

# INTERREG V A Italy – Croatia CBC Programme

## Strategic Project Proposal SUBSIDY CONTRACT

Project ID: \_\_\_\_\_[XXX]\_\_\_\_\_

Project acronym: \_\_\_\_\_[XXX]\_\_\_\_\_

Project title: “ \_\_\_\_\_[XXX]\_\_\_\_\_ ”

Version n. 1 of 17<sup>th</sup> September 2019

## **Glossary**

AA	-	Audit Authority
AF	-	Application Form
AfR	-	Application for Reimbursement
EC	-	European Commission
ERDF	-	European Regional Development Fund
EU	-	European Union
FDR		Fondo di Rotazione (Italian Rotation Fund)
FLC	-	First Level Control
JS	-	Joint Secretariat
LP	-	Lead Partner
MA	-	Managing Authority
MC	-	Monitoring Committee
PA	-	Partnership Agreement
PP	-	Project Partner
SIU	-	Sistema Informativo Unificato (Unified Information System)

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**Subsidy Contract**

for the implementation of the Strategic project: “ \_\_\_\_\_ [XXX] \_\_\_\_\_ ”

*Project ID number: 1004\_ \_\_ [XXX] \_\_\_\_,*

**within the**

**Interreg V A Italy Croatia Cross-border Cooperation Programme 2014-2020,**

The following Subsidy Contract (hereinafter referred as the “Contract”) between

Regione del Veneto - Veneto Region - Unità Organizzativa AdG Italia-Croazia - Organizational Unit Italy – Croatia Managing Authority, Rio Tre Ponti Dorsoduro 3494/a – 30123, Venezia - Italy, Tax number: 80007580279, acting as Managing Authority (MA) of the Programme, and represented for the purpose of signature by the MA Director Silvia Majer born in in Venice on 06.10.1964, TAX number MJRSLV64R46L736O

and

Lead Partner of the project

Address: \_\_\_\_\_ [XXX] \_\_\_\_\_

Postcode: \_\_\_\_\_ [XXX] \_\_\_\_\_

Town: \_\_\_\_\_ [XXX] \_\_\_\_\_

Country: \_\_\_\_\_[XXX]\_\_\_\_\_

Tax number: \_\_\_\_\_[XXX]\_\_\_\_\_

acting as the Lead Partner (hereinafter referred to as LP) meaning the Lead Beneficiary, as defined in Article 13 (2) of Regulation (EU) 1299/2013 -

and represented by \_\_\_\_\_XXX\_\_\_\_\_ born in \_\_\_\_\_XXX\_\_\_\_\_ on \_\_\_\_\_XXX\_\_\_\_\_, TAX number \_\_\_\_\_XXX\_\_\_\_\_

is signed on the basis of the rules and documents as specified in art. 1 of this Contract and lays down the implementing arrangements for the Strategic project “\_XXX\_”, ID \_\_\_\_\_XXX\_\_\_\_\_

## Art. 1

### Legal framework

The Contract is concluded on the basis of the following legal provisions:

#### 1. European Structural and Investment Funds 2014-2020 key regulations

- 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;
- 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;

- Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal;
- Commission 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;
- Commission Implementing Regulation (EU) No 821/2014 of 28 July 2014 laying down rules for the application of Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards detailed arrangements for the transfer and management of programme contributions, the reporting on financial instruments, technical characteristics of information and communication measures for operations and the system to record and store data;
- Commission Delegated Regulation (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds;
- Commission Implementing Decision of 16 June 2014 setting up the list of regions and areas eligible for funding from the European Regional Development Fund under the cross-border and transnational components of the European territorial cooperation goal for the period 2014 to 2020 (2014/388/EU);
- Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union repealing Council Regulation (EC, Euratom) No 966/2012;
- 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;

- Commission Decision of 19.12.2013 on the setting out and approval of the guidelines for determining financial corrections to be made by the Commission to expenditure financed by the Union under shared management, for non-compliance with the rules on public procurement;
- Commission Delegated Regulation (EU) 2015/1970 of 8 July 2015 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the European Regional Development Fund, the European Social Fund, the Cohesion Fund, and the European Maritime and Fisheries Fund;
- All other EU legislation and the underlying principles applicable to the LP and its Project Partners (hereinafter referred to as PPs) including the legislation laying down provisions on public procurement, on competition and entry into the markets, the protection of the environment, the equal opportunities between men and women;
- Articles 107 and 108 of the Treaty on the Functioning of the European Union, Commission 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, Commission Regulation (EU) No 360/2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest, and other delegated and implementing acts as well as all applicable decisions and rulings in the field of state aid.

## 2. Programme documents

- The Interreg V A IT-HR - Italy-Croatia Cross Border Cooperation Programme document adopted by the European Commission on 15<sup>th</sup> December 2015, Decision C (2015) 9342 (CCI 2014TC16RFCB042) and further amendments;



- All documents related to the Programme (general Programme documents, legal documents, operational documents) and any other documents relevant for project progress in their latest version as published on the Programme official website or handed over to the LP directly during the project implementation;
- The Strategic set of Calls for proposal of the Interreg Italy Croatia CBC Programme as launched with Regional Government Resolution n. \_\_\_\_[XXX]\_\_ of the \_\_\_\_[XXX]\_\_ , published in the Veneto Region Official Bulletin n. \_\_\_\_[XXX]\_\_ of the \_\_\_\_[XXX]\_\_ and in the official Programme website;
- The ranking list of Strategic projects approved by the MC for financing within the Programme per Strategic Themes and type of project, as indicated in the Regional Decree No. \_\_\_\_[XXX]\_\_ of the \_\_\_\_[XXX]\_\_ of the Director of the Organizational Unit Italy-Croatia MA and further amendments.

