



**Hungary-Serbia**  
IPA Cross-border Co-operation Programme

## **Model Subsidy Contract for Community Funding**

**Project ID:**

**Project acronym:**

**Project title:**

*For information purposes only, the Managing Authority reserves the right to change it before signature!*



The Programme is co-financed by the  
European Union

**Subsidy Contract**  
**for the implementation of the Project**  
**No: ....., Acronym: .....,**  
**Title: .....**

**within the**  
**Hungary-Serbia IPA Cross-border Co-operation Programme**

The following Subsidy Contract (hereinafter referred to as the Contract) is concluded between

**National Development Agency**

acting as the Managing Authority of the Hungary-Serbia IPA Cross-border Co-operation Programme (hereinafter referred to as the Managing Authority)  
Address: 1077 Budapest, Wesselényi u. 20-22., Hungary  
National tax number: 15598323-2-41

on one hand,

and

**Lead Beneficiary organisation**

address, postal code, town, country  
**National tax number:**

on the other hand,

acting as the Lead Beneficiary

hereinafter jointly referred to as the Parties,

based on the following legal framework:

- COUNCIL REGULATION (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA);
- COMMISSION REGULATION (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an Instrument for Pre-Accession Assistance (IPA), (hereinafter referred to as the IPA Implementing Regulation);
- COUNCIL REGULATION (EC, Euratom) No 1605/2002 of 25 of June 2002 on the Financial Regulation applicable to the general budget of the European Communities;
- COMMISSION REGULATION (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities;
- COMMISSION DECISION C(2007)2034 on the 'Rules and procedures for services, supply and works contracts financed from the general budget of the European Communities for the purposes of cooperation with third countries';
- COMMISSION REGULATION (EC) No 800/2008 of 6 August 2008 on declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General Block Exemption Regulation).



The following regulations and guidelines have to be also respected in the framework of the present Contract:

- The Programme Document of the Hungary-Serbia IPA Cross-border Co-operation Programme, approved by the European Commission on the 25 March 2008 by Decision No C(2008)1075 (hereinafter referred to as the Programme Document);
- Community rules regarding horizontal policies such as the rules for competition and entry into the markets, the protection of the environment, the equal opportunities between men and women and public procurement;
- National rules applicable to the Lead Beneficiary and its Project Partners (hereinafter also referred to together as Project Partners);
- Chapters 1-5 of the Practical Guide to contract procedures for EC external actions (hereinafter referred to as the PraG).
- the relevant Call for Proposals of the Programme published on the Programme website (hereinafter referred to as the Call for Proposals);
- the Project Implementation Handbook for the Hungary-Serbia IPA Cross-border Co-operation Programme, laying down the programme specific rules for the implementation of the projects (hereinafter referred to as the Project Implementation Handbook);
- the Guidelines for Implementing Information and Publicity Requirements for the Projects in the Hungary-Serbia IPA Cross-border Co-operation Programme, laying down the programme specific rules on information and publicity measures of the projects (hereinafter referred to as the Information and Publicity Guidelines);
- the Control Guidelines for the Hungary-Serbia IPA Cross-border Co-operation Programme, as well as the Control Guidelines for Project Partners laying down national level rules for the control of the expenditure presented by the project partners.

### **Article 1 Award of subsidy**

1. In accordance with the decision of the Joint Monitoring and Steering Committee, dated ..., an earmarked subsidy is awarded to the Lead Beneficiary from the Community funding under the Hungary-Serbia IPA Cross-border Cooperation Programme for the implementation of the project identified on page 1 of the Contract (hereinafter referred to as the Project).

Total project budget:	0,00 EUR
	say:
Maximum Community contribution awarded:	0,00 EUR
	say:
Amount of advance from the Community contribution awarded	0,00 EUR
	say:

2. The Community co-financing rates per Project Partners are set in Annex I. (Application Form, Sources of Funding) of the present Contract. As a general rule, the Community co-financing rates per Project Partners cannot exceed 85 % of the eligible expenditures.
3. The maximum amount of Community contribution awarded for the Project cannot be exceeded.



4. Should the total eligible costs after the completion of the Project be lower than the budgeted amount, the abovementioned Community contribution awarded will be correspondingly reduced according to the Community co-financing rates per Project Partners set in Annex I. (Application Form, Sources of Funding).
5. Reimbursement of the Community contribution is under the condition that the European Commission makes the Community contribution available to the above-described extent.
6. If the European Commission fails to make the Community contribution available or if the Memorandum of Understanding signed by the Participating Countries is no longer in force, the Managing Authority will be entitled to withdraw from the present Contract.

