets and deadlines annexed to this contract.

5. Further details on the contents of the reports and procedural rules are laid out in the Programme Manual, the contents of which the LP accepts and contractually forwards to its PPs.

#### **Article 7: VALIDATION OF EXPENDITURES BY NATIONAL CONTROLLERS**

1. Each joint progress report submitted by the LP to the MA via eMS must be accompanied by certificates confirming the eligibility of expenditure, both at the LP and the PPs level, issued by national controllers as referred to in Article 23 (4) of Regulation 1299/2013 according to the system set up by each Participating Country and in compliance with the requirements set by the legal framework of this contract.

2. In cases of LP and PPs from countries having set a decentralized control system, the MA reserves the right, after agreement with the national responsible institution, to require that the controller directly



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selected by the LP or PPs is replaced if considerations, which were unknown when the contract was signed, cast doubts on the controller's independence or professional standards.

3. The LP notifies the MA the persons or institutions performing the control activities and ensures that they were selected in accordance with Programme Public Procurement rules and the system set up by each Participating Country, and meet the requirements of qualification and independence presented in the Programme Manual. Details about the notification procedure of the National Controllers are laid out in the Programme Manual, which the LP accepts and contractually forwards to its PPs.

4. Changes of address, of account number and of control authority/institution or name of controller(s), have to be duly notified following the procedure laid out in the Programme Manual. Should the MA have any objections to the notified changes it may – after prior discussion with the national responsible institution – ask for replacement of the controller or the institution nominated.

#### **Article 8: CHANGES IN PROJECT**

1. Changes in budget allocations per budget lines, work packages and partner as well as changes in activities/outputs and project duration are allowed, accordingly to the relevant rules and procedures mentioned in the Programme Manual, as long as the maximum amount of funding awarded is not exceeded, if provisions related to State aid discipline are respected and if they follow the conditions and procedures as set out in the Programme Manual.

In particular budget shifts among budget lines and work packages:

- up to 15% of the partner's total budget shall be notified to the MA
- from 15% up to 25% of the partner's total budget shall be approved by the Managing Authority
- above 25% of the partner's total budget, as well as any budget shift among partners shall be approved by the Joint Monitoring Committee

Any change in project duration up to six months shall be approved by the MA and above six months by the Joint Monitoring Committee.

Any change of the targets for the output indicators above 30% shall be approved by the MA.

2. In the application documents the contribution of the LP and each PP are clearly defined. Changes in the project partnership require the prior approval of the relevant programme bodies as outlined in the Programme Manual. However, once approved, they are valid retrospectively starting from the date when a written request was submitted to the JS.

Expenditures occurred for changes, which were not approved, are ineligible.

#### **Article 9: REPRESENTATION OF PROJECT PARTNERS – LEAD PARTNER LIABILITY – PARTNERSHIP AGREEMENT**

1. "Project Partners" are the organizations listed as such in the latest approved version of the application form. Only expenditures incurred and paid by the PPs are eligible for IPA co-financing, with the exception of expenditure calculated as lump sums or on a flat rate basis.

2. The LP guarantees that it is entitled to represent the partners participating in the project and that it has established a partnership agreement according to Article 13 (2) of Regulation (EU) No 1299/20133, holding as a minimum content at least the rules as set in the template of partnership agreement provided by the



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Programme. The allocation of tasks, mutual responsibilities and obligations among the LP and the PPs are specified in this partnership agreement.

3. The LP guarantees that the partnership agreement as a whole provides also for a clear division, in line with the application documents, of the mutual responsibilities between all partners and of the obligation of each PP to assume responsibility in the event of any irregularity or incorrectness in the expenditure which has been declared.

4. The signature of the partnership agreement shall be demonstrated at the latest within one month after the entering in to force of the subsidy contract as laid out in the Programme Manual. A copy of the signed partnership agreement shall be submitted to the MA at the latest with the first project report. The MA reserves the right to check the partnership agreement in order to verify that it has been signed and that it is in conformity with the minimum requirements as mentioned in § 9 (2) of this document.