### 3. National regulations

- Decision n. 10 of the 28<sup>th</sup> of January 2015 of the Italian Interministerial Committee for Economic Programming (CIPE): "Definition of the criteria for the National public co-financing of the European programmes for the 2014-2020 programming period and the monitoring. Planning of the complementary interventions as stated in art.1, par. 242, of the law 147/2013 foreseen in the Partnership Agreement for 2014-2020";
- Italian Law n. 241, 7th of August 1990 "The Italian Administrative Procedure Act", as modified by the Italian Law n. 15/2005 and Law n. 69/2009 and subsequent modifications and supplements;
- Other national regulations of the Italian Republic and the Republic of Croatia applicable to the LP and PPs in their respective countries.

#### 4. Additional Principles

- In case EU regulations are in place for a certain topic, these take precedence. In the absence of EU regulations and/or Programme specific regulations, national rules apply;
- In case of amendment of the above mentioned legal norms and documents, and any other documents of relevance for the contractual relationship the latest version shall apply.

#### **Art. 2**

##### **Language**

1. English is the working language of the Programme. The language of the present Contract is English, thus any official internal document of the project shall in principle be made available in the language of this Contract. All official correspondence with the MA and JS under this Contract shall be in English.
2. In case of a translation of this Contract entirely or in some part or Annexes into another language than English, the English version shall prevail.

#### **Art. 3**

##### **Award of Subsidy**

1. The present Contract, drawn up in the form of a legally binding private agreement, establishes the funding conditions for all the final beneficiaries, partners of the project, hereby represented by the LP. In accordance with art. 132 of CPR, this Contract does provide the obligation by the MA to assign and transfer to the LP the ERFD funding as well as the FDR when the LP is Italian. In case of Croatian LP the FDR is transferred directly to the concerned Italian PPs. Details are regulated in Factsheet n. 6 "Project Implementation".

2. The LP is responsible for transferring the due contribution to the PPs by means of the signature of an ad-hoc agreement named Partnership Agreement (hereinafter referred to as “PA”).
3. Based on the Application Form as approved in compliance with the decision of the MC of the \_\_\_\_\_[XXX]\_\_\_\_\_, an earmarked subsidy, granted in the form of non-repayable financing, is awarded by the MA to the LP with Regional Decree n. \_\_\_\_\_[XXX]\_\_ \_ of the \_\_\_\_\_[XXX]\_\_\_\_\_ of the for the implementation of the project.

Maximum ERDF amount of funding awarded	_____ [amount] _____ EUR
Approved Partners’ co-financing	_____ [amount] _____ EUR
Approved total project budget	_____ [amount] _____ EUR

4. The final ERDF contribution awarded by the Programme consists of the 85% of the total eligible costs reported by each PP and certified by its respective FLC.

**Art. 4**

**Terms of funding**

1. The subsidy is awarded exclusively for the project as it is described in the latest version of the AF in accordance with the conditions set out by the MC. The AF and its annexes, as approved in compliance with the decision of the MC, form an integral part of this Contract.
2. Disbursement of the subsidy is subject to the condition that the European Commission and the Italian National Authority make 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 amount of ERDF contribution awarded to it by the MC, the MC may decide to reduce the award accordingly following the procedure as specified in the Factsheet n. 6 “Project Implementation”.
6. Disbursement of the subsidy is subject to the condition that this Subsidy Contract is signed by the parties.
7. In case one or more output and/or result targets, as set in the latest approved version of the AF, are not successfully reached, corrective measures may be put in place to ensure the project performance as well as to minimize the impact at Programme level (e.g. adaptation of the project to the changed situation) following the provisions as set out at Article 15 and in accordance with the Factsheet n. 6 “Project Implementation”.
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 AF, except for the case covered by Article 23, the Programme may also reduce the ERDF contribution allocated to the project or, if necessary, stop the project by terminating the Subsidy Contract in accordance with the provisions as set out at Article 22.

## Art. 5

### Advance payment and financial guarantee

1. In compliance with the articles 81 par. 2 and 132 of the CPR and subject to the availability of funds by the Programme, an advanced payment from the ERDF, as well as from the FDR when the LP/PPs is an Italian public body or body governed by public law, for an amount of 10 per cent of the overall due contribution can be requested to the MA. For the purposes of this advance payment an official request is needed from the LP on behalf of the partnership. Requests for advance payments can be sent to the MA only after the MA receives the present Contract duly signed by the LP; the request shall be accompanied by the duly signed PA.
2. In order to limit the financial risks linked to unrecovered amounts, in compliance with EU or National compulsory rules, the LP shall require to its private PPs to provide an adequate financial guarantee to cover their respective share of the advance payment, as regulated in the appropriate sections of Factsheet n. 6 “Project Implementation”. The financial guarantees shall be collected from each PPs by the LP and sent to the MA. No financial guarantee shall be required to any public or governed by public law PPs.
3. The advance payment will be deducted during the implementation period of the Contract as regulated in the appropriate sections of Factsheet n. 6 “Project Implementation”.