## **Article 2 Duration of the Project**

1. Project starting date:
2. Project end date:
3. The project activities have to be carried out and finalised within the project implementation period and project expenditure – with the exception of preparation costs – has to be incurred within the project implementation period as defined by Articles 2.1 and 2.2.
4. Preparation costs can only be eligible if they were incurred on or after 25 March 2008 for projects or parts of projects implemented in Hungary (the date of the approval of the Programme Document), and for projects or parts of projects implemented in Serbia on or after the 27 March 2009 (the date of the signature of the Financing Agreement), further for both countries before the date of submission of the given application to the Joint Technical Secretariat, and if they have been paid before the end date of the first reporting period.

## **Article 3 Object of use**

1. The Community contribution is awarded exclusively for the implementation of the Project as it is described in the Application Form in Annex I.
2. Project expenditure, including preparation costs, which qualifies for the Community contribution awarded according to Article 1.1., consists exclusively of project expenditure related to the project activities approved by the Joint Monitoring and Steering Committee.
3. The rules for the eligibility of expenditure are set in the respective Control Guidelines. The relevant EC regulations, in particular Articles 34, 89 and 97 of Regulation (EC) No 718/2007, further the national eligibility rules have to be also respected. In case of contradiction between the abovementioned rules, the stricter rule shall apply.

## **Article 4**

### **Advance payment**

The amount of the advance specified in Article 1.1. is transferred to the Lead Beneficiary's separate bank account as indicated in Article 6.6. within 60 days from the registration date of the signed Contract at the Joint Technical Secretariat. In case the Community funding balance of the programme single bank account handled by the Certifying Authority does not cover the amount to be transferred, the payment of the advance will be suspended until the transfer of the Community funding from the EC is made to the programme single bank account.

## **Article 5**

### **Reporting and Applications for Reimbursement**

1. The Lead Beneficiary can only submit an Application for Reimbursement to the Joint Technical Secretariat if it is accompanied by proof of progress of the Project. Therefore the Lead Beneficiary has to submit a Project Progress Report alongside each Application for Reimbursement, consisting of the description of the activities carried out and their outputs and results during the reporting period, further consisting of a financial report presenting the financial progress of the Project compared to the approved Application Form. Even if no expenditures were incurred in a reporting period, the Project Progress Report shall be submitted in due time to the Joint Technical Secretariat.
2. The Lead Beneficiary has to submit the Project Progress Report and the Application for Reimbursement for each four-month reporting period from the project starting date indicated in Article 2.1. The Lead Beneficiary is entitled to submit a Start-up Project Progress Report within 90 calendar days from the conclusion of the Subsidy Contract, in case the Project was approved with preparation costs to be co-financed or if the starting date of the Project precedes the conclusion date of the Contract.

In this case the first Project Progress Report shall cover the period between the signature of the Contract and the end of the first four-month reporting period. The Project Progress Reports and the Applications for Reimbursement have to be submitted to the Joint Technical Secretariat within 90 calendar days from the end date of each reporting period. The reporting periods and the actual deadlines for submission are indicated in Article 5.13.

3. Additional obligatory deadlines to submit an Application for Reimbursement may be set by the Managing Authority in order to avoid decommitment of Community contribution at programme level.
4. The Start-up Project Progress Report and Application for Reimbursement (if any) have to cover the preparation costs of the Project and/or the project expenditure incurred between the starting date of the Project and the conclusion date of the present Contract. In case no Start-up Project Progress Report and Application for Reimbursement is submitted, the abovementioned costs have to be included in the first Project Progress Report and Application for Reimbursement at the latest, covering the first reporting period as indicated in Article 5.13.
5. The Final Project Progress Report and Application for Reimbursement have to be submitted to the Joint Technical Secretariat within 90 calendar days after the end date of the Project as indicated in Article 2.2.



6. The language of each report is English. The applicable format of the Project Progress Report, Application for Reimbursement and the Declaration on validation of expenditure are defined for the Programme and are obligatory to use. The Lead Beneficiary has to complete and submit the Project Progress Report and the Application for Reimbursement online through the Front Office surface of the IMIS 2007-2013 (the monitoring and information system of the Programme; hereinafter referred to as the system). Access to the system is only permitted by means of an individual username and password. The Rules of Use of the system are set in Annex IV. of this contract. Further rules on reporting – including the documents to be submitted with the Project Progress Report – are set in the Project Implementation Handbook.
7. The Application for Reimbursement submitted by the Lead Beneficiary shall contain only validated expenditure and shall be supported by the Declarations on validation of expenditure issued by the designated Control Bodies. The Lead Beneficiary shall ensure that the expenditure presented by the Project Partners participating in the Project has been incurred for the purpose of implementing the Project and that it corresponds to the activities agreed between the Project Partners described in the Application Form in Annex I.
8. The Lead Beneficiary shall verify that the expenditure presented by each of its Project Partners has been validated by the designated Control Body of the Project Partner. The designated Control Bodies and the national level control requirements for each Participating Country are available in the respective Control Guidelines.
9. In case the Declarations on validation of expenditure are not received from each Project Partner for a given reporting period, the Lead Beneficiary shall submit the Application for Reimbursement on the basis of the Declarations on validation of expenditure available for the reporting deadline.