5. The LP guarantees furthermore that it has complied with the legal framework according to this contract and with all the relevant legal and other requirements under the law which applies to it and to the PPs and their activities and that all necessary approvals (e.g. building permissions, environmental impact assessment statements) have been obtained. The LP is obliged to contractually in its entirety to the PPs and to include all obligations as set out in this document into the partnership agreement.

6. The LP shall provide the PPs with all information and documents needed for a sound and legally correct project implementation including requirements related to communication and publicity.

7. In accordance with Article 13 (2) of Regulation (EU) No 1299/2013, the LP bears the overall financial and legal responsibility for the entire project and for the PPs. It will be held liable if obligations as laid out in this contract or in applicable European Union's or national laws are not fulfilled by the project partnership.

8. The LP is furthermore liable towards the MA for ensuring that all PPs fulfil their obligations. It is liable towards the MA for infringements by the PPs of obligations under this contract in the same way as for its own conduct.

9. If the MA demands repayment of subsidy funds in accordance with this contract, the LP is liable towards the MA for the total amount of those funds. The LP is entitled to ask repayment from its PPs as stipulated in Article 27 (2) of Regulation (EU) No 1299/2013, as well as to request the involvement of the authorities of the Country of the concerned PP, in case of repeatedly unsuccessful recovery, according to the procedure described in the Programme Manual.

10. The MA cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the LP or one of its PPs while the project is being carried out. The MA can therefore not accept any claim for compensation or increases in payment in connection with such damage or injury.

12. The LP shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them while the project is being carried out. The LP shall discharge the MA of all liability associated with any claim or action brought as a result of an infringement of rules or regulations by the LP or one of its PPs, or as a result of violation of a third party's rights.

#### **Article 10: PROJECT AND FINANCIAL MANAGEMENT**

1. The LP ensures a professional management of the project.

2. The LP lays down the arrangements for its relation with the other partners participating in the project in a partnership agreement as mentioned in § 9 of this contract.

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3. In compliance with Article 65 (11) of Regulation (EU) No 1303/2013 the LP ensures that national controllers have certified that expenditure items included in requests for reimbursement do not receive support from the same or any other EU Programme, EU fund, Union instrument or other public funds.
4. The LP coordinates the start and implementation of the project according to the time schedule as indicated in this contract and the work plan included in the application form.
5. The LP shall install a separate accounting system or an adequate accounting code set in place specifically for the project and shall safeguard that the eligible costs as well as the received subsidies can be clearly identified. It shall ensure that own and PPs' documentation of expenditures include a clear reference to the project.
6. In line with Article 13 (2) lit. c) and d) of Regulation (EU) No 1299/2013 the LP ensures that the expenditure made by the PPs has been controlled to verify that it has been used for the purpose of implementing the project and corresponds to the activities agreed between the LP and PPs as set out in the project application form.
7. The LP is responsible for ensuring the implementation of the entire project in observation of the rules and procedures set in the Programme Manual (e.g. with regard to monitoring the project physical and financial progress, recording and storing of documents, written requests for project changes, implementation of information and publicity measures etc.) and for ensuring that the PPs are made aware of their obligations.
8. The LP informs the MA and JS immediately about all circumstances that delay, hinder or make impossible the realization of the project as well as all circumstances that mean a change of the disbursement conditions and frameworks as laid down in this contract (e.g. loss of a project partner, making use of additional subsidies) or circumstances which oblige the MA to reduce payment or demand repayment of the subsidy wholly or in part.
9. The LP provides the MA and JS with any information requested without delay.
10. The LP implements the project in accordance with European Union's and national legislation as well as in line with the programme requirements, e.g. on public procurement and state aid, and ensures that also that the PPs respect these rules. The Partner is free to make use of the PRAG Rules when it comes to the public procurement issues
11. The LP provides data for the programme electronic monitoring system (e-MS) in compliance with this contract and according to the MA and JS instructions.
12. If possible, the LP submits with the respective progress report the main outputs and deliverables as stated in the application form and following the procedures set in the Programme Manual. One specimen of each developed material shall be stored at the LP's or PP's premises for control and audit purposes.
13. The LP seeks the guidance from the JS where necessary and participates in seminars organised by the programme.
14. The LP invites the MA/JS to participate in project Steering Committee meetings as an observer and sends minutes of these meetings to the MA/JS.
15. The LP supports the programme in its information, communication and evaluation activities (e.g. joins project exhibitions, submits texts for programme website and publications).
16. In the name of all PPs, the LP agrees, according to Regulation (EU) 679/2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and the Italian Law on Personal Data Protection D. Lgs. 196/2003 where applicable, that the MA is entitled to use personal data, which are contained in the project application form and which are acquired in the organs