## Art. 6

### Duration of the project

1. According to the AF, the project has a duration of \_\_\_[XXX]\_\_\_ months. The project activities, that should not be started before the submission of the application, have to be carried out and finalized within the project implementation period consisting of the following schedule:
  - start date: \_\_\_[dd/mm/yy]\_\_\_

- end date: \_\_\_\_\_[dd/mm/yy]\_\_\_\_\_

therefore, the project expenditure has to be incurred within this period.

2. The preparatory phase for the elaboration of the project proposal and the time needed for project administrative and financial closure shall be separately considered.
3. Administrative duties of the LP and PPs related to the closure of the project shall take place over a period of three months after the project end date.
4. The extension of the project duration is not admitted except for duly justified and extraordinary cases and shall follow the procedure as laid out in Factsheet n. 6 “Project Implementation”.

#### **Art. 7**

##### **Use of SIU System and communication exchange**

1. The Programme uses the SIU System, the on-line management and monitoring system of the Veneto Region, for application, reporting, applying for project modifications and other procedures related to the implementation of the project. Every access to the SIU will be registered by the System and each user is responsible for keeping safe the username and password and for all activities done with the username. Access to the SIU as well as instructions on usage are defined in the SIU User Manual.
2. Exchange of information, relevant supporting documentation, and all correspondence other than the ones pertained to the SIU, between the LP the MA and the other Programme bodies will be carried out through email and certified email, if applicable. In each communication, the LP must specify the number and title of the project.
3. The LP allows to send all the correspondence to its own address as specified in the AF and the present Contract, consisting in the official address for the project implementation.

4. As a general rule, no paper documentation will be exchanged between the LP and JS/MA.

## **Art. 8**

### **Eligibility of costs**

1. The LP and PPs shall implement the project with care, efficiency, transparency and diligence in compliance with this Contract. For this purpose the LP and all the PPs shall mobilize all the financial, human and material resources required for the full implementation of the project as specified in the AF.
2. In order to be eligible at project level, costs must relate to activities foreseen in the AF, be necessary for carrying out the activities, achieve the project's outputs and results, and be included in the estimated budget as planned in the AF.
3. The costs must also be reasonable, justified, consistent with the applicable internal rules of the partner, National, Programme and EU rules and in accordance with the principles of sound financial management (the stricter rule shall always be applied).

The expenditure must be identifiable, verifiable, plausible, determined in accordance with the relevant accounting principles and be backed by original supporting documents.

4. Eligible are only costs that have been paid out between the start date and the end date of the project as set in the AF and in Article 6 of the present Contract, with the only exception of preparation costs and the expenditure related to the project closure. With regard to the eligibility of preparation costs, these will be eligible as a lump sum (total budget) according to Factsheet n. 3 "Project Development" and 6 "Project Implementation". The project closure expenditure refers to the finalization of all the

legal and administrative duties and obligations of the LP and PPs related to the granted activities and to the incurred expenditure as detailed Factsheet 7 “Project closure”.

5. VAT does constitute an eligible expenditure only if it is definitely borne by the LP and PPs and it is shown in the bookkeeping as a project cost. It must be noted that if the VAT is recoverable by whatever mean, it cannot be considered eligible, even if the LP or PPs do not actually recover it. To this aim the LP/PP were requested to define their VAT status in the AF. In case of any doubt, the VAT will be deemed ineligible for that PP. In case the VAT status of the LP/PPs changes affecting the approved budget, the JS/MA have to be informed and relevant documentation is to be provided to justify the change: in any case, there won't be any increase in the assigned budget.

#### **Art. 9**

##### **Representation of the project partnership, liability and obligations of the LP**

1. 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. The LP represents the partnership and acts as the only direct contact between the project and the MA/JS.

The LP is liable towards the MA if obligations as laid out in this Contract or in applicable European Union's or National laws are not fulfilled by the project partnership in the same way as for its own conduct.

Furthermore 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 the PPs, or as a result of violation of a third party's rights.



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 increase in payment in connection with such damage or injury.

2. The LP shall be responsible for ensuring the start and the efficient implementation phase of the project according to the time schedule in the AF, taking the responsibility of the entire operation. To this end, the LP assume the following responsibilities:

As far as operational and administrative issues are concerned:

- a) guaranteeing that the project implementation complies with the legal framework according to art. 1 of this Contract and with all the relevant legal and other requirements under the law which applies to the LP organization and to its PPs and their activities and that all necessary documentation (e.g. building permissions, environmental impact assessment statements) have been obtained;
- b) ensuring the implementation of the entire project in observation of the rules and procedures set in Factsheet n. 6 “Project Implementation” (e.g. monitoring the project physical and financial progress, recording and storing of documents, requests for project changes, implementation of information and publicity measures, etc.);
- c) providing the PPs with all information and documents needed for a sound and legally correct project implementation including requirements related to communication and publicity;
- d) providing data for the Programme electronic management and monitoring system in compliance with this Contract and according to the MA and JS instructions;
- e) submitting with the respective progress report the main outputs and deliverables as stated in the AF and following the procedures set in Factsheet n. 6 “Project Implementation”. One

sample of each developed material or any proof of output realization shall be stored at the LP's or PP's premises for control and audit purposes;

- f) inviting the MA/JS to participate in project Steering Committee meetings as an observer and providing minutes of these meetings to the MA/JS;
- g) undertaking together with all PPs, in accordance with Articles 56 and 57 of Regulation (EU) 1303/2013, to provide JS/MA, experts or bodies authorized by the Interreg V A Italy-Croatia Programme carrying out project evaluations and/or studies with any document or information requested. Information might be provided by the LP and PPs also through surveys and/or interviews;
- h) ensuring that all project documentation is kept available for a period of four years following the project closure or otherwise required by the specific legislation (e.g. State Aid). The time period referred to shall be interrupted either in the case of legal proceedings or by a duly justified request from the European Commission.