The expenditures of the Project Partner not validated for the given reporting period within the deadline can be requested only for the next reporting deadline to the reporting period concerned.

10. The Lead Beneficiary shall submit the Application for Reimbursement in Euro, based on the Declarations on validation of expenditure issued in Euro by the designated Control Bodies.
11. Project Partners from Participating Countries which have not adopted the Euro as their currency shall convert into Euro the amounts of expenditure in the list of invoices incurred in national currency before submission for validation to the responsible Control Body of the Participating Country. The expenditures shall be converted into Euro using the monthly accounting exchange rate of the European Commission<sup>1</sup> in force in the month in which the expenditure is submitted by the Project Partner to the Control Body.
12. The exchange rate risk is borne by the Lead Beneficiary or Project Partner concerned.

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<sup>1</sup> The monthly exchange rates of the European Commission are available at website of the European Commission: <http://ec.europa.eu/budget/inforeuro/>



13. The Lead Beneficiary shall request the reimbursement of the Community contribution on the basis of the following table:

	Reporting period (dd/mm/yyyy)	Deadline for submission of the Project Progress Report and Application for Reimbursement (dd/mm/yyyy)	Indicative spending fore- cast <sup>2</sup> (EUR)
1			
2			
3			
4			
5			
Total			

14. The Lead Beneficiary has the possibility to deviate from the spending forecasts considering that in case of n+3 decommitment resulting from underspendings compared to the spending forecast, the Managing Authority is entitled to decommit the Project by reducing the original project budget and the corresponding Community contribution.
15. In case of a decision on the decommitment of the Project, the Managing Authority initiates the amendment of the present Contract. The Addendum to the Subsidy Contract has to be signed by both Parties.
16. The Lead Beneficiary upon request by the Joint Technical Secretariat shall submit Project Follow-up Reports, proving the sustenance of the project outputs. Follow-up reports shall cover 12-month periods, the first period beginning at the end date of the Project and shall be submitted to the Joint Technical Secretariat within 15 calendar days from the end of the reporting periods.
17. The Lead Beneficiary has to provide immediate information to the Joint Technical Secretariat about circumstances which delay, hinder or make impossible the implementation of the Project, as well as about any circumstances which represent a change of the reimbursement conditions and frameworks as laid down in the present Contract or which entitle the Managing Authority to reduce or demand repayment of the Community contribution entirely or in part.

Immediate information shall also be provided in case the Project has not been or cannot be fully implemented by carrying out the planned activities, the planned outputs and results or by achieving at least 80 % of the quantifiable outputs, or if the Project cannot or could not be implemented in due time. In case that the Project cannot be implemented in line with the time schedule determined in the Application Form and in Annex I., as well as in line with the payment schedule specified in point 13. of the present Article, the fact has to be reported immediately to the Joint Technical Secretariat in order to seek written approval. The request for approval does not imply the approval.

<sup>2</sup> Indicative spending forecast: eligible costs to be reported in the given reporting period



## **Article 6**

### **Reimbursement of Community contribution to the Lead Beneficiary**

1. The reimbursement of Community contribution to the Lead Beneficiary will be initiated only after the verification and acceptance of the Project Progress Report and of its annexes, the Application for Reimbursement and the Declarations on validation of expenditure.
2. The Lead Beneficiary may be requested for a completion of the Project Progress Report and of the Application for Reimbursement during the verification process by the Joint Technical Secretariat. After the second unsuccessful request for completion, the Project Progress Report and the Application for Reimbursement can be rejected. A rejected Application for Reimbursement can be resubmitted only once and for the next reporting deadline following the reporting period concerned. If the Project Progress Report contains ineligible expenditures the amount of the ineligible expenditures shall be deducted from the Application for Reimbursement. In this case the Lead Beneficiary shall re-compile and re-submit the Application for Reimbursement to the Joint Technical Secretariat. In case of the Final Project Progress Report and the Application for Reimbursement being rejected the Lead Beneficiary shall be informed about the possible/applied sanctions (e.g. suspension of the last payment, repayment of subsidy, withdrawal from the Contract).
3. The reimbursement of Community contribution will be authorised by the Certifying Authority. In case the Community funding balance of the programme single bank account handled by the Certifying Authority does not cover the amount to be reimbursed, the reimbursement process will be suspended until the transfer of the Community contribution from the European Commission is made to the programme single bank account.
4. The Community contribution part of all submitted and approved project expenditures will be reimbursed in full until the expenditures have reached 60% of the total Community contribution for the respective project part (i.e. of the budget of the respective partner). Having 60% of the Community contribution reimbursed, the amount of the advance – transferred at the start of the project – will be offset against the next Application for Reimbursement(s) until the total amount of the advance has been settled. Then reimbursement of the Community contribution will restart.
5. For receiving the reimbursement of Community contribution and for the transfers of Community contribution to the Project Partners, the Lead Beneficiary has to open a separate Euro bank account exclusively for the Project.
6. The Community contribution will be reimbursed in Euro exclusively and will be transferred to the following separate project bank account held by the Lead Beneficiary:

