



General Conditions

"Annex I" to the IPA Subsidy Contract

version no. 01

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The following provisions are based on the relevant European Community rules laying down the granting under the IPA Regulations.

Glossary:

- 1) **Audit Authority (AA)** - refers to the auditing officers of Abruzzo Region institution appointed for auditing the expenditures and the control system of the Programme, in accordance with Article 105 of the Commission Regulation (EC) No. 718/2007. It collaborates with the national auditing officers within the Group of Auditors, responsible for the Second Level National Control of the Programme;
- 2) **Application Pack (AP)** – refers to all the documents required for applying to the Programme contribution;
- 3) **Application for Reimbursement (AR)** – refers to the document submitted by the Lead Beneficiary to Managing Authority in order to claim the Community contribution granted to the Project and used for paying the expenditure approved with the Declaration on Validation of Expenditure;
- 4) **Certifying Authority (CA)** - refers to the accounting officer of Abruzzo Region institution appointed for certifying the expenditures of the Programme financed by the Community (IPA) fund, in accordance with Article 104 of the Commission Regulation (EC) No. 718/2007. It is in charge of receiving the Community contribution from the European Commission and reimbursing the Lead Beneficiaries, as well as receiving the unduly amounts recovered by the Managing Authority;
- 5) **Declaration on Validation of Expenditure (DVE)** – refers to the document issued by the National First Level Control Office containing the amount of verified and validated expenditure submitted in Progress Report by final beneficiary for the reporting period concerned;
- 6) **Eligible expenditures** – refers to the expenditures qualified as eligible according to the Commission Regulation (EC) No. 718/2007, to the Applicants Manual, to the Programme Management and Control Manual and the national FLCOs Guidelines;
- 7) **Final beneficiaries** – refers to the legal entities, that are in the same time Project Partners and final beneficiaries of the Programme contributions. The list of the Project's final beneficiaries are indicated in the Project Application Form and in the Project Partnership Agreement. The term includes the Lead Beneficiary (LB) as Lead Partner of the Project in the meaning of Article 96 of Reg. (EC) 718/2007;
- 8) **First and Final Progress Report** – file referred to the "Activity Report", that provides information on the achievement of Project's results and outputs, and to the "Financial Report",

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which provides information on Project's expenditure, and the related Annexes as documents of evidence on the incurred expenditures. It is submitted to the FLCO for the expenditures validation.

9) **First Level Control Office (FLCO)** – refers to the national controllers designated in each Participating Country for carrying on the First Level Control on the expenditures and the control system of the Programme, according to Article 108 of the Commission Regulation (EC) No. 718/2007;

10) **"force majeure"** – refers to any unforeseeable exceptional situation or an event beyond the final beneficiary's control occurred after the IPA Subsidy Contract has entered in force and which prevents it from fulfilling any of their contractual obligations, that is not attributable to own error or negligence (including their third parties, agents or employees), and proves to be unavoidable in spite of all due diligence;

11) **General Conditions of the IPA Subsidy Contract** – refers to the present document which has the aim to settle rights and duties under which the Community contribution shall be granted to the final beneficiaries;

12) **IPA Subsidy Contract** – refers to the agreement between the Lead Beneficiary and the Managing Authority of the Programme, specifying the conditions upon which the Community contribution is granted to the Project Partners through the Lead Beneficiary;

13) **Joint Monitoring Committee (JMC)** – refers to the body representing the Participating Countries in the Programme set up in conformity with the article 110 of the Commission Regulation (EC) No. 718/2007, who grants the Community contribution to the Project;

14) **Joint Technical Secretariat (JTS)** – refers to the expert team charged to assist the Programme bodies in the management and Programme implementation activities;

15) **Lead Beneficiary bank account** – refers to the bank account of the Lead Beneficiary qualified to receive the Community contribution;

16) **Managing Authority (MA)** – refers to the authorising officer of Abruzzo Region institution appointed for managing the recovery and expenditures of the Programme financed by the Community (IPA) fund, in accordance with Article 103 of the Commission Regulation (EC) No. 718/2007. It is the Contracting Authority for the IPA Subsidy Contracts;

17) **National Authority for the IPA Adriatic CBC Programme** – refers to the body that in the Participating Country is responsible before the Programme in compliance with Article 114 of the Commission Regulation (EC) No. 718/2007. For Greece Country it takes the name of "National Coordinator for the IPA Adriatic CBC Programme".