As far as financial issues are concerned:

- i) guaranteeing the sound financial management of the funds allocated to the project, including the arrangements for recovering amounts unduly paid;
- j) ensuring that its expenditure and that of the PPs has been paid for the purpose of implementing the project activities as agreed among all the beneficiaries and as defined in the approved AF;
- k) ensuring that the expenditure presented by all PPs has been verified by the controllers duly appointed according to the specificities of the national FLC system of country where the partner is located;

- l) meeting the reporting requirements and collecting documents and information from the PPs in order to submit the progress reports and the AfR;
  - m) receiving the reimbursement amount from the Programme on behalf of the entire partnership and transfer the due amounts to its PPs correctly and within the timeframe agreed in the PA without deducting any amount or specific charge;
  - n) maintaining a separate accounting system for the project implementation purpose, ensuring the identification of each financial operation within the project;
  - o) including in the PA a provision concerning the setup of separate accounting systems by PPs;
  - p) informing the MA immediately if project costs are reduced in a way that has an impact on the approved AF, or one of the disbursement conditions ceases to be fulfilled, or any circumstances arise which entitle the MA to reduce payment or to demand repayment of the subsidy wholly or in part;
  - q) guaranteeing the reimbursement on behalf of the affected PP of the amounts unduly paid to the MA upon receipt of a recovery order following the detection of an irregularity;
  - r) 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.
3. The LP assumes the obligation to stipulate the Partnership Agreement (PA) with each PP, immediately after the entering into force of the present Contract, in order to lay down the arrangements for ensuring that the PPs fulfil their responsibilities and obligations under this Contract. The PA will be established 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 PA provided by the Programme. The MA reserves the right to check the PA in order to verify that it

has been signed and that it is in conformity with the minimum requirements; to this end, the LP should send the signed PA via SIU as attachment to the advance payment request, if submitted, or to the first Progress Report.

The LP will inform JS/MA without any delay about any envisaged changes of the PA.

The LP guarantees that the PA provides also for a clear division, in line with the AF, 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.

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

## **Art. 10**

### **State Aid**

#### **For projects not State Aid relevant**

1. As far as the [project title XXXX, acronym XXXX] is concerned, the LP and all the PPs declared in the AF that the planned activities are not State aid relevant, and this fact was also confirmed by the JS/MA on the basis of the State aid assessment results. Thus, the project activities are not State aid relevant, at the time of the signature of the present Contract.
2. In the frame of this Subsidy Contract the LP ensures that itself and its PPs will respect for the entire project duration the legal framework as reported in the art. 1 of this Contract.

3. The LP will inform the MA immediately about any circumstances arise which could have an impact on the project as approved in the AF in terms of State aid relevance and which entitle the MA to reduce payment or to demand repayment of the subsidy wholly or in part;
4. Moreover, in order to avoid “indirect State aid”, the LP will ensure the respect of the above mentioned regulations and implementing acts, when necessary, by those bodies benefiting of project activities/outputs.
5. The LP is obliged to contractually forward this clause in its entirety to all the PPs through the signature of the PA.

**For project’s activities that are potentially State Aid relevant but the concerned measures do not constitute State aid (*de minimis* regime)**

1. As far as the [project title XXX, acronym XXX and SIU ID number XXXX] is concerned, the LP and the PPs [name of the concerned PPs XXXX and related n. in the AF XXXX] declared in the AF that the following projects activities [list of the concerned project activities as reported in the State aid declaration XXXX] are potentially State Aid relevant but they do not constitute State Aid accordingly to the *de minimis* regulations as reported at the art. 1 of the present Contract, and **this fact was actually confirmed** by the JS/MA on the basis of the State aid assessment results.

or alternatively

As far as the [project title XXX, acronym XXXX and SIU ID number XXX] is concerned, even neither LP nor the PPs declared in the AF that the following projects activities [list of the concerned project activities XXX] are potentially State aid relevant but they do not constitute

State Aid accordingly to the *de minimis* regulations as reported at the art. 1 of the present Contract, **this fact was actually pointed out** by the JS/MA on the basis of the State aid assessment results.

Thus, the following project activities [list of the concerned project activities XXX] does not constitute State Aid at the time of the signature of the present Contract.

2. As the Interreg V A Italy-Croatia CBC Programme public support is given under *de minimis* regime, in the frame of this Subsidy Contract the LP/concerned PP [name of the concerned PPs XXX and related n. in the AF XXX] will receive *de minimis* aid in amount of [0,00XX] euro in accordance with the Regulation (EU) N. 1407/2013 [or (EU) N. 360/2012].