IBAN account number:	
SWIFT Code:	
Bank name:	
Bank address:	





7. The Lead Beneficiary has to notify the Joint Technical Secretariat in writing in case of a change of the separate project bank account within 15 calendar days or with the submission of the Application for Reimbursement at the latest.
8. In case the Lead Beneficiary fails to properly inform the JTS on the details of its bank account opened specifically for the project all consequences, including those of financial nature shall be borne by the Lead Beneficiary.
9. The Lead Beneficiary is responsible for transferring the Community contribution to the Project Partners according to the approved Application for Reimbursement, within the timeframe agreed in the Partnership Agreement.
10. Bank statements proving the management of the separate project bank account and the transfer of the Community contribution from the Lead Beneficiary to Project Partners have to be presented to the Joint Technical Secretariat attached to the Project Progress Report.

#### **Article 7 Double financing**

The expenditures shall not be double financed by any other European and/or national funds.

#### **Article 8 Representation of the Project Partners, liability and additional obligations of the Lead Beneficiary**

1. In order to lay down the arrangements for its relations with the Project Partners the Lead Beneficiary is responsible to conclude a Partnership Agreement with the Project Partners.
2. The Lead Beneficiary represents the partnership as defined in the Partnership Agreement and is the only direct contact between the Project and the Managing Authority and the Joint Technical Secretariat. The Lead Beneficiary shall be responsible for ensuring the implementation of the entire Project. To this end, the Lead Beneficiary shall undertake:
  - a) to co-ordinate the start of the Project as set in Article 2.1.;
  - b) to co-ordinate the implementation of the Project according to the time schedule agreed upon in the present Contract (Annex I.);
  - c) to guarantee the sound financial management of Community contribution allocated to the Project, including the arrangements for recovering amounts unduly paid;
  - d) to ensure that the expenditure presented by the Project Partners has been paid for the purpose of implementing the Project and to ensure that it corresponds to the activities agreed between the members of the partnership;
  - e) to verify that the expenditure presented by the Project Partners has been validated by the Control Bodies;



- f) to inform the Joint Technical Secretariat immediately in written form if the project budget has to be changed, if the Project Partners, the project objectives or the activity plan on which the present Contract is based on have to be changed, or if one of the reimbursement conditions cannot be fulfilled, or if circumstances arise which entitle the Managing Authority to reduce or demand repayment of the Community contribution (entirely or partly);
  - g) to comply with European Union regulations, as referred to in the preamble of the present Contract, and with the relevant national legislation for the whole partnership;
  - h) to transfer the Community contribution (including the advance specified in Annex I.) correctly and within the timeframe agreed in the Partnership Agreement to the other Project Partners in full, no specific charge or other charge with equivalent effect shall be levied which would reduce these amounts for the project partners; in case of a claim for repayment from the Managing Authority, the Lead Beneficiary cannot exculpate itself with the argument of the transfer of the funds;
  - i) to maintain separate accounting for project implementation purposes in a manner ensuring the identification of each financial operation within the Project.
3. The Lead Beneficiary bears responsibility for the activities of the Project Partners and the sub-contractors like its own activities.
  4. The Lead Beneficiary takes full responsibility for the damages caused to third parties from its own fault during the implementation of the operation. The Managing Authority has no responsibility for the damages caused to third parties as a result of executing the Subsidy Contract.
  5. The Lead Beneficiary is liable towards the Managing Authority for ensuring that the Project Partners fulfil their obligations under this Contract.

### **Article 9 Procurement rules**

1. In line with Article 121 of the IPA Implementing Regulation for the award of service, supply and work contracts, the procurement procedures shall follow the provisions of Chapter 3 of Part 2, Title IV of Regulation (EC, Euratom) No 1605/2002 and Chapter 3 of Part 2, Title III of Regulation (EC, Euratom) No 2342/2002, as well as Commission Decision C (2007) 2034 on the rules and procedures applicable to service, supply and work contracts financed by the general budget of the European Communities for the purposes of co-operation with third countries, with the exclusion of Section II.8.2.
2. With reference to Part One of Commission Decision C (2007) 2034 chapters 1-5 of "Practical Guide to contract procedures for EC external actions (PraG)" and the standard contracts and operational instructions annexed to PraG shall be used.
3. According to the terms set out in PraG:
  - a) the Lead Beneficiary and the Project Partners act as Contracting Authorities,
  - b) the procurements will be financed from the general budget of the European Union,



- c) the management mode of the procurement procedures is decentralised,
  - d) the control is ex-post.
4. The standard annexes of PraG shall be used without translation. Amendments of the templates can be made only due to the special nature of a contract, or tender. These amendments shall be in line with the basic rules of the PraG.
  5. Wherever consultation with the Commission or prior approval of the Commission is required, the Contracting Authority shall take the decision at its own risk. The decision will be subject to verification audit.
  6. Chapters 2.4.5 and 3.4.1 (Framework contracts) of PraG shall not be applied.
  7. By derogation to 2.3.1 of PraG the tenderer must submit proof of origin for equipment and vehicles of a unit purchase price higher than EUR 5 000.

