

Annex V

**INTERREG IPA CROSS-BORDER COOPERATION PROGRAMME**

**"GREECE – ALBANIA"**

**2014-2020**

**BILATERAL AGREEMENT**

**ON THE IMPLEMENTATION, MANAGEMENT AND CONTROL OF THE PROGRAMME**

CCI: 2014 TC16I5CB010

**BILATERAL AGREEMENT**  
**ON THE IMPLEMENTATION, MANAGEMENT AND CONTROL OF INTERREG IPA CROSS-**  
**BORDER COOPERATION PROGRAMME "GREECE-ALBANIA 2014-2020"**

The Ministry of Economy, Development and Tourism of the Hellenic Republic  
and

The Ministry of European Integration of the Republic of Albania

representing the participating countries of the  
Interreg IPA CBC Programme "Greece – Albania" 2014-2020

In accordance with:

- Regulation (EU) 231/214 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II),
- Regulation (EU) 236/214 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action,
- Commission Implementing Regulation (EU) 447/2014 on specific rules for Implementing Regulation 231/2014 on IPA II,
- Regulation (EU) 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 (ERDF) to the European territorial cooperation goal
- Regulation (EU) 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 and
- the Commission Implementing Decision C(2015)5482 of 30-7-2015 on the approval of the the Interreg IPA CBC Programme "Greece – Albania" 2014-2020 (hereinafter referred to as the Programme),

Have agreed on the following:



## Preamble

The participating countries of the Interreg IPA CBC Programme "Greece – Albania" 2014-2020 acknowledge the joint implementation of Programme under shared management and regulate, hereby, specific issues concerning the management, implementation, financial flows and responsibilities and recovery procedures.

## Article 1

### Institutional Structure

1. The participating countries of the Interreg IPA CBC Programme "Greece – Albania" 2014-2020 have decided on the joint management bodies of the Programme, established jointly by the two countries, and the national structures, nominated by each country, in order to support the Programme's implementation at national level.
2. The Managing Authority, the Certifying Authority, the Audit Authority, the Joint Secretariat, the Joint Monitoring Committee and the Joint Steering Committee (if set up), carry out their activities and tasks in compliance with the respective EU legislative framework, the provisions laid down in the Interreg IPA CBC Programme "Greece – Albania" 2014-2020, the description of the management and control system of the Programme, the trilateral Financing Agreement, and this agreement.
3. The two participating countries have designated the Special Service for management of the Operational Programmes of European Territorial Cooperation Objective of the Greek Ministry of Economy, Development and Tourism to act as the single Managing Authority (hereinafter referred to as MA) of the Interreg IPA CBC Programme "Greece – Albania" 2014-2020 for the purposes of Article 123 (1) of Regulation (EU) 1303/2013.
4. The two participating countries have designated the Special Service «Certifying and Verifications Authority of Co-funded Programmes» - Units, A, B and C of the Greek Ministry of Economy, Development and Tourism to act as the single Certifying Authority (hereinafter referred to as CA) of the Interreg IPA CBC Programme "Greece – Albania" 2014-2020 within the meaning of Article 123 (2) of Regulation (EU) 1303/2013.
5. The two participating countries have designated the Financial Control Committee (EDEL), General Accounting Office of the State, of the Ministry of Finance of Greece, to act as single Audit Authority (hereinafter referred to as AA) within the meaning of Article 123 (4) of Regulation (EU) 1303/2013.
6. According to Articles 37 (3) of the Commission Implementing Regulation (EU) 447/2014 and 25 (2) of Regulation (EU) 1299/2013 the AA will be assisted by a Group of Auditors

(hereinafter the GoA), comprised by representatives of each participating country in the Programme.

7. The two participating countries have agreed to set up a Joint Monitoring Committee (hereinafter referred to as JMC). The JMC shall review the overall effectiveness, quality and coherence of the implementation of all actions of the Programme towards achieving its objectives and the financing agreement. Therefore, each participating country appoints representatives to participate in the JMC, in accordance with Article 38 of the Commission Implementing Regulation (EU) 447/2014. Each member of the JMC appointed will serve as the sole addressee for the MA for all enquiries and reports related to the JMC, except where a participating country names another addressee in its sphere of jurisdiction to take over this responsibility. The JMC shall draw up its own Rules of Procedure.
8. For the selection of operations, a Joint Steering Committee (hereinafter referred to as JSC) may be set up by the JMC acting under its responsibility according to article 39 (1) of the Commission Implementing Regulation (EU) 447/2014. In any case the Joint Monitoring Committee shall be responsible for selecting the operations to be funded under the Programme. Specialists or experts in economic, technical, social, scientific and other matters, depending on the agenda items, may be invited to attend the Joint Steering Committee meetings in an advisory capacity. At its first meeting, the Joint Steering Committee shall adopt its rules of procedure in agreement with the Managing Authority.
9. In order to assist the MA and the Joint Monitoring Committee of the Programme in the effective implementation of their tasks a Joint Secretariat (hereinafter referred to as JS) will be set up by the MA, in Thessaloniki, according to Article 23 (2) of Regulation (EU) 1299/2013 and the provisions of the Interreg IPA CBC Programme "Greece – Albania" 2014-2020.