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and authorized representatives of the following bodies and authorities: national control bodies and bodies and authorities involved in audits carried out for the programme, European Commission, auditing bodies of the European Union and the Regione Puglia, or any other institution responsible for conducting audits or controls according to European Union's or national laws. In addition, the MA is entitled to use such data and to share them with other programmes in order to implement their tasks linked to European anti-corruption policy and to make such data available to bodies and authorities for evaluation and monitoring purposes.

17. Furthermore, the LP agrees on behalf of all PPs, that the names and addresses of all project partners, the purpose and the amount of the subsidy may be used by the programme bodies in the framework of information and communication measures concerning the programme as well as reporting to the European Commission.

18. In accordance with Articles 56 and 57 of Regulation (EU) 1303/2013 the LP and all PPs undertake to provide experts or bodies authorised by the Programme carrying out project evaluations and/or studies with any document or information requested for the evaluation purpose. Information might be provided by the LP and PPs also through surveys and/or interviews.

19. The LP ensures that, in case of aid granted under the de minimis regime, the LP and its PPs will respect all necessary requirements provided for in Regulation (EU) No 1407/2013 and will ensure their respect, when necessary, by those bodies benefitting of project activities/outputs. The LP is obliged to contractually forward this clause in its entirety to the PPs.

20. (***Following paragraphs apply only to private LPs***) As security for the requested pre-financing amount in connection with § 1.3 of this subsidy contract, the LP is obliged to provide a financial guarantee for the amount of total IPA pre-financing, as well as a guarantee provided by the concerned Ministry, as explained in the Programme Manual. The contract shall not come into force until the financial guarantee is notified to the Managing Authority. Pre-financing or other payments may be transferred to the Lead Partner by the Managing Authority only upon provision of the financial guarantee.

21. If for whatever reason the LP fails to report the pre-financing within the according timeframe and the overview table of reporting targets and deadlines annexed to this contract, the LP shall - in case the report cannot be approved at the latest 3 months before the Guarantee Termination Date - provide a new or extended guarantee for the same amount as in the initial guarantee for a period ending 6 months after the finalization of the approval process of the report. The MA will inform the LP about the new or extended period.

22. Similarly, the LP shall provide a new guarantee for the same amount if 3 months before the Guarantee Termination Date an audit in accordance with § 11 is still pending. The duration of this extended or new guarantee shall be reasonably determined by the MA on the basis of the expected duration of the audit plus a reasonable safety margin. If for whatever reason the audit should still be pending at the end of this extended period, the LP shall replace the guarantee with an extended guarantee accordingly.

23. In case of failure by the LP to comply with the obligation to provide an extended or new guarantee set out in the above paragraphs, the MA may in its sole discretion decide to fully or partially draw on the guarantee and request payment by the guarantor. The MA is as well entitled, in whole or in part, to terminate this contract and to demand repayment of subsidy (see § 17 of this contract).

**Article 11: FINANCIAL CONTROL - AUDITS**

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1. The European Commission, the European Anti-Fraud Office (OLAF), the European Court of Auditors (ECA) and, within their responsibility, the auditing bodies of the participating countries or other national public auditing bodies as well as the Programme Audit Authority, the MA or CA and the JS are entitled to audit the proper use of funds by the LP or by its PPs or to arrange for such an audit to be carried out by authorised persons. The LP and PPs will be notified in due time about any audit to be carried out on their expenditure.
2. The LP undertakes all the necessary actions to comply with the fundamental requirements indicated in this contract, the applicable laws and programme documents (Programme Manual), which are an integral part of this contract, to provide for comprehensive documentation on compliance with those norms and the accessibility to this documentation. Besides the obligations with regard to reporting and information the LP particularly:
  - a) keeps all documents and data required for controls and audits safely and orderly as further specified in § 10 of this contract;
  - b) makes all necessary arrangements to ensure that any audit, notified by a duly authorized institution as indicated in § 11.1 can be carried out smoothly and
  - c) provides any requested information to these institutions about the project and gives access to their business premises, provides and gives access to all the information and documents supporting the audit trail as requested in the European Structural and Investment Funds Regulations, Delegated and Implementing Acts and the Programme Manual.
3. The LP shall promptly inform the JS about any audits that have been carried out by the bodies mentioned in § 11.1 of this contract.
4. If, as a result of the controls and audits any expenditure is considered not eligible according to the regulatory framework of this contract, the procedure described in § 12 and § 5 (4) of this contract shall apply.