### **Article 10 Information and publicity**

1. The Lead Beneficiary undertakes to fulfil the information and publicity measures and to respect the information and publicity requirements of the Programme set out in the IPA Implementing Regulation, as well as in the Information and Publicity Guidelines with the aim of promoting the fact that co-financing is provided from Community contribution available under the Hungary-Serbia IPA Cross-border Co-operation Programme, further it undertakes to ensure the adequate promotion of the Project.
2. The Lead Beneficiary shall ensure that all official project communication (e.g. any notice, publication, web site or project event, including conferences or seminars) specify that the Project has received funding from the European Union within the framework of the Hungary-Serbia IPA Cross-border Co-operation Programme, by following the instructions detailed in the Information and Publicity Guidelines.
3. Any publication by the Lead Beneficiary or the Project Partners, 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 European Union. The contents of this document are the sole responsibility of <Lead Beneficiary's or Project Partner's name> and can under no circumstances be regarded as reflecting the position of the European Union and or the Managing Authority."
4. The Managing Authority / Joint Technical Secretariat shall be authorised to make publicly available (by any medium, including the Internet) the following information:
  - a) the title of the Project;
  - b) the name of the Lead Beneficiary and of the Project Partners;
  - c) the amount of Community contribution and the Community co-financing rate;
  - d) the purpose of the Community contribution (i.e. the Project's overall objective);
  - e) the geographical location of the Project;
  - f) project results, evaluations and summaries;
  - g) other information about the Project, if considered relevant.



5. Detailed descriptions of the information and publicity measures are provided in the Information and Publicity Guidelines.

### **Article 11**

#### **Amendments to the Subsidy Contract and other project changes**

1. The Lead Beneficiary shall request modification of the Subsidy Contract in advance (Addendum to be ex-ante approved by the Managing Authority) in case of substantial changes in the Project, as follows:
  - a) change of the Lead Beneficiary and/or Project Partners;
  - b) substantial changes in the overall project objectives;
  - c) change of activities (either introducing new activities or replacing old ones);
  - d) change of output and result indicators (exceeding 20% of the original indicators);
  - e) budget reallocation between budget headings (exceeding 20% of the original amount of the affected budget headings, reallocations cumulative) within the budget of the particular project partner;
  - f) prolongation of the project duration.
2. The Lead Beneficiary shall request modification of the project (Other Project Modification to be ex-post approved by the Joint Technical Secretariat) in case of smaller changes in the content of the Project, as follows:
  - a) Changes in the project team
  - b) Merging of reporting periods
  - c) Change of output and result indicators (NOT exceeding 20% of the original indicators)
  - d) Budget reallocation between budget lines/headings (NOT exceeding 20% of the original amount of the affected budget headings, reallocations cumulative) within the budget of the particular project partner
  - e) Other project content changes
3. Modification of the Subsidy Contract/Other Project Modification can be requested only once during a reporting period. Budget reallocation exceeding the 20 % reallocation limit, and prolongation of the project duration has to be initiated at least 45 calendar days before the project end date set in Article 2.2. Further detailed rules describing of the modification of the Subsidy Contract are set in the Project Implementation Handbook.
4. Any request for a modification of the Subsidy Contract/ Other Project Modification has to be justified and submitted by the Lead Beneficiary to the Joint Technical Secretariat in writing.

The written request shall contain a detailed justification about the causes and circumstances of the modification, as regulated in the Project Implementation Handbook. The Joint Technical Secretariat will review the request for modification and –



in case of Addenda – will submit it to the Managing Authority (in case of modifications due to the reasons listed in point 1.a) and 1.b) of the present Article submit the request to the Joint Monitoring and Steering Committee) for approval. The Addendum to the Subsidy Contract has to be signed by both parties according to the approval of the Managing Authority / Joint Monitoring and Steering Committee.

5. In case of administrative changes (not affecting the content of the Project, i.e. change of the contact person, contact data, bank account number etc) the Lead Beneficiary has to notify the Joint Technical Secretariat in each case within 15 calendar days from the time the change occurred, or with the submission of the Project Progress Report at the latest. .
6. The limit of budget reallocation is calculated from the concluded original Subsidy Contract, the modified amounts are cumulative and the 20% reallocation limit is applied accordingly. All indicated changes in the project have to respect the rules of the relevant Call for Proposals and the respective Control Guidelines. No reallocation can be made to budget lines which did not contain allocated amounts in the approved budget.
7. Modifications of the Subsidy Contract cannot affect the basic purpose of the Project as approved by the Joint Monitoring and Steering Committee. Budget reallocations between Project Partners are not allowed.
8. The Contract cannot be modified in such manner that as a result of the amendment the award of the subsidy could become disputable or the principle of equal treatment of the applicants is infringed.