## Article 2

### Duties and responsibilities of the Joint Management Bodies of the Programme

#### Managing Authority

1. The Managing Authority shall be responsible for managing and implementing the Interreg IPA CBC Programme "Greece – Albania" 2014-2020 in accordance with the principle of sound financial management and carry out the functions set out in article 37 of the Commission Implementing Regulation (EU) 447/2014, articles 72 and 125 of Regulation (EU) 1303/2014 and article 23 of Regulation (EU) 1299/2014.

2. Greece shall provide a description of the management and control system of the Programme on the basis of the information provided by the participating countries according to article 124 (1) of Regulation (EU) 1303/2013 and in accordance with the model set out in Annex III of the Commission Implementing Regulation (EU) 1011/2014. The description will be assessed by the AA as independent audit body as laid out in article 123(2) of Regulation (EU) 1303/2014 in relation to the fulfilment by the authorities of the criteria relating to the internal control environment, risk management, management and control activities and monitoring. According to article 47 (1) of the Commission Implementing Regulation (EU) 447/2014 and article 122(1) of Regulation (EU) 1303/2013 the MA will set up the management and control system of the Programme in accordance with articles 72,73 and 74 of Regulation (EU) 1303/2013.

3. Regarding the management of the Programme the MA shall be responsible for:

- (a) support the work of the JMC and provide it with the information it requires to carry out its tasks, in particular data relating to the progress of the Programme in achieving its objectives, financial data and data relating to indicators and milestones;
- (b) draw up and, after approval by the JMC, submit to the Commission annual and final implementation reports;
- (c) make available to intermediate bodies and beneficiaries information that is relevant to the execution of their tasks and the implementation of operations respectively;
- (d) establish a system to record and store in computerised form data on each operation under Programme necessary for monitoring, evaluation, financial management, verification and audit, including data on individual participants in operations, where applicable;
- (e) ensure that the data referred to in point (d) is collected, entered and stored in the system referred to in point (d), and that data on indicators is broken down by gender.
- (f) ensure that the implementation reports of the Programme referred to in Article 14 of Regulation (EU) No 1299/2014 are carried out in accordance with Article 51(1) and (2) of Regulation (EU) No 1303/2014;
- (g) supervise the work of the joint secretariat;
- (h) prepare and submit for approval by the JMC a communication strategy (articles 115 and 116 of Regulation (EU) No 1303/2014) of the Programme and designate contact persons to be responsible for information and publicity informing the Commission accordingly.
- (i) ensure the establishment of a single website or a single website portal providing information on, and access to, the Programme in the participating countries, including information about the timing of implementation of programming and any related public consultation processes;

- (j) inform potential beneficiaries about funding opportunities under the Programme;
- (k) Publicize to Union and Albanian citizens the role and achievements of cohesion policy and of the IPA II cross-border cooperation through information and communication actions on the results of the Programme and operations.

(l) Maintain a list of operations of the Programme in a spreadsheet data format, which allows data to be sorted, searched, extracted, compared and easily published on the internet.

4. Regarding the selection of operations, the MA shall:

- (a) draw up and, once approved by the JMC, apply appropriate selection procedures and criteria in accordance with the Union and national rules
- (b) ensure that a selected operation falls within the scope of the IPA II and can be attributed to a category of intervention of the Programme;
- (c) ensure that beneficiaries are informed of the specific conditions concerning the products or services to be delivered under the operation, the financing plan, the time limit for execution and the financial and other information to be kept and communicated;
- (d) satisfy itself that the beneficiary has the capacity to fulfil these conditions before the approval decision is taken; ensure that the procedure for evaluating proposals was carried out under the terms of the call for proposals, including the operations selection criteria approved by the JMC;
- (e) ensure that the lead beneficiary of an operation is provided with a document setting out the conditions for support of the operation, including the specific requirements concerning the products or services to be delivered under the operation, the financing plan, and the time-limit for execution;
- (f) satisfy itself that the lead beneficiary has the administrative, financial and operational capacity to fulfil the conditions referred to in point (c) before approval of the operation;
- (g) satisfy itself that, where the operation has started before the submission of an application for funding to the managing authority, applicable law relevant for the operation has been complied with;
- (h) ensure that operations selected for support from the IPA II do not include activities which were part of an operation which has been or should have been subject to a procedure of recovery in accordance with article 71 of Regulation (EU) No 1303/2014 following the relocation of a productive activity outside the Programme area;
- (i) determine the categories of intervention to which the expenditure of an operation shall be attributed.



5. Regarding the financial management and control of the Programme, the MA:

- (a) Identifies that each participating country designates the body or person responsible for carrying out such verifications in relation to beneficiaries on its territory **(the 'controller(s)'**. The MA shall satisfy itself that the expenditure of each beneficiary participating in an operation has been verified by a designated controller referred to in article 23(4) of Regulation (EU) 1299/2013 and article 125 of Regulation (EU) 1303/2013.
- (b) ensures that lead beneficiaries involved in the implementation of operations are reimbursed on the basis of eligible costs actually incurred maintain either a separate accounting system or an adequate accounting code for all transactions relating to an operation;
- (c) puts in place effective and proportionate anti-fraud measures taking into account the risks identified;
- (d) sets up procedures to ensure that all documents regarding expenditure and audits required to ensure an adequate audit trail are held in accordance with the requirements of point (g) of article 72 of Regulation (EU) 1303/2014;
- (e) draws up the management declaration and annual summary referred to in points (a) and (b) of article 59 (5) of the Financial Regulation.