18) **National co-financing funds** – refers to the National public co-financing funding ensured by each final beneficiary to the Project by own Public source, or by the National Fund or by a National Public co-financing body;

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- 19) **Partner's bank account** – refers to the bank account of the Project Partners qualified to receive part of the Community contribution by the Lead Beneficiary;
- 20) **Programme** – refers to the IPA Adriatic Cross-border Cooperation Programme - CCI 2007CB 16 IPO 001, approved by the European Commission with Decision C (2008) No. 1073, amended with the new EC Decision (2010) n. 3780;
- 21) **Programme Contribution** – refers to the Community (IPA) contribution and the National co-financing contributions assigned to the Project;
- 22) **Project** – refers to all the operations and activities described in the Application Form and to any reference to updated documents that will be implemented by the final beneficiaries and their third parties;
- 23) **Project Application Form** – refers to the Project form filled in by the Project Partners with the financial and partnership details and tasks, the Project's activities and the budget description, as well as the timeframe of the Project's activities implementation. It is submitted by the Lead Beneficiary to the IPA Adriatic Cross-border Authorities within the expiration date of the Call for Proposals;
- 24) **Project Partners** – refers to the final beneficiaries of the Project, including the Lead Beneficiary as well.
- 25) **Project Progress and Final Report** – refers to the six-month report submitted by the Lead Beneficiary to the Managing Authority regarding the Project implementation progress. The last and Final Report must be send not later than 6 months from the Project expiration term;
- 26) **Third party** – refers to the contractor or its sub-contractor to which a contract of services, supplies or works is awarded by the final beneficiary through a public procurement, or the sub-beneficiary that has been granted with a minor part of the Community contribution assigned by the Programme to the final beneficiary, as ruled in the following Art. 10.

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PART I - GENERAL AND ADMINISTRATIVE PROVISIONS OF THE IPA SUBSIDY CONTRACT

ARTICLE 1 – REGULATORY AND CONVENTIONAL FRAMEWORK

1. The Programme contribution is granted in compliance with the legal and conventional framework applicable to the IPA CBC Adriatic Programme.
2. The legal framework comprises the following documents:
 - a) the Council Regulation (EC) No. 1085/2006, introducing the IPA funding;
 - b) the Commission Regulation (EC) No. 718/2007, implementing the IPA funding;
 - c) the Call for Proposals and its integral documents.

Where applicable, the above mentioned documents shall be integrated by the enforced Community and National provisions regarding the rules on public procurement, the fight against organized crimes and the prevention of frauds to the European general budget; the duty to pay taxes and social insurance in own Country; the duty to provide the financial guarantee for being granted public financial contributions by own Country and to give evidence of own qualifications and legal status; and any rules that amend the valid applicable laws.

3. The IPA Subsidy Contract and any relevant document provided by the Programme Authorities and bodies comprise the conventional framework.

ARTICLE 2 - GENERAL OBLIGATIONS

1. The final beneficiaries shall implement the Project with the efficiency, transparency and due diligence, to ensure a sound financial management of the Project activities and submit the Progress activity and financial Reports in compliance with the best practice in the field concerned and with the provisions laid down in the IPA Subsidy Contract and Programme relevant documents. For this purpose the final beneficiaries shall provide all their financial, human and material resources to support a fair implementation of the Project activities.
2. In order to ensure the principle of good financial sound management required in Article 103 of Commission Regulation (EC) No. 718/2007, the final beneficiary once has accepted the provisions hereby provided, shall confirm that it doesn't fall in any of the following situations:
 - a) is bankrupt or being wound up, is having its affairs administered by the courts, has entered into agreement with creditors, has suspended business activities, is the subject of proceedings concerning the matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

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- b) has been convicted of an offence concerning professional conduct by a judgement which, in accordance with legal provisions of the State, has the force of *res judicata*;
- c) has been guilty of grave professional misconduct that the Managing Authority can verify by any means;
- d) has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the Country in which it is established or the Country of the Managing Authority or the Country where the activities are to be performed;
- e) has not been the subject of a judgement which has the force of *res judicata* for fraud, corruption, criminal association or any other illegal activities detrimental to the Communities' financial interests;
- f) has been declared, following to another procurement procedure or grant award procedure financed by the Community's budget, to be in serious breach of contract for failure to comply with its contractual obligations;
- g) is subject to a conflict of interest within the Project implementation activities;
- h) is guilty of misrepresentation in supplying the information required as a condition of participation in the Call for Proposal and/or the Project appraisal;
- i) it is currently subject to an administrative penalty for being in serious breach of its obligations under any subsidy contract covered by the EU budget or for being guilty of misrepresentation in supplying the information required by the MA as a condition to receive the grant or fails to supply this information.

The MA may, depending on risk analysis, request the evidence of what listed above before the IPA Subsidy Contract signature or at in any time of Project implementation period.

3. Based on the fact that the payments made by the European Commission to the Programme Certifying Authority will only be made in accordance with the corresponding budget commitments, the final beneficiaries must declare the foreseen costs for each reporting period updating the timeframe provided in the Application Form at the date of the starting of the Project implementation period. Where the final beneficiaries request a less amount of the Community contribution than what indicated in the IPA Subsidy Contract, the difference is to be considered as "under risk" and might be withdrawn from the total amount granted by the JMC in compliance with the following Article 17.