**Article 12: WITHDRAWAL OR RECOVERY OF UNDULY PAID-OUT FUNDS**

1. In case the MA or CA discover (e.g. during the day-to-day management or during on-the spot checks) any unduly paid out funds, e.g. due to administrative errors or irregularities, a breach of contract or infringement of the legal provisions, or in case the MA is notified of such cases, the MA or CA shall, if necessary in consultation with the respective MS concerned and by informing the JMC, demand from the LP repayment of the subsidy in whole or in part.
2. The LP shall ensure that, if applicable, the concerned PP repays the LP any amounts unduly paid in accordance with the Partnership Agreement and the Programme Manual. The LP is entitled to request the involvement of the authorities of the Country of the concerned PP, in case of repeatedly unsuccessful recovery, according to the procedure described in the Programme manual. The amount to be repaid can be withdrawn from the next payment to the LP or, where applicable, remaining payments can be suspended. In case of closed projects, the LP is obliged to transfer the unduly paid-out funds to the MA. The repayment amount is due within one month following the date of receiving the letter by which the MA asserts the repayment claim; the due date will be stated explicitly in the order for recovery. In case of e-mail correspondence, the relevant date shall be the date of sending the e-mail, regardless of the date of receiving any mails sent additionally in hardcopy version. If the letter is sent in a hardcopy version only, it is assumed that the mail is received three days after the date on which the mail was posted.

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3. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of the late interest applied to the amount to be recovered will be calculated in accordance with Article 147 of Regulation (EC) No 1303/2013.

4. In case factors behind the recovery procedure show violation of the Subsidy Contract (see § 17 of this contract) the MA will consider the termination of the contract as last resort. In any case the partnership will be heard before taking a final decision on the termination of the contract.

**Article 13: PUBLICITY, COMMUNICATION AND BRANDING**

1. Unless the MA requests otherwise, any notice or publication made by the project including presentations at conferences or seminars, shall point out that the present project was implemented through financial assistance from IPA funds of the Interreg IPA CBC Italy Albania Montenegro Programme as required by Annex XII to Regulation (EU) 1313/2013. All information, communication and branding measures of the project shall be carried out in accordance with the aforementioned rules, the latest version of the approved Application Form, the Programme Manual and any other guidelines issued by the programme on the matter. The LP shall take care that the PPs comply with these requirements and provide them with relevant documents and any programme guidelines.

2. Any notice or publication relating to the project made in any form and by any means, including the Internet, must state that it only reflects the author's view and that the programme authorities are not liable for any use that may be made of the information contained therein.

3. The LP also takes the full responsibility for the content of any notice, publication and marketing product provided to the MA which has been developed by the LP, any of the project partners or third parties on behalf of the LP or the project partners. The LP is liable in case a third-party claims compensation for damages (e.g. because of an infringement of intellectual property rights). The LP will indemnify the MA in case the MA suffers any damage because of the content of the publicity and information material.

4. The LP shall ensure that the project partnership complies with all publicity, communication and branding obligations (e.g. on the use of the programme logo, information requirements, organization of events etc.) as further specified in the Programme Manual, especially as for the use of Programme logos and programme website.