**Joint Secretariat**

The MA, after consultation with the two countries participating in the Programme, shall set up a Joint Secretariat in Thessaloniki, according to article 23 (2) of Regulation (EU) 1299/2013. The JS shall assist the MA, the JMC and the JSC (if set up) in carrying out their respective duties and functions.. The recruitment of the JS staff will be done through an opened and transparent call for expression of interest.

In particular, the Joint Secretariat shall have the following responsibilities:

1. Assist the MA in organising the meetings of the JMC and the JSC (if set up) and provide all necessary documents to ensure the quality of the implementation of the Programme in the context of its specific goals by:
  - organising the meetings of the JMC and the JSC;
  - preparing all necessary documents and the minutes of the meetings;
  - forwarding to the beneficiaries the decisions made by the JMC;
  - making arrangements for various tasks and services such as interpreting and translation services;

2. Draw up the criteria for selecting the operations and submit them to the MA. The MA examines the criteria and when accepted – after consultation with the operating structure – submits them to the JMC for approval;
3. Prepare the material concerning the call for proposals and submit it to the MA. The MA examines the material and when accepted– after consultation with the operating structure- submits it to the JMC for approval;
4. Provide information to potential beneficiaries about funding opportunities under the Programme and shall assist beneficiaries in the implementation of operations.
5. Provide support to potential beneficiaries during the preparation of proposals. The JS shall organise information seminars, promote the cooperation and the partnership of bodies from both sides of the border etc. Furthermore, it may cooperate with the Antenna office in Saranda for the organisation of seminars and promotion activities in Albania;
6. Assist the MA and the JMC in order to ensure that operations are selected for funding in accordance with the approved criteria applicable to the cooperation programme and that they comply with applicable EU and national rules governing the implementation of the Programme;
7. Provide technical support to beneficiaries throughout the implementation period of the operations;
8. Assist the MA in collecting and recording in computerised form accounting records for all operations. Moreover, assist the MA in collecting implementation data required for financial management, monitoring, verification, audit and evaluation;
9. Assist the MA in collecting and keeping all documents relating to expenditure and audits, in order to ensure an effective audit trail in accordance with the requirements of article 125 (2d) of Regulation (EU) 1303/2013 by:
  - collecting progress reports from beneficiaries;
  - assessing the implementation of operations and submitting the respecting progress reports to the managing authority;
  - drafting progress reports concerning the implementation of the operational programme;
10. Prepare annual reports, as well as the final report on the cooperation programme, and submit them to the managing authority for comments/corrections. The MA examines the reports and, when accepted, submits them to the joint monitoring committee for approval. After approval by the JMC, the MA submits the reports to the Commission;



11. Assists the MA to prepare the management declaration and the annual summary of point (e) of the first subparagraph of article 125 par.4 of Regulation (EU) 1303/2013.
12. Support the MA to ensure that information and publicity requirements referred to in articles 115 and 116 of the Regulation (EU) 1303/2013 are complied with, by:
  - preparing a Communication Plan and supporting its implementation;
  - creating and regularly updating the programme's website;
  - organising seminars to promote the cooperation programme;
  - creating a partner search webpage for the benefit of potential beneficiaries;
13. Prepare the technical assistance annual plan and forward it to the MA. The MA examines it and, when accepted, submits it to the joint monitoring committee for approval;

The detailed functions and the role of the JS shall be determined by the MA its rules of procedure and the JMC will be informed accordingly.

The Joint Secretariat will have an antenna office in Saranda, in Albania.

#### **Certifying Authority**

The function of the CA will be carried out in compliance with article 37 (2) of the Commission Implementing Regulation (EU) 447/2014, article 24 of Regulation (EU) 1299/2013 and article 126 of Regulation (EU) 1303/2013.

The Certifying Authority shall be responsible for:

1. Drawing up and submitting payment applications to the Commission, and certifying that they result from reliable accounting systems, are based on verifiable supporting documents and have been subject to verifications by the managing authority;
2. Drawing up the accounts referred to in point (a) of Article 59 (5) of the Financial Regulation (EU) 966/2012;
3. Certifying the completeness, accuracy and veracity of the accounts and that the expenditure entered in the accounts complies with applicable law and has been incurred in respect of operations selected for funding in accordance with the criteria applicable to the Interreg IPA cross-border cooperation programme and complying with applicable law;
4. Ensuring that there is a system which records and stores, in computerised form, accounting records for each operation, and which supports all the data required for drawing up payment applications and accounts, including records of amounts recoverable, amounts recovered and amounts withdrawn following cancellation of all or part of the contribution for an operation or the cooperation programme;



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5. Ensuring, for the purposes of drawing up and submitting payment applications, that it has received adequate information from the managing authority on the procedures and verifications carried out in relation to expenditure;

6. Taking into account when drawing up and submitting payment applications of the results of all audits carried out by, or under the responsibility of, the audit authority;

7. Maintaining, in a computerised form, accounting records of expenditure declared to the Commission and of the corresponding public contribution paid to beneficiaries;

8. Keeping an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution for an operation. Amounts recovered shall be repaid to the budget of the Union prior to the closure of the Interreg IPA II cross-border cooperation programme by deducting them from the subsequent statement of expenditure.