ARTICLE 3 - REPORTING OBLIGATION

1. Final beneficiaries must provide the Managing Authority with relevant information regarding any modification of personal status and must prove not to fall in one of the situations referred to

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Article 2.2 above. The Managing Authority may ask the final beneficiaries to produce, from time to time, an adequate evidence on what was declared and annexed in the Application Pack.

2. Final beneficiaries shall submit the **Progress Reports**, concerning the reimbursement procedure, according to the four Programme reporting periods per year:

- a) Reporting period: 1st February – 30th April;
- b) Reporting period: 1st May – 30th June;
- c) Reporting period: 1st July – 31st October;
- d) Reporting period: 1st November – 31st January.

The Progress Report statement is issued through the Programme Information and Management System which is filled in by the final beneficiary with all information of evidence. The final beneficiary sends to the national first level control office (FLCO) the hard copy of the Progress Report file, duly signed and stamped, in order to control and validate the incurred expenditures.

3. Lead Beneficiary must send to the MA a Project Progress Report, concerning the monitoring implementation of the Project, at least twice per year: by 31st October and 30th April. This obligation is ruled under Article 9 of the IPA Subsidy Contract.

4. The Managing Authority may request from the final beneficiaries any information at any time and that information must be supplied within 30 days from the request.

The information shall be required to the Lead Beneficiary and must be submitted to the MA through the JTS in English language.

ARTICLE 4 – LIABILITY

1. The Managing Authority cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the final beneficiaries while the action or omission is performed or as a consequence of the Project. The Managing Authority cannot therefore accept any claim for compensation or increases in payment in connection with such damage or injury.

2. Each final beneficiary shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them while the action or omission is performed or as a consequence of the Project. The final beneficiary shall discharge the Managing Authority of all liability arising from any claim or action brought as a result of an infringement by itself or by its employees or individuals responsible of a breach of a third party's rights.

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ARTICLE 5 - CONFLICT OF INTERESTS AND DOUBLE FINANCING

1. Each final beneficiary commits itself to taking all necessary precautions to avoid conflicts of interests within the Project's activities granted by the Programme and shall inform the Managing Authority, by the LB, without delay of any situation constituting or likely to lead to any such conflict.
2. There is a conflict of interests where the impartial and objective exercise of the functions of any person under the Project is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with another person.
3. Each final beneficiary ensures that any expenditure incurred in the Project does not benefit from any other European Community funding than the ones granted by the Programme and undertakes to communicate, by the LB, to the Managing Authority any further request for funding regarding expenditure envisaged in the Project and/or revenue generated from the operations financed by the Programme.

ARTICLE 6 – CONFIDENTIALITY

1. According to Article 62.2 of the Commission Regulation (EC) No. 718/2007, the Programme Authorities, the national First Level Control Office, the European Anti-Fraud Office (OLAF), the European Commission and the European Court of Auditors may carry out audit activities on all documents related to the Project, in compliance with the confidentiality rules set out under the Regulation (EC) 45/2001.

ARTICLE 7 – VISIBILITY

1. Every final beneficiary must take all necessary steps to publicize that the European Union has co-financed the Project. It is advisable to consult the EU Community and Visibility Manual for the external actions and with the Communication Manual of the Programme for IPA Adriatic Cross-border Cooperation Programme published on the Programme web site.
2. In particular, the final beneficiaries shall mention the benefit of Programme's Community contribution granted to the Project in the information given to the receivers of any Project activity, in any report regarding the Project sent to the Programme's bodies and/or to the media. It shall display the EU and IPA Adriatic CBC Programme logos wherever appropriate.
3. Any notice or publication by the final beneficiary concerning the Project, including those given at a conference or seminar, must specify that the Project has received a Programme funding. Any publication by the final beneficiary, in whatever form and by whatever medium, including the internet, must include the following statement: *"This document has been produced with the financial assistance of the IPA Adriatic Cross-border Cooperation Programme. The contents of this document are the sole responsibility of < final beneficiary's name > and can under no*

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circumstances be regarded as reflecting the position of the IPA Adriatic Cross-border Cooperation Programme Authorities."

4. Any statement or publication by the Project, in whatever form and or by whatever medium, including the Internet, must state that it reflects the author's views and that the Managing Authority shall not be held liable for any use that may be made of the information contained therein.

5. Any information and material produced during the implementation of the Project may be used by the Managing Authority, the National FLCOs, the CA, the AA (including the National Group of Auditors) the National Authorities/Coordinator, the Programme technical assistance structures, the European Commission or the OLAF officers in order to publicize the Programme results or in order to carry out the controls. The final beneficiary shall authorize the abovementioned bodies to publish in whatever form the following personal data: name, address and nationality; the objectives, budget, project summary, duration and the geographical location of the Project; the purpose of the grant, the maximum amount of the Community financial contribution and funding rate of the Project's eligible costs; as well as any other information agreed with the Lead Beneficiary.