5. The Programme Authorities shall be authorized to publish, in any and by any means, the following information:

- a) the name of the LP and its partners
- b) contact data of project representatives
- c) the project name
- d) the summary of the project
- e) the objectives of the project and the subsidy
- f) the project start and end dates
- g) the IPA funding and the total eligible cost of the project
- h) the geographical location of the project partners
- i) Summary of the progress reports and final report
- j) whether and how the project has previously been publicised

6. The MA is entitled to furthermore use these data for information and communication purposes as listed in Annex XII of Regulation (EU) No 1303/2013.

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7. The MA on behalf of the JMC and of other programme promoters at national level is entitled to use the outputs of the project in order to guarantee a wide spreading of the project deliverables and outputs and to make them available to the public. The LP agrees that the outputs are forwarded by the MA to other programme authorities as well as the Participating Countries taking part in the programme to use this material to showcase how the subsidy is used.
8. For the purpose of meeting the objectives as set out in § 5 of this contract the LP has to provide evidence of the deliverables and outputs produced as further specified in the Programme Manual.
9. Any communication campaign, media appearance or other publicity of the project shall be communicated to the MA/JS for potential website updates or showcases.

**Article 14: OWNERSHIP – USE OF OUTPUTS**

1. Ownership, title and industrial and intellectual property rights in the results of the project and the reports and other documents relating to it shall, depending on the applicable national law and/or the Partnership Agreement, vest in the LP and/or its PPs. The partnership is entitled to establish the property rights of the products deriving from the project.
2. The ownership of outputs having the character of investments in infrastructure or productive investments realised within the project must remain with the concerned LP and/or PPs according to the timeframe as well as under the conditions set in Article 71 of Regulation (EU) No 1303/2013. Should any of the conditions set by the mentioned Regulation not be met at a certain point of time, the MA/JS must be immediately informed by the concerned LP or PP. The MA will recover the unduly paid IPA contribution in proportion to the period for which the requirements have not been fulfilled.
3. The LP respects all applicable rules and the basic principles related to competition law as well as the principles of equal treatment and transparency within the meaning of the funding regulations and it ensures that no undue advantage, i.e. the granting of any advantage that would undermine the basic principles and political objectives of the funding regime, is given to anybody. Outputs and results, especially studies and analyses, produced during project implementation are made available to the general public free of charge and can be used by all interested persons and organizations in the same way and under the same conditions as by the LP or its PPs.
4. The MA reserves the right to use the outputs and results for information and communication actions in respect of the programme. In case there are pre-existing intellectual and industrial property rights which are made available to the project, these are fully respected.
5. Any income generated by the intellectual property rights must be managed in compliance with the applicable EU, national and programme rules on-revenues and state aid.

**Article 15: REVENUES**

Earnings generated during or after the project implementation through the sales of products and merchandise, participation fees or any other provisions of services against payment must be deducted from the amount of costs incurred by the project in line with Art 61 and 65 of Regulation 1303/2013 and stipulations in the Programme Manual. The LP undertakes to contractually forward these stipulations to its project partners.

#### **Article 16: ASSIGNMENTS – LEGAL SUCCESSION**

1. The MA is entitled at any time to assign its rights under this contract. In case of assignment the MA will inform the LP without delay.
2. The LP is in exceptional cases and in well-founded circumstances allowed to assign its duties and rights under this contract only after prior written consent of the MA and the JMC. The procedure will be further specified in the Programme Manual.
3. Where according to national laws the legal personality does not change and where all assets of the LP or a PP are taken over so that a deterioration of the financial capacity of the acquiring institution is not to be expected (i.e. in cases of universal succession) prior consent by the JMC is not necessary. The LP, however, will submit related information together with all documents that are necessary to analyze the legal case in due time to the MA/JS. If the MA/JS comes to the conclusion the conditions as stated above are not fulfilled (e.g. in cases of a singular succession), the LP will be informed that a partner change procedure as stated in § 16 (2) has to be initiated.
4. In case of assignment or any form of legal succession of a LP or PP the LP or PP concerned is obliged to assign all rights and obligations and all project related documents to each and any assignee or legal successor. Related reports to the MA/JS as requested in the programme documents have to be forwarded by the LP.