## **Article 12 Assignment, legal succession**

1. The Managing Authority is entitled at any time to assign its rights under the present Contract. In case of assignment the Managing Authority will inform the Lead Beneficiary without delay.
2. The Lead Beneficiary is allowed to assign its duties and rights under the present Contract only after prior written consent of the Managing Authority.
3. In case of legal succession the Parties are obliged to transfer all duties under the present Contract to the legal successor. The Parties shall notify each other about any change beforehand. In case of legal succession affecting the Lead Beneficiary or the Project Partners, the Lead Beneficiary shall notify the Joint Technical Secretariat in advance.

## **Article 13 Audit rights**

1. The responsible auditing bodies of the EU and, within their responsibility, the auditing bodies of the Participating Countries as well as the Audit Authority, the Managing Authority, the Joint Technical Secretariat and the Certifying Authority of the Programme are entitled to audit the use of funds by the Lead Beneficiary and by the Project Partners or to arrange for such an audit to be carried out by authorised persons.



2. The Lead Beneficiary shall provide all documents required for the audit, as well as all necessary information and give access to its business premises. The Lead Beneficiary is obliged to retain for audit purposes all files, documents and data about the Project for at least three years following the closure of the Programme by the European Commission. Documents to be retained are listed in Annex III.
3. The designated Control Bodies are entitled to carry out on-the-spot checks as part of their verification activities while the Joint Technical Secretariat or the Managing Authority are entitled to carry out monitoring visits in order to check the progress of the Project from a professional point of view, at the premises of the Lead Beneficiary and of the Project Partners.
4. The Lead Beneficiary is obliged to guarantee the fulfilment of the above stipulated duties in relation to all other Project Partners.
5. Observing the recommendations received after an audit must be ensured; otherwise the Managing Authority has the right to withdraw from the Subsidy Contract.

#### **Article 14 Irregularities**

1. In case of irregularities identified during project implementation the Managing Authority reserves the right to claim the repayment of the Community contribution in full or in part from the Lead Beneficiary and has the right to reduce the amount of the Community contribution awarded.
2. Based on the above, the Lead Beneficiary is always responsible for securing the repayment of the Community contribution unduly paid to the Project, even if the irregularity was committed by one of the Project Partners.
3. If a Project Partner commits an irregularity, the Lead Beneficiary – after having received the notice on repayment – is obliged to request the amount unduly paid and the corresponding interest chargeable from the Project Partner concerned and repay it to the Managing Authority within the deadline for the repayment set in Article 15.2. The Lead Beneficiary shall exercise due diligence to ensure repayment.
4. If the Lead Beneficiary does not succeed in securing the repayment from the Project Partner(s), within 5 calendar days from the end of the deadline given the Lead Beneficiary has to notify the Joint Technical Secretariat and has to send proof of steps taken by the Lead Beneficiary towards the Project Partner(s).
5. When the amount unduly paid has not been recovered due to negligence of the Lead Beneficiary, the Lead Beneficiary shall remain responsible for the repayment.

#### **Article 15 Right of withdrawal – Repayment – Suspension of reimbursement**

1. The Managing Authority is entitled to withdraw from the present Contract and to demand the repayment of Community contribution in full or in part if:
  - a) the Lead Beneficiary has obtained the Community contribution through false or incomplete statements to bodies/appointees of the European Commission, the



Managing Authority or any other authorities involved in the implementation of the Programme; or if

- b) a precondition for the approval of the Project is no longer given, e.g. the compulsory cross-border Project Partner resigns from the Project and is not replaced in line with the provisions of Article 11; or if
- c) the Partnership Agreement concluded between the Lead Beneficiary and the Project Partners is no longer in force; or if
- d) the Lead Beneficiary becomes insolvent or subject to bankruptcy proceedings; or if
- e) the Lead Beneficiary is convicted of an offence concerning its professional conduct by a judgement which has the force of 'res iudicata', further if it is guilty of grave professional misconduct proven by any means which the Managing Authority/National Authority can justify; or if
- f) the Lead Beneficiary does not fulfil its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the national legal provisions; or if
- g) the Lead Beneficiary becomes the subject of a judgement which has the force of 'res iudicata' for fraud, for corruption, for severe breach of contract in connection to obligations stemming from public procurement rules or from rules governing the use of Community funding or national subsidies, for involvement in a criminal organisation or for any other illegal activity detrimental to the Community's financial interests, or if
- h) the Lead Beneficiary becomes guilty of misrepresentation in supplying the information required by the Managing Authority or in failing to supply requested information; or
- i) in case of identified irregularities; or if
- j) the Lead Beneficiary fails to fulfil a condition or an obligation resulting from the present Contract, in particular if
  - the Lead Beneficiary fails to submit a Project Progress Report and Application for Reimbursement within the reporting deadline;
  - the Lead Beneficiary repeatedly fails to submit Project Follow-up Reports, if applicable; or if
  - the Lead Beneficiary fails to sustain the results of the Project as defined in Article 16; or if
  - the Project has not been or cannot be fully implemented by carrying out the planned activities, the planned outputs and results and by achieving at least 80 % of the quantifiable outputs, or if the Project cannot or could not be implemented in due time; or if
  - the Lead Beneficiary fails to provide immediate information about circumstances that delay, hinder or make impossible the implementation of the Project, as well as about any circumstances that represent a change of the reimbursement conditions and frameworks as laid down in the present Contract or which entitle the Managing Authority to reduce or demand repayment of the Community contribution entirely or in part; or if