ARTICLE 8 - OWNERSHIP/USE OF RESULTS AND EQUIPMENT

1. The final beneficiaries are the owners of the intellectual and industrial property rights on the Project's results, reports and other documents relating to it.

2. Notwithstanding, following the provisions set above in Article 7 Visibility, the publication of that information by Programme or National Authorities/Coordinator or the European Commission may not being considered as a breach of industrial and intellectual property rights or a breach of confidentiality clause if the publication doesn't harm the final beneficiary's commercial secrets.

3. In case there are pre-existing intellectual and industrial property rights, which are made available to the Project, these are fully respected.

3. The proofs of transfer of ownership rights to the owners shall be annexed to the Project Final Report.

ARTICLE 9 – EVALUATION/MONITORING OF THE PROJECT

1. If the MA, or the other Program bodies (CA, AA, FLCO) or the European Commission services or any contractor awarded to carry out an on-going or *ex post* evaluation of the Project or an auditing activity, each final beneficiary must be committed to provide to the authorised persons of such proceedings, any document or information necessary to perform the evaluation or auditing activity, as well as grant them the access rights described in the following Article 15.

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2. If any final beneficiary carries out or commissions an evaluation of the Project, it must provide the MA and the European Commission with a copy of the evaluation report.

ARTICLE 10 – ASSIGNMENT

1. The financial contribution granted with the IPA Subsidy Contract may not be assigned to a third party in any way except what described in the following paragraphs.

2. Any awarding of procurement contract shall be performed under the rules on public contract procedures referred to in Article 121 of the Commission Regulation (EC) No. 718/2007 as had be amended by Commission Regulation (EU) No. 80/2010.

3. In accordance with the Call for Proposals provisions, any final beneficiary may be allowed by the MA to grant only a limited part of the Programme contribution for the activities that do not constitute the Project core activities. The conditions for sub-granting shall be strictly defined by the JMC in order to leave no room for discretion regarding:

- a) the objectives or results to be obtained;
- b) the minimum and maximum amounts of financial support that can be paid to the sub-beneficiary/ies and the criteria for determining the exact amount;
- c) the different types of activity that may receive such financial support, on the basis of an explicit list.

In any case, the maximum amount of Programme contribution that may be sub-granted by each final beneficiary to its sub-beneficiary or sub-beneficiaries shall not exceed EUR 100,000.

The sub-grant shall be assigned by the final beneficiary following the same provisions set out in the Call for Proposals and in the following IPA Subsidy Contract, under which the Programme contribution had been provided by the Programme.

ARTICLE 11 - SUSPENSION OF PERFORMANCE

1. The final beneficiary may suspend implementation of all or part of its Project's activities if objective circumstances (as *force majeure*) make it too difficult or dangerous to continue. If the IPA Subsidy Contract is not terminated, the final beneficiary shall endeavour to minimize the time of its suspension and shall resume implementation once circumstances allow. The Managing Authority shall be informed, by the LB, without delay and provided with all the necessary details.

2. The Managing Authority may suspend the performance of IPA Subsidy Contract obligations if objective circumstances (as *force majeure*) make it too difficult or dangerous to continue. If the IPA Subsidy Contract is not terminated, the Managing Authority shall endeavour to minimize the time of suspension and shall resume the performance once circumstances allow, after a prior written notice has been sent to the Lead Beneficiary.

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3. In the circumstances referred to in this Article, the implementation period of the Project, specified in the Project's Application Form, shall be automatically extended for a period equivalent to the length of suspension, without prejudice to the rule provided in Article 17.3 "Expiration Term" of the IPA Subsidy Contract and in any case within the Programme eligibility expenditure period.

4. Equipment or material defects or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as *force majeure*. A contracting party shall not be in breach of its contractual obligations if it is unable to fulfil them because of *force majeure*. Without prejudice to the IPA Subsidy Contract's termination, the contracting party faced with *force majeure* shall inform the other party without delay, stating the nature, probable duration and foreseeable effects of the problem, and take any measure to minimize possible damage.