#### **Article 17: TERMINATION AND REPAYMENT**

1. In addition to the right of termination as laid down in § 4 the MA is entitled, in whole or in part, to terminate this contract and/or to demand repayment of subsidy in any of the following circumstances:
  - a) the LP has obtained the subsidy through false or incomplete statements or through forged documents;
  - b) the LP and its partners receive additional funding from the European Union for all or part of the project expenditure reported under the Programme during the period of the implementation of the project;
  - c) the project has not been or cannot be implemented, or it has not been or cannot be implemented in due time;
  - d) the project has not started in due time and even a written reminder by the MA/JS remains unsuccessful;
  - e) a change has occurred, e.g. with regard to nature, scale, ownership, cost, timing, partnership or completion of the project, that has put at risk the achievement of the results planned and stated in the latest version of the approved Application Form;
  - f) the project outputs and results are not in line with those described in the approved application;
  - g) the LP has failed to submit required reports (e.g. the progress reports according to the overview table of reporting targets and deadlines annexed to this contract) or proofs, or to supply necessary information provided that the LP has received a written reminder setting an adequate deadline and explicitly specifying the legal consequences of a failure to comply with requirements and has failed to comply with this deadline;
  - h) the LP has infringed its duty to ask for prior written approval where indicated by this contract or in the Programme Manual or has failed to immediately report events delaying or preventing the implementation of the project funded or any circumstances that mean a change of the disbursement conditions and frameworks as laid down in this contract;



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- i) the LP or its PPs obstruct or prevented the financial control and auditing as indicated in § 11 of this contract;
  - j) the amount of funding awarded has been partially or entirely misapplied for purposes other than those agreed upon;
  - k) insolvency proceedings are instituted against the assets of the LP or one of the PPs or insolvency proceedings are dismissed due to lack of assets for cost recovery or the LP or one of the PPs closes down or liquidates, provided that this appears to prevent or risk the achievement of the project objectives;
  - l) the provisions related to income and revenues as mentioned in § 14 and 15 of this contract are infringed or the LP does – for any other reasons – not make available the outputs to the MA;
  - m) exceeding the permissible limits of the funding regulations (e.g. Article 61 of Regulation (EU) No 1303/2013) the LP wholly or partly sells, leases or lets the project outputs/results to a third party;
  - n) regulations of EU-law including the horizontal policies or national regulations have been violated;
  - o) the ownership of project outputs having the character of investments in infrastructure or productive investments did not remain with the concerned LP and/or PPs for the timeframe and under the conditions set in Article 71 of Regulation (EU) No 1303/2013;
  - p) it has become impossible to verify that the progress report is correct and thus the eligibility of the project by funding from Interreg IPA CBC Italy Albania Montenegro Programme;
  - q) the LP and/or any of the PPs is in the situation of undertaking in difficulty, within the meaning of point 24 (in conjunction with point 20) of the “Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty” (Communication from the Commission No. 2014/C 249/01 of 31.07.2014) as well as in compliance with Article 3(3) d) of Regulation No 1301/2013;
  - r) the LP has failed to fulfil any other conditions or requirements for assistance stipulated in this contract and the provisions it is based on, notably if these conditions or requirements are meant to guarantee the successful achievement of the programme objectives;
2. Prior to or instead of terminating the contract as provided for in this article, the MA may suspend payments as a precautionary measure, without prior notice. This measure shall be lifted as soon as the reasons for such measures cease to apply or requested proof can be furnished.
3. If the MA exercises its right of termination and the LP is demanded full or partial repayment of amounts already paid, the LP is obliged to transfer the repayment amount to the MA. The repayment amount is due within one month following the date of the letter by which the MA asserts the repayment claim; the due date will be stated explicitly in the order for recovery.
4. If a LP or PP fails to return unduly paid funds in another project funded by the Interreg IPA CBC Italy Albania Montenegro, the MA has the right to withdraw the corresponding IPA from any open payment in this project.
5. If the MA exercises its right of termination, offsetting by the LP is excluded unless its claim is undisputed or recognised by declaratory judgement.
6. If the MA exercises its right of termination and the LP is demanded full or partial repayment of amounts already paid. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of the late interest applied to the amount to be recovered will be calculated in accordance with Article 147 of Regulation (EC) No. 1303/2013.