The CA will be the body responsible for making payments to beneficiaries for the Interreg IPA II cross-border cooperation programme according to the provisions of article 21(2) of Regulation (EU) No 1299/2013 and article 132 of Regulation (EU) No 1303/2013. The CA shall receive the payments made by the Commission and shall, as a general rule and if not otherwise specified in the subsidy contract and the partnership agreement, make payments to the lead beneficiary. No amount shall be deducted or withheld from payments made to beneficiaries and no subsequent charges shall be levied that would reduce these amounts.

The CA transfers the total amount of the contribution from IPA II to the lead beneficiaries of selected operations and the lead beneficiaries shall ensure that the other beneficiaries receive the total amount of the contribution from IPA II as quickly as possible and in full if not otherwise specified in the subsidy contract and the partnership agreement. No amount shall be deducted or withheld and specific charge or other charge with equivalent effect shall be levied that would reduce those amounts for the other beneficiaries.

#### **Audit Authority**

The Financial Audit Committee (EDEL), which was established by Article 11 of Law 4314/2014, is the single Audit Authority referred to in article 123 of Regulation (EU) No 1303/2013. The Financial Audit Committee consists of five members and is independent of the Managing and Certifying Authorities, its mission is to safeguard the observance of the principles of sound financial management of co-financed programmes.

The Audit Authority shall be responsible for verifying the effective functioning of the management and control system of the Programme, through system audits, audits on operations and audit of accounts, according to article 37 of the Commission Implementing

Regulation (EU) 447/2014, article 25 of Regulation (EU) 1299/2014 and 127 of Regulation (EU) 1303/2014, and in particular:

1. Ensuring that audits are carried out to verify the effective functioning of the management and control system of the Interreg IPA II cross-border cooperation programme,
2. Ensuring that audits are carried out on operations, on the basis of an appropriate sample, to verify expenditure declared to the Commission. The declared expenditure shall be audited based on a representative sample and, as a general rule on statistical sampling methods.
3. Preparing, in accordance with article 127 par. 4 of Regulation (EU) 1303/2014, an audit strategy for performance of audits, setting out the audit methodology, the sampling method for audits on operations and the indicative planning of audits to ensure that the main bodies are audited and that audits are spread evenly throughout the programming period; The Audit Authority shall submit the audit strategy to the Commission upon their request.
4. The Audit Authority shall draw up:
  - a control report setting out the main findings of the audits carried out in accordance with the audit strategy including findings with regard to deficiencies found in the management and control systems, and the proposed and implemented corrective actions.
  - an audit opinion, in accordance with the second subparagraph of article 59 par. 5 of the Financial Regulation (EU) 966/2012.

The Audit Authority shall ensure that the audit work takes account of internationally accepted audit standards.

5. In the course of carrying out its functions, the Audit Authority shall ensure that personal data and confidential information, received by it and/or audit bodies operating under its control, are protected.
6. According to article 47 of the Commission Regulation (EU) 447/2014, articles 72, 73, 74 and 124(2) of Regulation (EU) 1303/2013 the designation of the managing authority and certifying authority of the programme shall be based on a report and an opinion of the AA as the independent audit body that assesses the fulfilment by the authorities of the criteria relating to the internal control environment, risk management, management and control activities, and monitoring set out in Annex XIII of Regulation (EU) No 1303/2013.

The Audit Authority shall be assisted by a group of auditors composed of a representative and a substitute member from each participating country and carrying out the functions provided for in Article 127 of Regulation (EU) 1303/2013. Each participating country shall be responsible for audits carried out on its territory. Each representative from each participating country shall be responsible for providing the factual elements relating to expenditure on its territory that are required by the audit authority in order to perform its assessment.

The timeframe for the preparation of the accounts in connection with the audit process, is presented in the description of the Management and Control System having in mind the need to ensure a timely submission of a high quality ACR and audit opinion, in accordance with article 127 par. 5 of Regulation (EU) 1303/2013.

#### **National IPA Coordinator (NIPAC)**

As stipulated in the Special Conditions of the Financing Agreement, the National IPA Coordinator has delegated its managing role for co-ordinating the participation of Albania in the relevant cross-border programme to the Territorial Cooperation Operating Structure, within the Ministry of European Integration.

In this regard, the Ministry of European Integration in Albania, in the capacity of national coordinator for territorial cooperation, cooperates in joint programming, management and implementation of the programme.

In particular the Ministry of European Integration, will be responsible for the following tasks:

- participating in joint programming and generation of operations in accordance with the programme objectives and Programme modification;
- take all measures to assist the project beneficiaries in ensuring the national co-financing of projects (including TA project) in a timely and proper manner;
- nominating representatives of Albania in the joint monitoring committee;
- Set up the Antenna Office and the First Level Control Office for Albania;
- organizing the selection procedure for Antenna Officer, first level controllers and assessors in Albania.
- signing Framework Agreement and the Financing Agreement
- sign contracts with the first level controllers from Albania, Antenna Officer and all other relevant staff/experts paid by the Albanian part of the Technical Assistance;
- nominating representative(s) in the group of auditors after consultation with the Albanian Audit Agency;
- signing on behalf of Albania the Bilateral Agreement ( Memorandum of Understanding);
- ensuring access to information of managing authority, certifying authority and audit authority/GoA in order to fulfil their respective tasks;
- assisting, if needed, the JS during the evaluation of the eligibility of the Albanian partners participating in the submitted of project-proposals.