ARTICLE 12 - TERMINATION OF CONTRACT

1. The Managing Authority may require the termination of the IPA Subsidy Contract, without giving prior notice to the Lead Beneficiary and without being obligated to pay damages of any kind for doing so to any Project's final beneficiary:

- a) in case of changing or dropping out of one or more final beneficiaries as Project Partners, if the remaining final beneficiaries don't ensure the minimum conditions required by the Call for Proposals for the Partnership composition;
- b) where the final beneficiary is bankrupt, dissolved, having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- c) where the Managing Authority has evidence on the final beneficiary of grave professional misconduct;
- d) where the Managing Authority has evidence on the final beneficiary of fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the Community's financial interests;
- e) where the final beneficiary has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the Country in which it is established;
- f) where the final beneficiary makes false or incomplete statements to obtain the Programme contribution provided for in the IPA Subsidy Contract, either provides reports that do not reflect reality or use all or part of the grant for other purpose than those envisaged in the IPA Subsidy Contract;

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- g) where the Managing Authority has evidence on the final beneficiary of irregularities committed during the public procurement award procedure for implementing the Project;
- h) where the final beneficiary doesn't have or lost the legal personality;
- i) where the final beneficiary does not comply with Articles 5 and 15 of these General Conditions of the IPA Subsidy Contract;
- j) where the final beneficiary didn't obtain a national co-financing share, as provided in the Programme and envisaged in the Project Application Form submitted;
- k) where the final beneficiary is guilty of misrepresentation in supplying the information required by the Managing Authority during the implementation of the Project or as a condition of participation in the Call for Proposal and/or the Project appraisal.

2. JMC may decide to keep the IPA Subsidy Contract, under the condition of replacing the final beneficiary involved with a new final beneficiary that offers the same conditions and requirements indicated in the Application Form and in the Call for Proposals. The Lead Beneficiary cannot be replaced in any case.

3. The termination of the IPA Subsidy Contract shall also occur if any of the abovementioned cases involve any sub-beneficiary of the final beneficiary.

4. In this Article, the behaviour of any person that has the power of representation, decision-making or control to the final beneficiary is considered as the conduct of the final beneficiary.

5. Besides the termination of the IPA Subsidy Contract or the exclusion of final beneficiary or its sub-beneficiary of all benefits of that Contract, in the event that it or any related person of the latter have made false declarations, have made substantial errors or committed irregularities and fraud, or have been found in serious breach of the IPA Subsidy Contract's obligations, may be excluded from other contracts financed by the Managing Authority for a maximum of five years from the date on which the infringement is established, as confirmed following the legal statement. This period can be extended up to 10 years in the event of a repeated offence within 5 years of the date referred above.

6. Prior to, or instead of, terminating the IPA Subsidy Contract as provided in this Article, the Managing Authority, based on a risk analysis on the expenditure, may suspend payments or refuse to authorise payments required with the Application for Reimbursement, in the part where the payment required regards the expenditures of final beneficiary involved or regarding all the Project's partnership expenditures, as a precautionary measure without prior notice until the unforeseen difficulty has not been solved.

7. In case the IPA Subsidy Contract is terminated or the final beneficiary is excluded from the benefits of that Contract, the Managing Authority may recover all or part of the amounts already

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paid out. The final beneficiary involved is obliged to return any amounts owed under the terms of the IPA Subsidy Contract and within the deadline of the recovery's order.

8. If the Managing Authority exercise its right to terminate the IPA Subsidy Contract for justified reasons, the final beneficiary involved shall not make any financial offset against the sums to be paid by the Programme.

ARTICLE 13 - APPLICABLE LAW AND DISPUTE SETTLEMENT

1. The IPA Subsidy Contract shall be governed by the law of the European Community legislation, integrated where necessary by the national law of the Country where the Managing Authority is established. In spite of this provision, in the matter of the legitimacy of the national controls, in compliance with Article 103, § 1, lett. a) of the Reg. (EC) 718/2007, the European Community legislation is integrated by the national law of the Country where the final beneficiary involved is located.

Each contracting party gives up applying any other cross referring to third national legislation.

2. The Managing Authority and the Lead Beneficiary involved shall do everything possible to settle amicably any dispute arising between them. For this purpose, they shall communicate in writing their positions and any solution that they consider possible.

3. In the event of failure to reach an agreement and without prejudice to the right of acting before to the Court, the dispute may be solved by a third authorized conciliator. If no settlement is reached within 120 calendar days or within the longest time set in the conciliation procedure, of the opening of the conciliation procedure, each contracting party may notify the other that the procedure failed.

4. In case of any party claims to the Court, the dispute shall be settled by the competent Court of L'Aquila - Italy.

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PART II - GENERAL FINANCIAL PROVISIONS OF THE SUBSIDY CONTRACT

ARTICLE 14 - PROCEDURE FOR VERIFYING ELIGIBLE COSTS

1. Eligible costs are costs really incurred by the final beneficiaries, which meet all the criteria set out under the Article 34 (3) and Article 89 of Reg. (EC) 718/2007 and the Article 7 of the Financial Agreements signed among each third Participating Country and the European Commission, as described in the Management and Control Manual of the Programme and in the FLCOs Guidelines. They are incurred on carrying out the activities described in the Project Application Form (see, Annex II of the IPA Subsidy Contract) and in the Project's changes approved by the Programme Authorities. Only the expenditures incurred within and not later than the expiration of the Project implementing period and in any case not later than the Programme's expenditure eligibility period, are considered admissible.