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7. After termination of this contract, the LP's obligations (inter alia §§ 10, 11, 12, 17, 20) and liabilities remain.
8. Bank charges incurred by the repayment of amounts due to the MA shall be borne entirely by the LP.
9. If any of the circumstances indicated in the aforementioned point 1 of this paragraph occur before the full amount of subsidy has been paid to the LP, payments may be discontinued and there shall be no claims to payment of the remaining amount.
10. As laid out in § 2.3, the MA is entitled to terminate this contract if the European Commission fails to make the funds available due to reasons that are outside of the sphere of influence of the programme.
11. Any further legal claims shall remain unaffected by the above provisions.

**Article 18: FORCE MAJEURE**

1. Force majeure shall mean any unforeseeable and exceptional event affecting the fulfilment of any obligation under this subsidy contract, which is beyond the control of the LP and PPs and cannot be overcome despite their reasonable endeavours (e.g. substantial changes due to changes in political or financial terms). Any default of a product or service or delays in making them available for the purpose of performing this contract and affecting the project performance, including, for instance, anomalies in the functioning or performance of product or services, labour disputes, strikes or financial difficulties do not constitute force majeure.
2. If the LP or PPs are subject to force majeure liable to affect the fulfilment of its/their obligations under this subsidy contract, the LP shall notify the MA via the JS without delay, stating the nature, likely duration and foreseeable effects.
3. If the MA is subject to force majeure liable to affect the fulfilment of its obligations within the framework of this subsidy contract, it shall notify it to the LP without delay, stating the nature, likely duration and foreseeable effects.
4. Neither the MA nor the LP or the PPs shall be considered to be in breach of their obligations to execute the project if it has been prevented from complying by force majeure. Where LP or PPs cannot fulfil their obligations to execute the project due to force majeure, grant for accepted eligible expenditure occurred may be made only for those activities which have actually been executed up to the date of the event identified as force majeure. All necessary measures shall be taken to limit damage to the minimum.

**Article 19: LITIGATION**

1. This contract is governed by and construed in accordance with the laws of the Republic of Italy. Thus, the laws of Italy shall apply to all legal relations arising in connections with this agreement.
2. In case of disputes between the MA and the LP, presumption of the good faith from the LP will be privileged and, prior to litigation, mediation procedures shall be set in place.
3. In case of litigation the venue is the court of competent jurisdiction at the seat of the Regione Puglia, Bari (Italy). Legal proceedings will be in Italian.

**Article 20: FINAL PROVISIONS**

1. All the provisions mentioned in this contract shall apply and the rights and obligations derived thereof shall become part of this contract. All cited laws, regulations and Programme documents mentioned are

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applicable in their currently valid version. The LP declares to respect the legal framework as mentioned and to contractually forward this obligation to the project partnership.

2. The programme language is English. Thus, all correspondence with the MA/JS under this contract must be in English language. Documents have to be submitted as requested in this contract or other programme documents.

3. Unless otherwise stated, all communication is sent to the JS with its office as mentioned on the programme website.

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

5. In case of differences that are not ruled by this contract, the parties agree to find a conjoint solution.

6. Amendments and supplements to this contract and any waiver of the requirement of the written form must be in written form and have to be indicated as such. Consequently, any changes of the present contract shall only be effective if they have been agreed on in writing and have been designated as amendment of or supplement to the contract.

7. Any costs, fees or taxes not eligible or any other duties arising from the conclusion or implementation of this agreement shall be borne by the LP and/or its PPs.

8. Two copies will be made of this agreement; of which each party keeps one. The LP is free to accept and sign this contract within one month after having been offered it by the MA (date of the submission by e-mail). After one month, the offer of the MA loses any relevance unless the MA agrees to a prolongation of this period of time.

9. The present contract shall come into force upon signature of both parties to this contract, unless otherwise provided for by article 10 (20). It remains valid as long as any duties linked to the IPA subsidy might be claimed and, in any case, at least until the end of the applicable retention period as communicated by the MA to the LP in compliance with the Programme Manual.