#### **Article 3**

#### **EU and National Co-financing**

1. The participating countries appoint the CA to administer the IPA II funding in its own name and for their account. According to article 27(1) of Regulation (EU) 1299/2013 payments will be made to a single account with no national with no national subaccounts. The CA shall bear overall responsibility for the above-mentioned funds credited on the cited account.
2. Regarding the national contribution, the Greek national co-financing is transferred from the Public Investments Programme Budget of the Ministry of Economy, Development and Tourism, progressively and in line with the operations' implementation to the beneficiaries located in Greece, whereas the Albanian national co-financing will be assured by the beneficiaries located in Albania that will implement the operations.

#### **Article 4**

##### **IPA II pre-financing**

1. Taking into account the availability of the IPA II funds to the the Interreg IPA CBC Programme "Greece – Albania" 2014-2020 a pre-financing of the Union funds can be made available to the beneficiaries of the operations funded under the Programme.
2. The maximum amount of pre-financing that can be requested by a beneficiary amounts up to 20% of its EU contribution, as presented in the operation approved by the JMC.
3. The country where the beneficiary is located is the guarantor against the MA, the CA of the Programme and the European Commission and bears the ultimate responsibility and accountability, in case a beneficiary fails to repay all or part of the pre-financing received, that is considered an unduly paid amount, for reimbursing the amount of Union support concerned, together with interest, to the Managing Authority/Certifying Authority of the Programme in a given account provided for under Greek law. The MA/CA is responsible for reimbursing the amounts concerned to the general budget of the Union.
4. For beneficiaries located in Albania, the national body legally responsible to act as guarantor is the Ministry of European Integration. The latter shall take immediate measures toward the beneficiaries and oblige them by all legal measures to pay back to the MA/CA any amount unduly paid or misused. Furthermore, internal communication between Ministry of European Integration and Ministry of Finance will be initiated to take all the necessary measures according to the national legislation in force. The guarantor is hereby committed to guarantee for any amounts of Union pre-financing received by beneficiaries governed by public law and by beneficiaries that fall under the definition of "private non profit organisation".

5. The guarantor indicates in writing, to the MA, the beneficiaries for which prefinancing is guaranteed and undertakes, in writing, the responsibility towards the MA/CA, to reimburse any unduly paid amounts of prefinancing received by project beneficiaries located in Albania, not repaid to the MA/CA.
6. The procedure for not used pre-financing or recoveries of any unduly paid amounts of pre-financing is governed by the provisions of article 9 par. 2, 3 and 4, of the present agreement.
7. This advance payment may not be used for costs not directly related to the approved operations.
8. The amortization of payments of pre-financing is made in installments by deduction from subsequent payment claims of the beneficiary. Details will be included in the Subsidy Contract.

## **Article 5**

### **Selection of operations**

With the assistance of the JS the MA shall draw up and submit to the JMC for approval the appropriate selection procedures and criteria in accordance with the Union and national rules that:

- (i) ensure the contribution of operations to the achievement of the specific objectives and results of the relevant priority;
- (ii) are non-discriminatory and transparent;
- (iii) take into account the general principles of promotion of equality between men and women and non-discrimination and sustainable development

Consequently the MA will publish a call for proposals for the potential beneficiaries informing them about financing, the particular conditions and requirements applicable to their eligibility under the call, the criteria and the procedure for selecting operations, the main obligations to be undertaken by them in case an operation is selected for funding under the Programme in order for them to submit their project proposals.

For each operation, a lead beneficiary is appointed by the beneficiaries among themselves (article 40(1) of the Commission Implementing Regulation (EU) 447/2014, Article 13(1) of Regulation (EU) 1299/2013) who will submit the project application to the Programme.

The JS will then proceed with the evaluation of the submitted project proposals. The evaluation criteria will be defined with the aim to maximise the result-oriented approach to be applied by the programme for projects able to deliver concrete and visible outputs and results, in response to well identified challenges affecting the programme area and



addressing development needs in an integrated manner. The JS checks the eligibility criteria of applications. Proposals that are not eligible are rejected following the final decision of the Joint Monitoring Committee.

With respect to the launching of the call for proposals, the JS shall check the proposals and make certain that:

1. proposals are submitted within the deadline;
2. all standard documents required are completed;
3. beneficiaries are eligible.

The JS proceeds to the quality check of proposals, based on the operations selection criteria, as approved by the JMC, and submits all the material to the MA. After the MA makes sure that the procedure for evaluating proposals was carried out in accordance with the terms of the call for proposals and the approved operations selection criteria, it submits to the JSC:

- the application forms of the submitted project proposals;
- a ranking list of the evaluated project proposals;
- all evaluation forms.

In evaluating the project proposals, the JS may be assisted by external experts in an advisory capacity, if so suggested by the MA/JS, selected in agreement with the participating countries. Furthermore, the Albanian Operating Structure, if needed, may assist the JS during the evaluation of the eligibility of the Albanian partners participating in the submitted project-proposals.

The JMC shall select the operations to be funded.

A Joint Steering Committee shall assist the JMC in selecting the operations to be funded, if the JMC decides upon the need to establish a Joint Steering Committee. In such a case and on the basis of the proposal of the JSC, the JMC shall select the operations to be funded. Then the MA shall contract the lead beneficiaries of the selected operations.