2. In particular, for eligibility purposes, the expenditure incurred within the period of eligibility must:

- a) be effective and actually related to the carrying out of the operations envisaged in the Project (principle of effectiveness);
- b) comply with the Community and national rules (principle of legitimacy);
- c) be incurred or be carried out for an activity located in the eligible area of the Programme (principle of localization). In compliance with Article 97, § 2, lett. b) of Reg. (EC) 718/2006, the Managing Authority may confirm that the expenditure could be incurred outside the Programme area if the Project should achieve its objectives with that expenditure;
- d) be proved by receipted invoices or accounting documents of equivalent probative value or other relevant documents, recorded in the accounting systems of the final beneficiaries of the Project, and they must be easily identified and checked (principle of documentary evidence).

3. Costs for recovery of unduly amounts, interest on unduly amounts paid and interests on delayed payments are considered as ineligible expenditure.

4. Contributions in kind do not represent expenditure and are not eligible costs in the Programme. The cost of staff assigned to the Project is not a contribution in kind and may be considered as national public co-financing to the Project when incurred by Public body entitled as a final beneficiary.

5. The national First Level Control Office is in charge to verify and validate the expenditures and to issue the "Declaration on Validation of Expenditure" on the eligible costs. The DVE will be accounted in electronic version in the Programme Information and Management System and in

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the duly signed and stamped paper version. This DVE paper copy will be sent to the final beneficiary to be attached to the Application for Reimbursement.

6. Without prejudice to the provisions of Article 13 above, any expenditure that is considered ineligible for the Programme contribution, will be not certified or shall be recovered without any right of appeal to the Managing Authority.

ARTICLE 15 – ACCOUNT, TECHNICAL AND FINANCIAL CHECKS

1. Every final beneficiary shall keep accurate and regular accounts of the implementation of the Project's activities maintaining either a separate accounting system or an adequate accounting code for all transactions relating to the operation without prejudice to national accounting rules. These systems may either be an integrated part of the final beneficiary's regular system or an additional to that system. This system shall be run in accordance with the accounting and bookkeeping policies and rules that apply in the participating country concerned. Accounts and expenditure relating to the Project must be easily identifiable and verifiable. This can be done by using separate accounts for the Project concerned or by ensuring that expenditure for the activity concerned can be easily identified and traced to and within the final beneficiary's accounting and bookkeeping systems. The bank accounts must provide details of interest accruing on Programme contribution paid in pre-financing.

2. The final beneficiary shall ensure that the progress reports, as well as the final report, can be properly and easily reconciled to its accounting and bookkeeping system and to the underlying accounting and other relevant records. For this purpose the final beneficiary shall prepare and keep appropriate reconciliations, supporting schedules, analyses and breakdowns for inspection and verification.

3. Every final beneficiary, as well as their third parties, will allow the competent National FLCO, the Managing Authority, the Certifying Authority, the Audit Authority, the European Commission, the European Anti-Fraud Office, the European Court of Auditors and any external auditor authorised by the IPA Adriatic CBC Programme Authorities, to carry out verifications on legitimacy of expenditures eligibility and control procedure, by examining the documents, or by means of on-the-spot checks at the final beneficiaries' premises and at any relevant place aimed at protecting the Community and National's financial interest, in particular to prevent fraud, corruption and any other irregularities.

4. Documents must be easily accessible and filed so as to facilitate their examination and the final beneficiary must inform the Managing Authority of their precise location, throughout the Project implementation period as well as within a period of three years after the closure of the Programme.

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ARTICLE 16 – PAYMENT PROCEDURE

1. The payment of the Community contribution granted to the Project shall be done with the reimbursement method, which means that any eligible expenditure will be granted after that it had been incurred by the final beneficiaries, verified and validated by the national FLCO and the Managing Authority has received the Application for Reimbursement from the LB. The pre-financing payment will be made with the pre-financing method and it will be deducted pro-rate during the reimbursement payments. In order to allow the exercise of MA's duties envisaged by Art. 36 of Commission Regulation (EC) No. 718/2007 and to comply with the relevant national rules on the payment trail by public resources, each final beneficiary contributes to identify, at the bank account, the amounts of the pre-financing payment disbursed and the related interests accrued. In case this is not possible, the accounting methods adopted by the final beneficiary must enable to identification of the pre-financing payment disbursed and the interests or other benefits produced.

2. Payments to the Lead Beneficiary will be made according to the funds flow from the European Commission. If funds from the European Commission have not been transferred, the Managing Authority of the IPA Adriatic Cross-border Cooperation Programme shall be entitled to suspend the reimbursements required or terminate this Contract without any responsibility towards creditors of final beneficiaries.