Written in \_\_\_\_\_ (\_\_\_\_\_) original copies,

Managing Authority  
Interreg IPA CBC Italy Albania Montenegro

Official stamp of the Signatory (if existing)

[Signature]

.....  
**Name of the Signatory**

**Place and date**

**Position of the Signatory**

LEAD PARTNER  
Project \_\_\_\_\_

Official stamp of the Signatory (if existing)

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[Signature]

.....  
*Name of the Signatory* [redacted] *Place and date*

*Position of the Signatory* [redacted]

Please attach a copy of a valid identity document (e.g. identity card, passport)

**Annex**

1. Joint Monitoring Committee Decision of 18 December 2019 and W.P.20 closed on 23/06/2020
2. Minutes of the Negotiation meeting
3. Application form, in its current valid version
4. Overview table on reporting periods and deadlines
5. CUP-No. declaration (Applicable only to Italian Lead partners)

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## ANNEX 4 – Reporting periods and deadlines

Period number	Duration (month)	Start date	End date	JPR Reporting date
0				
1	6	01.07.2020	31.12.2020	30.03.2021
2	6	01.01.2021	30.06.2021	30.09.2021
3	6	01.07.2021	31.12.2021	30.03.2022

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## ANNEX 5 – CUP No. declaration (applicable to Italian partners)

Italian partners shall fill in and sign following declaration in the applicable version A for public and B for private bodies.

### Version A – Declaration by Italian PUBLIC lead partner

-In compliance with art. 11 of the Italian law no.3/2003, Italian partners have the obligation to request and use a unique identification number (CUP) for each project, as a measure supporting transparency and control of public investments, therefore mitigating fraud risk.

-Furthermore, according to CIPE Decisions no. 45 /2011 and no. 143/2002, the CUP no. is obligatory for all Italian partners EU co-financed projects, even within the European Territorial Cooperation, therefore also for the Interreg IPA CBC Italy-Albania-Montenegro.

-In particular, decision no. 45/2011 specified that if the contributions are paid to public bodies or bodies governed by public law the CUP is requested by each public body or body governed by public law; if contributions are paid to private partners, the managing authority shall request the CUP for the private partner.

On this legal basis, I, the undersigned, *[name, surname]*, as the legal representative of *<name of the Project Partner's organisation in original language>* acting as *Lead Partner /Project Partner* in the project *< project acronym>*,

declare that

- The CUP no. related to this co-funded project is CUP NO. , *[CUP NO]*,
- I commit to use the CUP no., together with the project no. and identification provided in the EMS system, by the organisation I represent, in the financial flows related to the project, such as for payments to contractors, invoices and contracts.

**I acknowledge that untruthful/false declarations, in addition to the administrative sanctions and the request for refunding unduly received contribution charged with the interests, can also be prosecuted according to the relevant penal law.**

.....  
*Name of the Signatory - Signature*

.....  
*Place and date*

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## Version B – Declaration by Italian PRIVATE lead partner

-In compliance with art. 11 of the Italian law no.3/2003, Italian partners have the obligation to request and use a unique identification number (CUP) for each project, as a measure supporting transparency and control of public investments, therefore mitigating fraud risk.

-Furthermore, according to CIPE Decisions no. 45 /2011 and no. 143/2002, the CUP no. is obligatory for all Italian partners EU co-financed projects, even within the European Territorial Cooperation, therefore also for the Interreg IPA CBC Italy-Albania-Montenegro.

-In particular, decision no. 45/2011 specified that if the contributions are paid to public bodies or bodies governed by public law the CUP is requested by each public body or body governed by public law; if contributions are paid to private partners, the managing authority shall request the CUP for the private partner.

On this legal basis, I, the undersigned, *[name, surname]*, as the legal representative of *<name of the Project Partner's organisation in original language>* acting as *Lead Partner /Project Partner* in the project *< project acronym>*,

declare that

I commit to use the CUP number, which I am going to receive from the Managing Authority in relation to this co-funded project, together with the project no. and identification provided in the eMS system, by the organisation I represent, in the financial flows related to the project, such as for payments to contractors, invoices and contracts.

**I acknowledge that untruthful/false declarations, in addition to the administrative sanctions and the request for refunding unduly received contribution charged with the interests, can also be prosecuted according to the relevant penal law.**

.....  
*Name of the Signatory - Signature*

.....  
*Place and date*