3. Based on the declaration provided within the AF and on the results of the State aid assessment,

the LP/concerned PP [name of the concerned PPs XXX and related n. in the AF XXX] **has not received** *de minimis* aid during the present fiscal year [XXX] and the two fiscal years before;

or alternatively,

the LP/concerned PP [name of the concerned PPs XXX and related n. in the AF XXX] **has received** *de minimis* aid during the present fiscal year [XXXX] and the two fiscal years before as follow [list of the grants received by the LP/concerned PP in de minimis regime XXX], nevertheless, these previous amounts received, together with the actual subsidy to be granted under the present Contract, they would not exceed the limit of [200.000,00 euro] or [500.000,00] as required by the concerned EU regulations [Regulation (EU) N. 1407/2013] or [Regulation (EU) N. 360/2012];

4. The LP is obliged to contractually forward this clause in its entirety to the concerned PPs through the signature of the PA, and in particular it ensures:
- to respect for the entire project duration all necessary requirements provided for in Regulation (EU) N. 1407/2013 or [Regulation (EU) N. 360/2012];
  - to maintain all the documents and records with the information and supporting documentation necessary to establish that all the conditions laid down in the concerned Regulation are fulfilled for the time limit as prescribed at Art. 19 of the present Contract.
  - to assist the MA to comply with document retention requirements and with all the other formalities required under the concerned applicable State Aid rules in force (e.g. registration in the National State Aid Register).
  - to inform the MA immediately about any circumstances arise which could have an impact on the project as approved in the AF in terms of State aid relevance
5. Moreover, in order to avoid “indirect state aid”, the LP also will ensure the respect of the above mentioned regulations and implementing acts, when necessary, by those bodies benefitting of project activities/outputs.

**For project’s activities that are potentially State Aid relevant but they do not constitute a State Aid or are exempted from notification because they are compatible with the Treaty if they fulfill certain conditions accordingly to other delegated and implementing acts and applicable decisions and rulings in the field of State Aid.**

1. As far as the [project title XXXX, acronym XXX and SIU ID number XXX] is concerned, **the LP and the PPs** [name of the concerned PPs XXX and related n. in the AF XXX] **declared** in the AF that the following projects activities [list of the concerned project activities as reported in the State aid declaration XXX] do not constitute a State Aid or are exempted

from notification because they are compatible with the Treaty if the following conditions occurs, according to the [specify the concerned EU regulations/decisions/delegated and implementing acts and applicable decision in the field of State Aid taking into consideration in particular the “Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union” (2016/C 262/01).] and this fact was actually confirmed by the JS/MA on the basis of the State aid assessment results;

or alternatively

As far as the [project title XXX, acronym XXXX and SIU ID number XXXX] is concerned, **even neither LP nor the PPs declared** in the AF that the following projects activities [list of the concerned project activities XXX] do not constitute a State Aid or they are exempted from notification because they are compatible with the Treaty according to the [specify the concerned EU regulations/decisions/delegated and implementing acts and applicable decision in the field of State Aid taking into consideration in particular the “Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union” (2016/C 262/01).]], but this fact was actually pointed out by the JS/MA on the basis of the State aid assessment results.

Thus, the following project activities [list of the concerned project activities XXXX] does not constitute State Aid or they are exempted from notification because they are compatible with the Treaty at the time of the signature of the present Contract.

2. The LP is obliged to contractually forward this clause in its entirety to the concerned PPs through the signature of the PA, and in particular it ensures:



- to respect for the entire project duration all necessary requirements provided for in the concerned EU regulations/decisions/delegated and implementing acts and applicable decision in the field of State Aid;
  - to maintain all the documents and records with the information and supporting documentation necessary to establish that all the conditions laid down in the concerned EU regulations/decisions/delegated and implementing acts and applicable decision in the field of State Aid are fulfilled for the time limit as prescribed at Art. 19 of the present Contract.
  - to assist the MA to comply with document retention requirements and with all the other formalities required under the concerned applicable State Aid rules in force (e.g. registration in the National State Aid Register).
  - to inform the MA immediately about any circumstances arise which could have an impact on the project as approved in the AF in terms of State aid relevance;
1. Moreover, in order to avoid “indirect state aid”, the LP also will ensure the respect of the above mentioned regulations and implementing acts, when necessary, by those bodies benefitting of project activities/outputs.

#### **Art. 11**

##### **Financial control and audit of projects**

1. The financial control and audit of the project aims to increase the efficiency and effectiveness of the management and implementation of the Programme. It includes the setting up and management of the FLC system, and of other authorized controls such as targeted control performed by the MA supported by the JS and Second Level Controls performed by the AA supported by the GoA.

2. The Member States included in the Programme are responsible of the designation of the controllers responsible for verifying that the expenditure declared by each partner located in its own territory participating in a project complies with the applicable law and the Programme rules and that the funded products and services were delivered and paid for. All the costs included in each project report submitted by the LP to the JS must be certified by FLCs according to the National FLC procedure established in the Member States that participate to the Programme and in compliance with the requirements set in the applicable legal framework. Detailed information on the FLC system is described in the Factsheet n. 6 “Project Implementation”.
3. The European Commission, the European Anti-Fraud Office (OLAF), the European Court of Auditors (ECA) and the auditing bodies of the participating MS or other national public auditing bodies, and, within their responsibility, the auditing bodies of the participating EU Member States as represented in the Group of Auditors, as well as the Programme AA, the MA or CA are entitled to audit the proper use of funds by the LP or by the PPs or to arrange for such an audit to be carried out by authorized persons.
4. The LP as well as PPs will produce all documents required for the above controls and audit, provide necessary information and give access to their premises, to their accounting books, to supporting documents and to all other documentation related to the project.
5. The MA has the right to withhold the payments to the LP until all the required information and documentation have been delivered.
6. In case the AA issues statements on the National control systems and defines problems of systemic character the MA has a right to withhold the payments to the LP until the issue has been solved.