3. The Lead Beneficiary after having received the copies of the DVEs from one or more final beneficiaries that in a reporting period received one or more DVEs, prepares the AR and sends it to the Managing Authority. The Managing Authority shall control the correctness of the AR, taking into account the implementation of the entire Project, and issues the order of payment, within 45 calendar days (or 60 calendar days for Projects which are particularly complex to evaluate) from the date on which the AR was initially received. The AR approval does not imply recognition of its regularity nor of its authenticity, completeness and correctness of the declarations and information contained. Payment of the eligible preparation costs should be included in the first Progress Report.

4. In case that AR is not admissible, the Managing Authority shall inform the Lead Beneficiary and may require additional checks, information or documents. The payment request shall be suspended only one time and it shall be done within 30 calendar days from the date on which the payment request was initially received. The Managing Authority's information shall include a description of all deficiencies.

5. Where a recovery procedure is in progress, or any final beneficiary is charged with crimes or attempt of crimes against the European Community or the national budget or irregularity arise from the control and audit procedures, the Managing Authority does not approve the AR. It may order the payment of a reduced sum in proportion to the unapproved amount requested or may proceed with a financial off-set of the amounts already paid. The Managing Authority may also

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suspend payments to any final beneficiary where the MA has information that the final beneficiary is involved in a recovery procedure in progress, or was charged with crimes or attempt of crimes against the European Community or the national budget managed in other European or National financial programmes. The payment of balance regarding the final beneficiary involved in such case, will be authorised once the unforeseen difficulties have ceased.

6. Due sums shall be paid within no more than 45 calendar days from the date on which an admissible payment request is authorised by the Managing Authority; the date of payment shall be meant as the date on which the Institution's account is debited. Payments shall be in euro value and transferred to the Lead Beneficiary's bank account. Where the final beneficiary is established in one of the Participating Country that hasn't adopted the Euro as national currency, the expenditures incurred in the national currency shall be converted in Euro, using the monthly accounting exchange rate of the European Commission in the month in which the expenditure was submitted by the final beneficiary to the controllers as referred to in Article 108 of Reg. (EC) 718/2007. This exchange rate is published by the European Commission each month at Inforeuro internet site: <http://ec.europa.eu/budget/inforeuro/index.cfm?language=en>.

7. Where the time limits laid down in the previous paragraphs 3 and 6 of this Article are expired, the Lead Beneficiary shall be entitled to require interest in accordance with the following provisions:

- a) the interest rate shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the "C" series of the Official Journal of the European Union, in force on the first calendar day of the month in which the deadline falls, increased by three and a half percentage points;
- b) the interest shall be payable for the period elapsing from the calendar day following the time expiration for payment up to the day of payment.

8. By way of exception, when the interest calculated in accordance with the provisions called above is lower than or equal to EUR 200, it shall be paid to the Lead Beneficiary only upon a demand submitted within two months of receiving late payment.

9. Finally, if the Lead Beneficiary will not submit to the Managing Authority a valid Application for Reimbursement during the Project implementation period and, in any case, within the extra expiration term of 30 calendar days given upon the receipt of Managing Authority's invitation, the Managing Authority will be free from the obligation to pay the Community contribution. In such a case, the Lead Beneficiary and any other Project's final beneficiary renounces to claim for a compensation for the loss of the reimbursement right.

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ARTICLE 17 – PROJECT CHANGES

1. The balance reimbursed to the Lead Beneficiary may not exceed the maximum amount required in the Project Application Form and in any updated relative document, neither in terms of absolute amount nor in percentage of the Community and National contribution rates.

2. The LB has to request the modification of the IPA Subsidy Contract in the case of substantial changes in the Project, as follows:

- a) changes in the Partnership composition;
- b) changes in the content of the Project;
- c) budget reallocation between Project Partners;
- d) budget reallocation between budget lines and/or work packages exceeding 20% of the Project budget;
- e) extension of the Project duration.

Any request for modification of the Project has to be well justified and submitted by the LB to the Managing Authority in a written form. The Managing Authority reviews the request, submits it to the Joint Monitoring Committee decision and adopts an explicit act within 45 days from the receipt of request.

Any Project change that doesn't fall under the abovementioned hypotheses may be communicate to the MA by prior notice. In such case, the MA may agree, modify or refuse it, without JMC decision, within 30 days from the receipt of notice and the silent is considered as consent.

When changes have been occurred, the MA will inform immediately the National Authorities/Coordinator of the Participating Countries where the final beneficiaries involved in the Project are located as well as the relevant FLCOs.