**Arrangements for the examination of complaints beneficiaries not selected for funding.**

The two participating countries in the Programme shall set up a joint, separate and independent from the JMC, committee for the review of any complaint addressed to the Managing Authority regarding the selection of operations made by the JMC under a given call for proposals.

This Joint Complaint Committee will be formed by two participants of the MA and a representative of the Operating Structure of Albania. Participants in the Joint Complaint Committee will sign declaration of impartiality and confidentiality and a declaration

regarding no conflict of interest. It will evaluate the relevant complaints and give an opinion to the JMC that will take the final decision.

The MA will send this decision to the interested parties and inform the applicants about their judicial rights under Greek law.

All relevant procedure will be covered by Greek law since Greece hosts the MA of the Programme and any case will fall under the jurisdiction of the Greek Courts.

Greece as the country hosting the MA of the Programme shall, upon request by the Commission, examine any complaints submitted to the Commission falling within the scope of its arrangements. The MA shall inform the Commission, upon request, of the results of those examinations.

## **Article 6**

### **Contracting and Responsibilities of the Beneficiaries**

1. On the basis of the decision of the JMC on the selected operations for funding, the MA shall contract the lead beneficiaries of the selected operations. The MA and the Lead Beneficiary sign a subsidy contract for each operation. The MA will use a standard template for the subsidy contract approved by the JMC which is drafted in compliance with the Programme's applicable rules and in accordance with EU and Greek law. The subsidy contract is addressed to the Lead Beneficiary, appointed by the partnership, in accordance to article 40 of Commission Implementing Regulation (EU) 447/2014 and article 13 of the Regulation (EU) 1299/2013, and is signed by the legal representative of the Lead Beneficiary and by the MA.
2. The subsidy contract stipulates all the terms and conditions upon which the funding of the Programme is made available for the implementation of the project activities in accordance with the application form that has been approved for funding by the JMC and constitutes an integral part of the subsidy contract. The subsidy contract provides for the rights and obligations of both parties and describes the cases that may conclude to the termination of the subsidy contract. In cases there are problems with the implementation of the operations the subsidy contract provides for any remedial measures and actions that the MA may initiate in order to help the beneficiaries concluding their operations.
3. The lead beneficiary shall:
  - (i) shall lay down the arrangements with the other beneficiaries participating in the operation in an agreement (partnership agreement) comprising, inter alia, provisions guaranteeing the sound financial management of the funds allocated to the operation, including the arrangements for recovering amounts unduly paid

according to article 27 (2) of Regulation (EU) 1299/2013. The partnership agreement forms an integral part of the subsidy contract.

- (ii) shall assume responsibility for ensuring the implementation of the entire operation;
- (iii) shall ensure that the expenditure presented by all beneficiaries participating in the operation has been incurred for the purpose of implementing the operation and corresponds to the activities agreed between those beneficiaries and is in accordance with the subsidy contract pursuant to Article 40(6) of the Commission Implementing Regulation (EU) 447/2014;
- (iv) shall ensure that the expenditure presented by other beneficiaries participating in the operation has been verified by a controller;

Each beneficiary participating in the operation shall assume responsibility in the event of any irregularity in the expenditure which it has declared.

4. The arrangements co-signed with the other beneficiaries (partnership agreement) will include and describe the procedures relating to the receipt of the public support by all beneficiaries. The public support from IPA II should be received as quickly as possible and in full.

5. If not otherwise specified in the subsidy contract and in the partnership agreement the lead beneficiary shall ensure that the other beneficiaries receive the total amount of the contribution from the IPA II as quickly as possible and in full. No amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce that amount for the other beneficiaries.

6. While monitoring the implementation of the projects, if the MA finds that the requirements set in the subsidy contract have not been fulfilled, it shall do its best to ensure the proper implementation of the project and will inform the JMC accordingly. The MA may exercise its right to terminate the subsidy contract should the project not comply with the expected deliverables in due time and the provisions of the subsidy contract have not been respected and informs the JMC accordingly, without delay.

7. Payments of the Union contribution are made by the CA to the projects' beneficiaries, subject to the availability of funding from pre-financing and interim payments on the basis of verified expenditure by the project beneficiaries. Verified expenditure of each beneficiary participating in the project is included in a "Certificate of verified expenditure" signed by a "controller", designated by each participating country, in which the beneficiary is located in compliance with article 23 (4) of Regulation (EU) 1299/2013, certifying the eligibility of expenditure. Certificates of verified expenditure are sent to the JS by the Lead beneficiary every three (3) months. Verified expenditure is inserted in the MIS of the Programme by the

JS and on this basis an application for an interim payment is made to the EC by the CA periodically.

8. For the full monitoring of the project's implementation a "Progress Report" is submitted to the JS by the Lead Beneficiary, every six (6) months, according to a calendar fixed in the subsidy contract. The JS receives the progress reports and checks/ monitors the proper implementation of the approved operation as referred to in the subsidy contract according to the procedure laid down in the Description of the Management and Control System of the Programme. The JS, in agreement with the MA, provides standard forms for progress reports.
9. Modifications on projects, requested by the Lead Beneficiaries, can be approved as long as the purpose of the project is not altered. The procedure for project modifications is described in detail in the Programme Manual of the Programme, as approved by the JMC.
10. Pursuant to Article 132 of Regulation (EU) 1303/2013 and if not otherwise specified in the subsidy contract and in the partnership agreement the MA/CA ensures that the Lead Beneficiary receives the total amount of the IPA II funding as quickly as possible and in full and no later than 90 days from the submission of the payment claim by the Lead Beneficiary. No amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce amounts to beneficiaries. IPA II funds will be disbursed in Euro (€) to the bank account specified by the Lead Beneficiary in the subsidy contract.
11. In case of suspicion of irregularities, the MA/JS or the CA shall inform the competent authorities, in compliance with the description of the management and control system and suspend the reimbursement of the IPA II funds related to the beneficiary for the expenditure under examination.
12. In case of a systemic error detected, the MA and CA have the right to temporary withhold payments to a particular beneficiary. The respective country's payment suspension(s) shall be lifted as soon as the MA and CA have received sufficient evidence on the solution of the systemic error(s) detected. In the case of a systemic irregularity, the MA may extend its investigation to cover all operations potentially affected.