## Art. 12

### **Payment arrangements, reporting and Application for Reimbursement**

1. The LP may only request payments by providing proof of progress of the project as described in the approved AF, in particular as described in the work plan.
2. With the exception of the advance payment, the LP has to present progress reports accordingly to the timeframe below at par. 5. After the approval of the Progress Report by the JS, the LP has to submit, via the SIU System, an AfR on the basis of the procedure foreseen in Factsheet n. 6 “Project Implementation”.
3. The financial part of the report shall comprise the amount indicated in all FLC certificates related to the project expenditure that has been paid within the relevant reporting period and that can be objectively and spatially imputed to the project. All project expenditure must be certified by the FLC authorized body. To this end, the LP has the responsibility to check that the control documents (i.e. certificate of verified expenditure, control checklist, list of expenditure) are correct and complete, ensuring that the expenditure presented by all PPs have been verified by the controllers appointed according to the specificities of the national FLC. The activity part of the report shall inform about the project progress (work packages, deviations in comparison to planned activities, achievement of the project indicators and the envisaged next steps).
4. The LP shall make sure that the project progress is in line with the work plan per work packages, the time schedule and the approved budget, as indicated in the AF.
5. The progress reports and the final report have to be submitted according to the timeframe indicated in the following table: *(table to be adapted to each project according to the relevant Call and timeline)*

Reporting period	Timeframe	Deadline for drafting and presentation of the Progress Reports/Final Report	Spending forecast (eligible costs to be reported in the given reporting period)
1	[mm/yy]	[mm/yy]	[amount]EUR
2	[mm/yy]	[mm/yy]	[amount]EUR
3	[mm/yy]	[mm/yy]	[amount]EUR
4	[mm/yy]	[mm/yy]	[amount]EUR
5	[mm/yy]	[mm/yy]	[amount]EUR

6. The final progress report is due to the JS/MA within three months after the project closure date at the latest, unless differently communicated by the MA. It shall report the last project activities implemented and an added part focused on the main project results and outputs as well as its impact on the cooperation area.
7. In case of deviation from the original spending forecast the MA is entitled to de-commit the project contribution as consequence of the provisions of the Article 16 of the present Contract.
8. After having performed the necessary checks aimed to ensure the accuracy and correctness of the AfR, the MA subject to the availability of funding, and in accordance with art. 132 of CPR, issues the payment of the ERDF contribution to the LP. The MA will also pay the FDR contribution, where due, to the Italian LPs or PPs, according to art. 3.

### **Art. 13**

#### **Withdrawal or recovery of unduly paid-out funds**

1. In case the MA or CA discover any unduly paid out funds (e.g. due to administrative errors or irregularities, a breach of contract or infringement of the legal provisions as laid out in Art. 1 of this Contract) or in case the MA is notified of such cases by the AA, they shall, if necessary in consultation with the respective MS concerned and by informing the MC, demand from the LP the repayment of the subsidy in whole or in part. Further specification are laid out in Factsheet n. 6 “Project implementation”.
2. In case factors behind the recovery procedure show violation of the present Contract the MA will consider the termination of the Contract as last resort (see Art. 22 of this Contract). In any case the partnership will be heard before taking a final decision on the termination of the Contract.

### **Art. 14**

#### **Information and communication**

1. Any notice of publication by the project must specify that the project has received a subsidy from the Programme funds. In any public material used to promote or disseminate the project activities, whether printed or electronically available, the use of the Programme logo and the EU emblem (flag) together with reference to the EU and ERDF is mandatory in compliance with the requirements set in the Programme and operational documents.
2. The JS/MA shall be authorized to publish, in whatever form and on or by whatever medium, including the internet, the following information:
  - the name and identification data of the LP and its PP(s);
  - the purpose of the subsidy;

- the total project budget (ERDF contribution + National co-financing + other public and private funding + PPs own resources);
  - the geographical location of the project;
  - summary description of activities carried out included in the Progress Reports and the Final Report.
3. The LP is obliged to inform the JS/MA on possible sensitive/confidential issues that cannot be published in the Programme newsletters and website.
4. The LP and each PP are obliged to ensure that at least basic information about the project (aims, partners, amount of funding and its source, description of activities) is available during project implementation and to closely apply all the rules related to Communication available in the Factsheet n. 8 “Project Communication”. Once the project is concluded, this information must include the main results and outputs available for dissemination.