- the regulations of EU and national law (including provisions concerning public procurement rules, state aid rules, publicity rules, rules on environmental protection and rules on equal opportunities) have been infringed; or if
  - the Lead Beneficiary has impeded or prevented the auditing of the project or failed to retain the project documentation referred to in Article 13; or if
  - the Community contribution awarded has been partially or entirely misapplied for purposes other than those agreed upon; or if
  - it has been impossible to verify that the Final Project Progress Report is correct and thus the eligibility of the Project for funding from the Programme cannot be verified; or if
  - the recommendations received after an audit are not observed.
2. If the Managing Authority sends a request for repayment for the amount of Community contribution unduly paid and the corresponding interest chargeable, the Lead Beneficiary is obliged to secure repayments from the Project Partners concerned and has to repay the amount specified by the Managing Authority before the due date. The repayment by the Lead Beneficiary is due within two months following the receipt date of the request for repayment. The rate of the interest shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the date of the request for repayment.
  3. The Managing Authority has the right to recover the amounts specified in the request for repayment by deducting them from the Application for Reimbursement submitted by the Lead Beneficiary.
  4. In case of any delay in the repayment, the amount to be recovered shall be subject to interest on late payment, starting on the due date and ending on the actual date of repayment. The rate of interest on late payment shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the due date.
  5. The Lead Beneficiary is entitled to exercise the right of withdrawal if the implementation of the Project becomes impossible due to circumstances independent from the Lead Beneficiary. In this case, the Lead Beneficiary shall repay the whole amount of Community contribution reimbursed with the interest chargeable within two months from the date of notifying the Managing Authority on the withdrawal from the Contract. The rate of interest shall be the rate applied by the European Central Bank in its main refinancing operations on the date of notifying the Managing Authority on the withdrawal from the Contract. In case of late payment, interest on late payment shall be charged according to point 4.
  6. The Managing Authority may decide to suspend the reimbursement of the Community contribution if the provisions laid down in the Memorandum of Understanding are not respected by the Participating Countries concerned. The Lead Beneficiary shall be informed on the suspension.

## **Article 16**

### **Ownership/use of results, revenues generated**

1. The Project shall retain the Community contribution only if it does not, within five years from the end date the Project, undergo a substantial modification:



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- a) affecting its nature or its implementation conditions or giving to a firm or a public body an undue advantage; and
- b) resulting either from a change in the nature of ownership of an item of infrastructure or the cessation of a productive activity.

The Lead Beneficiary is obliged to notify the Joint Technical Secretariat of any such changes described beforehand.

2. Ownership, title and industrial and intellectual property rights in the outputs of the Project and the reports and other documents relating to it shall vest in the Lead Beneficiary and the Project Partners. Leasing, handing over/selling or transferring the rights of use of the outputs of the Project is only possible with the prior written consent of the Managing Authority and only in case if all the rights and obligations following from the present Contract and connected to the subject of matter will be transferred to the new party.
3. The use of the results of the Project shall be agreed upon by the Lead Beneficiary and the Joint Technical Secretariat in order to guarantee a widespread publicity of such results and in order to make them available to the public.
4. The Lead Beneficiary and the Joint Technical Secretariat shall find individual arrangements in those cases where intellectual property rights (such as for data acquired for the Project which do not belong to public domain) already exist.
5. Before the acceptance of the final Project Progress Report, receipts indicated in Paragraph 1 of Article 35 of of the IPA Implementing Regulation shall be deducted from the eligible expenditure of the Project in their entirety or pro-rata, depending on whether they were generated entirely or only in part by the Project.