## Article 7

### Verifications of expenditure (1<sup>st</sup> level controls)

1. In order to verify the expenditure declared by the beneficiaries, each participating country in the Programme will set up a first level control system, according to article 23(4) of Regulation (EU) 1299/2013 and 125 (4) of Regulation (EU) 1303/2013, and shall designate

the body or person responsible for carrying out such verifications in relation to the beneficiaries on its territory (controllers) with regard to the legality and regularity of the expenditure declared by each beneficiary participating in an operation.

2. The verifications referred to above shall include the following procedures:

- (a) administrative verifications in respect of each application for reimbursement by beneficiaries;
- (b) on-the-spot verifications of operations.

The frequency and coverage of the on-the-spot verifications shall be proportionate to the amount of public support to an operation and to the level of risk identified by such verifications and audits by the audit authority for the management and control system as a whole

3. Where the MA is also a beneficiary under the Programme, arrangements for the verifications of the legality of the co-financed products and services and the payments of the related expenditure shall ensure adequate separation of functions between the different units of the MA.

4. The MA shall satisfy itself that the expenditure of each beneficiary participating in an operation has been verified by a designated controller. Each participating country in the Programme shall provide adequate information to the MA on the structures and procedures of its first level control system.

5. Each participating country in the Programme shall ensure that the expenditure of a beneficiary can be verified within a period of three (3) months following the submission of the documents by the beneficiary concerned. Each participating country shall be responsible for the verifications carried out on its territory.

6. As regards the flow of certified expenditure, the Lead beneficiaries submit payment claims, on the basis of the relevant certificates of verified expenditure of the project beneficiaries, to the JS, periodically, as provided for in the subsidy contract. All verified expenditure is inserted in the MIS of the Programme by the JS. The Managing Authority shall ensure that all the necessary information is available on the procedures and verifications carried out in relation to expenditure for the purpose of certification.

7. In accordance with article 125 (4) of Regulation (EU) 1303/2013, verifications to be carried out at national level shall cover administrative, financial, technical and physical aspects of operations. Verifications shall ensure that the expenditure declared is real, that the products and services have been delivered, and that the operations and expenditures comply with relevant EU and national rules. The process of verification carried out by the controllers at national level includes 100% administrative verification and on the spot verifications on a

sample basis but at least once during the life circle of a project. The MA should always be kept informed on the methodology and sample used for on the spot verifications by the participating countries.

8. Moreover, the MA has to set up the procedures so that all documents required to ensuring an adequate audit trail regarding expenditure incurred and payments made are recorded and stored in computerised form on each operation and made available in accordance with the requirements of article 125 (2 d) and (4) of Regulation (EU) 1303/2013 and article 72 (d) of Regulation (EU) 1303/2013. The Managing Authority shall also satisfy itself that a record is maintained of the identity and location of the bodies keeping these documents. In the standard case and according to the subsidy contract, the Lead Beneficiary is responsible for keeping the documents ready.

9. The MA/JS shall monitor the activity and financial progress of projects. In case the MA has doubts on the effective functioning of the respective control system, it will address itself to the Member State concerned and try to find a solution.

10. The MA ensures that all outstanding questions will be fully followed-up before any payment claim is accepted. No payment claims will be accepted and no payment will be transferred to a Lead beneficiary or to the beneficiaries according to the procedure described in the subsidy contract and the partnership agreement, until full and satisfactory information has been provided on the first level control system.

11. **Greece shall establish a de-centralised system.** The MA will proceed with the set-up of a registry of externals controllers who will perform verification for the expenditure incurred by the Greek beneficiaries. The "controllers" will be responsible for issuing the "certificates of verified expenditure". The MA will monitor and control the registry and the performance of the duties appointed to the "controllers".

**Albania shall establish a centralised system.** First level control office, coordinated by the Ministry of European Integration will perform verification of expenditure for beneficiaries located in Albania and issue the "certificates of verified expenditure".

A detailed description of the first level control system of the two participating countries in the Programme is included in the description of the Management and Control System of the Programme.

## Article 8

### Audits (2<sup>nd</sup> level controls)

#### A. Audits carried out by the Audit Authority



1. In carrying out its functions, the AA shall ensure that are carried out on the proper functioning of the management and control system of the Interreg IPA CBC Programme "Greece – Albania" 2014-2020 and on an appropriate sample of operations on the basis of the declared expenditure. The declared expenditure shall be audited based on a representative sample and, as a general rule, on statistical sampling methods. A non-statistical sampling method may be used on the professional judgment of the audit authority, in duly justified cases, in accordance with internationally accepted audit standards and in any case where the number of operations for an accounting year is insufficient to allow the use of a statistical method. In such cases, the non-statistical sample method shall cover a minimum of 5 % of operations for which expenditure has been declared to the Commission during an accounting year and 10 % of the expenditure which has been declared to the Commission during an accounting year.