#### **Art. 15**

##### **Project changes and amendments to the Subsidy Contract**

1. The LP shall be allowed to carry out project changes under the conditions set out below.
2. Changes in the budget are allowed as long as the maximum amount of ERDF contribution awarded is not exceeded. The LP is allowed to carry out minor budget reallocations between work packages, budget lines and PPs according to the flexibility provisions as set up in Factsheet n. 6 “Project Implementation”. Content-related minor changes shall be reported and justified within the progress reports.
3. Budget related changes exceeding the flexibility provisions as set up in Factsheet n. 6 “Project Implementation” and content-related changes that are resulting in major changes in the project’s activities, outputs and/or results, require the prior and official

approval of the MC. These changes shall be reported to the MA/JS and described in a well-founded request for the envisaged changes and a revised AF. All these kinds of project changes will only enter into force after the approval by the MC has been given.

4. Changes in the project partnership require the prior approval of the MC and shall be described in a request for change and revised AF, which have to be submitted to the MA/JS. The LP is aware of the fact that the MA is entitled to withdraw from this Subsidy Contract if the minimum number of project partners is no longer ensured. If a reduction of the project participants would consist in a change in the evaluation result of the project, a re-approval by the MC is necessary. Until this decision is made by the MC, the LP and PPs shall stop any payments for activities that result in costs related to the project.

5. Amendments and supplements to this Contract as a consequence of the project changes, are

required in the following cases:

- Modification of budget (reallocation above the allowed flexibility rules and reallocations between PPs);
- Changes in the content of the project (including additional or reduced project activities, deliverables and outputs), main characteristics of planned outputs and investments, project objectives and results (going beyond a mere adjustment of the work plan);
- Changes in the partnership (e.g. withdrawal, replacement of a partner);
- Prolongation of the project duration.

In case such change is approved by the MC, the Subsidy Contract and the AF of the project are to be amended accordingly, following the provisions as laid out in the Factsheet n. 6 “Project Implementation”.

## **Article 16**

### **De-commitment**

1. According to Article 136 of Regulation (EU) No 1303/2013 the European Commission shall automatically de-commit any part of a budget commitment of a Programme that has not been used by 31 December of the third year following the year of budget commitment. This de-commitment risk on Programme level is consequently considered on project level.
2. Based on the fact that the payments by the European Commission to the MA/CA will only be made in accordance with the corresponding budget commitments, the LP must report on the expenditure as foreseen in the financial plan of the AF for each reporting period.
3. If financial performance does not meet the forecast as approved in the AF, the project may be subject to de-commitment as specified in Factsheet n. 6 “Project Implementation”.

## **Art. 17**

### **Revenues**

1. Earnings generated during the project implementation phase 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 of EU Regulation N. 1303/2013 and provisions set out in Factsheet n. 6 “Project Implementation”. The LP undertakes to contractually forward these stipulations to its project partners.



## **Art. 18**

### **Durability and ownership of project outputs and results**

1. Ownership, title, industrial and intellectual property right related to the results of the project shall, depending on the applicable national law and/or the PA, rest with the LP and/or PPs.
2. If the project envisages infrastructures or productive investments it is subject to the provisions of Article 71 of CPR Regulation. 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 ERDF contribution in proportion to the period for which the requirements have not been met.
3. The LP ensures, through the PA, that results and outcomes of the project are joint property of all PPs. The PA also ensures that the specific national rules and instructions relevant for the ownership rights (title, intellectual and industrial property rights) of the project outcomes and results are taken into account when necessary.
4. The LP ensures that the results of the project, especially any study, analysis or database produced during the implementation shall be made available to the public in the Programme official web site, in open format, in order to guarantee a widespread dissemination of the project's outcomes in accordance with the approved AF.
5. The MA reserves the right to use the outputs and results for information and communication actions 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.

6. 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.

## **Art. 19**

### **Archiving of project documents**

1. The LP/PPs are at all times obliged to retain for audit purposes all official files, documents and data about the project in original and possibly on customary data storage media (in the form of digital copies, microfiches and electronic versions) in a safe and orderly manner for 4 years after the closure of the project. Longer statutory retention periods stated by national law remain unaffected. Additional information are available on Factsheet n. 6 “Project implementation”.
2. The LP/PPs are obliged to store the invoices and to keep them clearly traceable in the bookkeeping for the FLC and audit purposes and maintain records of invoices and bodies holding documentation in the audit trail in accordance with Article 140 of CPR Regulation. The maintained and updated records/lists are made available to the JS/MA.
3. In addition LP/PPs must assist the MA to comply with document retention requirements and with all the other formalities required under any applicable State Aid rules in force (e.g. registration in the National State Aid Register). Where projects are operating under a State Aid scheme, LP/PPs must maintain detailed records with the information and supporting documentation necessary to establish that all the conditions laid down in the Regulation are fulfilled. Such records must be kept for 10 years after the last aid is granted under the scheme.

## Art. 20

### Assignment, legal succession

1. The MA is entitled at any time to assign its rights and duties. In case of assignment the MA will inform the LP without delay. In case of legal succession the MA is obliged to transfer all duties under the present Contract to the legal successor.
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 MC. The procedure is further specified in Factsheet n. 6 “Project Implementation”.
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 MC is not necessary. The LP, however, will submit related information together with all documents that are necessary to analyse the legal case in due time to the MA/JS. If the MA/JS come to the conclusion that 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 Article 15 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.