3. With the aim to avoid any risk of an automatic de-commitment of the Programme's financial contributions, as referred to in Article 137 of Regulation (EC) No. 718/2007 and without prejudging the termination of the IPA Subsidy Contract, if the final beneficiaries are unable to proceed with the expenditures envisaged or the expenditure flow goes below forecasted in the Project Application Form and updated at the date of Project's start, the JMC may reduce the Community contribution granted to the Project in the amount that has been validated and certified at a given date or to the different amount that really appears to be reported within the expiration of the Project's implementation period.

4. Changes regarding the Project's partnership composition are exceptionally possible if agreed with the MA and approved by the Joint Monitoring Committee, provided that it will be proposed without any prejudice to the rules set out in the Call for Proposals and with the aim to confirm the Project's objectives.

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5. Project's changes can be approved not later than six months before the expiration of the Project's implementation period.

ARTICLE 18 - RECOVERY PROCEDURE

1. In case of the IPA Subsidy Contract termination, or of a breach of the IPA Subsidy Contract, or irregularity arise from the control and audit procedures, the amount of the Community contribution received shall be returned or will be subject to a financial off-setting.

2. In accordance with Article 138 (2) of Reg. (EC) 718/2007, the Managing Authority will proceed to recover the undue amount towards the Lead Beneficiary and towards the final beneficiary involved. Within the last day of the fourth month following the issuing of the recovery's order, the Lead Beneficiary or the final beneficiary involved shall pay back the undue amount to the Certifying Authority.

3. Within 15 calendar days from receipt of the recovery's order, the Lead Beneficiary or the final beneficiary involved may submit remarks and evidence that justify its opposite opinion. This notice interrupts the expiration time in order to provide the required repayment. If the Managing Authority will not accept such remarks and evidence, it will give reasonable motivations in the response letter. Interruption of the recovery procedure might occur only one time and if the Lead Beneficiary or the final beneficiary involved provides information or documents regarding facts or qualifications which are not already at disposal of the Managing Authority or are acquired from other Public Institutions.

4. The final beneficiary shall repay any amount unduly received upon receipt of the recovery order. 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. In compliance with Article 138 (1) of Reg. (EC) 718/2007, interests will be calculated in accordance with Article 102(2) of Regulation (EC) 1083/2006. Interests shall be paid in Euro (€). Each partial payment will be charged firstly against the interest and then against the capital share.

5. Procedural expenditures related to recovery shall be borne entirely by the final beneficiary involved.

6. Besides the Managing Authority, the National Authority/Coordinator for the Programme of the Participating Country that hosts the final beneficiary or the European Community may jointly or severally recover the undue amount with any legitimacy action including the financial off-setting with any other Community or National contribution granted to the final beneficiary.

7. The Managing Authority's recovery order is a public order enforced in compliance with the European regulations and the relevant national rules.

8. In case of a mistake resulting as an error of fact or in law, the Managing Authority shall cancel or adjust the order of recovery.

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ARTICLE 19 – FINANCIAL GUARANTEES

1. In order to limit the financial risks of the unrecovered amount, in compliance with the Community or National compulsory rule, the Managing Authority, on the basis of risk assessment, may require to the Lead Beneficiary or to a single final beneficiary to provide an adequate performance guarantee, prior to the IPA Subsidy Contract's signature.
2. The guarantee shall be provided by an approved bank or financial institution established in one of the European Member States or Participating Country to the Programme, if that bank or financial institution offers equivalent security as the one offered by a bank or financial institution established in an European Member State.
3. The MA may require to replace the bank guarantee with a final joint guarantee provided by all the Project Partners.
4. The guarantee has to be issued on behalf of the MA and it has to be paid off at first-call requirement, in compliance with the Community and national relevant rules. It includes red interests accrued on the guaranteed amount and shall be provided in euro.
5. The guarantee may be released pro-rata in proportion of the reductions of grant, progress payments and payment of balance. However, it has to cover the period envisaged for carrying out the possible controls on the expenditures reimbursed.
6. Where applicable, the financial guarantees shall be collected from the each final beneficiary by the Lead Beneficiary and sent to the Managing Authority.
7. No financial guarantee shall be required to any public final beneficiary.

ARTICLE 20 – FINANCIAL AUDIT REPORTING

1. If the grant to any final beneficiary exceeds EUR 500.000, the Lead Beneficiary has to submit to the Managing Authority, before the signature of the IPA Subsidy Contract, an audit report produced by an approved external auditor regarding the final beneficiary involved. That report has to certify the accounts of the last 2 financial years available.
2. The Managing Authority may, depending on risk assessment results, renounce the obligation referred to in the above provision or require the audit report with the first AR submitted in any of budget year of the Project's implementation period.
3. Where applicable, the financial audit reports shall be collected from the each final beneficiary by the Lead Beneficiary and sent to the Managing Authority.
3. No financial audit reports shall be required to any public final beneficiary.

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