### **Article 17 Concluding provisions**

1. Should any provision in the present Contract be entirely or partly ineffective, all other provisions remain binding for the Parties. The Parties undertake to replace the ineffective provision by an effective one which comes as close as possible to the purpose of the ineffective provision.
2. Any amendments and supplements to the present Contract must be in written form.
3. All correspondence with the Managing Authority / Joint Technical Secretariat under the present Contract must be in English language and has to be sent to the following address:

Hungary-Serbia Joint Technical Secretariat  
Gellérthegy u. 30-32  
H-1016 Budapest, Hungary

Name of the programme manager for the project at the Joint Technical Secretariat:

Phone number:

Fax number:

E-mail address:



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4. All correspondence with the Lead Beneficiary under the present Contract must be in English language and has to be sent to the following address:

**Postal address of the Lead Beneficiary:**

5. The present Contract is concluded in English language. In case of translation of the present Contract and of its Annexes into another language, the English version shall prevail.
6. The Annexes to this Contract are binding and form an integral part of the Subsidy Contract.
7. In case of conflict between the provisions of the Annexes and those of the Contract, the provisions of the Contract shall take precedence. In case of conflict between the provisions of Annex I. and those of the other Annexes, those of Annex I. shall take precedence.
8. The present Contract is governed by Hungarian law and all matters not regulated in the Contract are subject to the legal understanding laid down in the Hungarian Civil Code (Act IV. of 1959). In case of differences that are not ruled by the present Contract, the Parties agree to find an amicable and mutually acceptable solution. If the Parties fail to do so, all disputes arising in connection with the Contract shall be settled by the Buda Central District Court.
9. The present Contract is signed in three originals of which one remains at the Lead Beneficiary and two originals are returned to the Joint Technical Secretariat.
10. The present Contract enters into force on the date of signature by the last of the Parties.



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11. The present Contract shall remain in force until the Lead Beneficiary has fulfilled its obligations arising from the Contract towards the Managing Authority, i.e. as long as any duties linked to the Community contribution might be claimed, that is, at least three years following the closure of the Programme by the European Commission.

Place and date:

Place and date:

Lead Beneficiary  
represented by

Managing Authority  
represented by

.....

.....

Name  
Title

Balázs Simó  
Head of the Managing Authority

## **Annexes to the Subsidy Contract**

- I. Application Form
- II. Partnership Agreement
- III. List of documents to be retained
- IV. Rules of Use of the Front Office surface of IMIS 2007-2013

**Annex I**  
**Application Form**

**Annex II**  
**Partnership Agreement**



**Annex III**  
**List of documents to be retained**

No.	Document
1.	Submitted Application Form
2.	Notification letter from the Managing Authority awarding subsidy
3.	Subsidy Contract (and its amendments)
4.	Partnership Agreement (and its amendments)
5.	Partner Reports
6.	Declarations on validation of expenditure
7.	Project Progress Reports and Project Follow-up Reports
8.	Applications for Reimbursement
9.	Each invoice and accounting document of equivalent probative value related to project expenditure (originals to be retained at the premises of the Project Partner concerned)
10.	All supporting documents related to project expenditure (e.g. payslips, bank statements, public procurement documents etc.) to be retained at the premises of the Project Partner concerned
11.	All project deliverables (all material produced during the project period)
12.	If relevant, documentation related to on the spot checks of the Control Bodies (to be retained at the premises of the Project Partner concerned)
13.	If relevant, documentation of monitoring visits of the Joint Technical Secretariat / Managing Authority
14.	If relevant, documentation related to audits
15.	If relevant, the Lead Beneficiary's / Project Partners' Subsidy contracts on state contribution and the related documents

## **Annex IV**

### **Rules of Use of the Front Office surface of IMIS 2007-2013**

This regulation lays down the requirements of secure application of the IMIS 2007-2013 system (hereinafter referred to as the system).

#### **General rules**

- The Lead Beneficiary (hereinafter referred to as the User) is obliged to learn the rules of the proper use of the system and to apply the system according to the User Manual.
- The User is only allowed to complete tasks in line with his/her role within the system.
- The User is obliged to cooperate with the designated programme manager in case any examination related to system events becomes necessary.
- The User is responsible for the accuracy of the data entered into the system.

#### **Security rules**

- It is prohibited to use any programmes, applications or devices that may affect the operation of the system.
- The User is responsible for the secure use of the system.
- In order to guarantee the safe operation of the system the User is obliged to use a client computer that is sufficiently protected: equipped with central or local firewall, regularly updated antivirus system and well-protected user accounts for the workstation.
- The User is obliged to use a complex password that is kept confidential. The User has to select a password with a length of at least 8 characters, containing lower case letters, capital letters and digits as well. The password shall be changed regularly.
- In case of any activity that endangers the safe operation of the system the access of the affected User will be suspended and IT security examination will be started.

#### **Rules for suspicion of misuse**

- In case of unauthorized usage the owner of the user name has to take the responsibility.
- In case of reasonable suspicion of unauthorized usage all the tasks accomplished by the User in the system can be examined during the security examination without preliminary notification.
- In case of a suspicion that the password could be learned by another unauthorized person the User has to change it immediately and he/she has to inform the designated programme manager about this event.
- If the client computer used for accessing the system is infected by a virus the User is not allowed to log into the IMIS 2007-2013 until the infection is eliminated. The designated programme manager shall be informed of the virus infection immediately in order to eliminate the virus infection of files uploaded.
- It is prohibited to provide information on any system error or vulnerability to third persons; these issues shall be reported immediately to the programme manager.