## **Art. 21**

### **Complaints and litigation**

1. Any complaints against acts, omission and/or decision of the MA/JS during the project implementation phase or by the MC decisions on the basis of the present Contract shall be submitted by the LP on behalf of the partnership to the MA for the examination as indicated in FS6 “Project implementation”.
2. The LP, as well as the interested partner, can file a formal complaint against act, omissions and/or decisions of control and audit bodies (controllers, auditors, etc.) related to the national control system following the procedures set in place at national and EU level.
3. Further specification on the complaint procedures set-up for the Programme are laid out in Factsheet n. 6 “Project Implementation”.
4. This Contract is governed by and construed in accordance with the laws of the Republic of Italy. Before instituting court proceedings, generally the parties agree to find an amicable and mutually acceptable solution. In the absence of amicable settlement and in case of litigation the legal proceedings will be held in Italy; the venue is the Civil Court in Venezia.

## **Art. 22**

### **Termination and repayment**

1. 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 PPs 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) and managed by the LP without following the provisions as set out at Article 15 of this Contract, that has put at risk the achievement of the results planned and stated in the latest version of the approved AF;
- f) the LP has failed to submit required reports 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, as stated in Article 12;
- g) the LP has infringed its duty to ask for prior written approval where indicated by this Contract 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;
- h) the LP or its PPs obstructed or prevented the financial control and auditing procedures as indicated at Article 11 of this Contract;
- i) the amount of funding awarded has been partially or entirely used for purposes other than those agreed upon;
- j) 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;

- k) the provisions related to income and revenues as mentioned in this Contract are infringed or the LP does not make available the outputs to the MA;
  - l) exceeding the permissible limits of the funding regulations the LP wholly or partly sells, leases or lets the project outputs/results to a third party;
  - m) 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;
  - n) 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;
  - o) the LP has failed to fulfil any other conditions or requirements for assistance stipulated in this Contract and the provisions it is based on.
2. Prior to or instead of terminating the Contract, 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 the date as stated in the letter by which the MA asserts the repayment claim.

4. If the MA exercises its right of termination, offsetting by the LP is excluded unless its claim is undisputed or recognized by declaratory judgment.
5. After termination of this Contract, the LP's obligations and liabilities remain. Bank charges incurred by the repayment of amounts due to the MA shall be borne entirely by the LP. If any of the circumstances indicated in the aforementioned par. 1 occur before the full amount of subsidy has been paid to the LP, payments may be discontinued and there shall be no claims for payment of the remaining amount.
6. Any further legal claims shall remain unaffected by the above provisions.

#### **Art. 23**

##### **Force majeure**

1. Force majeure shall mean any unforeseeable and exceptional event affecting the fulfilment of any obligation under this Contract, which is beyond the control of the LP and PPs and cannot be overcome despite their reasonable endeavours. 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 Contract, the LP shall notify the MA/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.

#### **Art. 24**

##### **Concluding provisions**

1. According to the Italian Law, the present Contract is subject to the official internal registration at the responsible Office of the Veneto Region (Ufficiale Rogante).
2. According to the Italian fiscal regulation, VAT treatment and the stamp duty do not apply as the subsidy of the present Contract does not consist of a payment due amount.
3. According to the Italian Law, the present Contract is subject to registration only in the event of its use, in accordance with the art. 4 “Tariffa parte seconda” of the Italian Presidential Decree n.131/86 and in fixed measure, as regards the stamp duty, with the article 16 of the Annex B of the Italian Presidential Decree n. 642/1972.
4. All additional expenses, charges and taxes deriving from entering into, and executing, the present Contract shall be borne by the LP.
5. The specific requirements set by the legal framework of this Contract concerning e.g. archiving, ownership rights, generation of revenues, audit trail, audit and publicity measures are valid for the LP and PPs beyond the expiration date of the Subsidy Contract.
6. If any provision in this Contract should be wholly or partly ineffective, the parties will replace ineffective provision by an effective provision which comes as close as possible to the purpose of the ineffective provision. This procedure is conducted in written form by the parties



concerned. In case of differences that are not ruled by this Contract the parties concerned will agree on aiming to find a mutual consent on the issue.

7. For matters not expressly provided in the present Contract the parties submit to the laws in force as listed in the legal framework herein and, where applicable, to the Italian Civil Code.

## Article 25

### Binding documents

The following AF is binding and it is the reference document of the Contract:

- I. The AF as approved in compliance with the decision of the MC \_\_\_\_ [XXX] \_\_\_\_ – version of \_\_\_\_ [XXX] \_\_\_\_ submitted on \_\_\_\_ [XXX] \_\_\_\_ (ID request: \_\_\_\_ [XXX] \_\_\_\_).

The provisions included in the operational documents of the Programme related to the concerned Strategic Call for proposal officially adopted by the MC do constitute binding rules to be respected.

## Article 26

### Entry into force and expiration

1. The present Contract shall enter into force as from the date of signature by the MA.
2. The LP must submit the signed Subsidy Contract to the MA within 30 days from the date of receiving of the Contract by the MA.
3. The Contract is signed digitally where due and whenever possible or, if not possible, with hand-written signature in three original copies of which one is kept by the LP and two by the MA.
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

shall remain into force until the LP has discharged in full its obligations towards the MA in accordance with obligations on availability of documents as defined in Article 140 of Regulation (EU) No 1303/2013.

Place, date:

Place, date:

For the MA of Italy-Croatia CBC Programme,

For the Lead Partner,

Name and function

Name and function

Silvia Majer, Director

[XXX] LP legal representative or Picos