2. The AA shall carry out audits on the management and control system(s), on operations, and on the annual accounts in line with internationally accepted auditing standards and in accordance with an audit strategy which shall be updated annually. Audits on operations and accounts are carried out according to article 27 of Regulation (EU) 480/2014.

3. When problems detected appear to be systemic in nature and therefore entail a risk for other operations under the the Interreg IPA CBC Programme "Greece – Albania" 2014-2020, the Financial Control Committee shall ensure that further examination is carried out, including additional audits where necessary, to establish the scale of such problems. Audits on operations will allow for the verification of the accuracy of the amounts and completeness of the corresponding expenditure included in the payment claims.

#### **B. Group of Auditors**

1. The AA of Programme shall be assisted by a Group of Auditors (GoA) comprising a representative from each participating country in Programme and a substitute member, carrying out the duties provided for in article 127 of Regulation (EU) 1303/2014. The GoA shall be chaired by the Audit Authority of the Programme according to article 25 par. 2 of Regulation (EU) 1299/2013. Each participating country shall be responsible for audits carried out on its territory.

2. Representatives from each participating country in the Programme shall be responsible for providing the factual elements relating to expenditure on its territory that are required by the audit authority in order to perform its assessment.

### **Irregularities and Financial Liability**

1. According to article 122 (2) of the Regulation (EU) 1303/2013 the MA, during the implementation of the Programme and the monitoring of the projects' implementation, according to the provisions stipulated in the subsidy contracts, as well as the participating countries in the Programme shall prevent, detect and correct irregularities. Depending on the type of the irregularity detected and the progress of a project's implementation the relevant clauses of the subsidy contract are triggered in order to minimize the impact of the irregularity. The MA as well as the participating countries shall recover amounts unduly paid, together with interest on late payments and should notify the MA, in the latter case, as soon as possible. The participating countries shall notify the Commission of irregularities that exceed 10.000 Euros in contribution from the IPA II and shall keep it informed of significant progress in related administrative and legal proceedings. Irregularities relating to the Programme shall be reported by the participating country in which the expenditure is paid out by the beneficiary in implementing the operation. The participating country shall inform the managing authority, the certifying authority for the Programme and the audit authority.
2. According to article 46(6) of Commission Implementing Regulation (EU) 447/214 and article 27 (2) of the Regulation (EU) 1299/2013 the MA/CA ensures that any amount paid as a result of an irregularity is recovered from the lead beneficiary or the beneficiaries if so specified in the subsidy contract and the partnership agreement. As the case might be, the MA/CA may withhold any amounts concerned from future applications of interim payments. Each beneficiary participating in the operation shall assume responsibility in the event of any irregularity in the expenditure which it has declared. If not otherwise specified in the subsidy contract and the partnership agreement, beneficiaries shall repay to the lead beneficiary any amounts unduly paid.
3. If the lead beneficiary does not succeed in securing repayment from other beneficiaries, or if the MA/CA does not succeed in securing repayment from the lead beneficiary, or from the beneficiaries if so described in the subsidy contract and the partnership agreement, the participating country, on whose territory the beneficiary concerned is located, shall reimburse the MA/CA of any amounts that were unduly paid to that beneficiary in an a given account provided for under Greek law. The MA in collaboration with the CA shall be responsible for reimbursing the amounts concerned to the general budget of the Union. In case of Albania, the recovery procedure will be the same as specified in article 4, paragraph 4 above.
4. According to article 143 par.1 of Regulation (EU) 1303/2013 the participating countries shall be responsible in the first instance for investigating irregularities and for making the

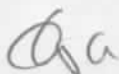
financial corrections required and pursuing recoveries. In the case of a systemic irregularity, the participating countries shall extend the relevant investigation to cover all operations potentially affected.

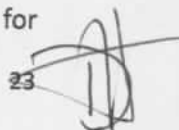
5. The MA shall make the financial corrections required in connection with individual or systemic irregularities detected in operations or the Programme following audits of any level. Financial corrections shall consist of cancelling all or part of the public contribution to an operation or to the Programme. The MA shall take into account the nature and gravity of the irregularities and the financial loss to the IPA II funds and shall apply a proportionate correction. Financial corrections shall be recorded in the accounts held by the MA for the accounting year in which the cancellation is decided.
6. The MA shall provide the relevant national authorities with all relevant documents in order to facilitate the recovery of any unduly paid amounts from beneficiaries located on their territory.
7. In the event of financial corrections imposed by the MA or the Audit Authority or the Commission, the apportionment of liabilities among the participating countries, in case liabilities cannot be assigned to a specific country, will be made based on the projection of the specific error rate to the population of project beneficiaries per country potentially affected.
8. The contribution from the IPA II cancelled, in accordance with the above-mentioned provisions, may be reused by the participating countries within the Programme, subject to the condition that the contribution cancelled may not be reused for any operation that was the subject of the correction or, where a financial correction is made for a systemic irregularity, for any operation affected by the systemic irregularity.
9. A financial correction by the Commission shall not prejudice Greece's obligation to pursue recoveries under article 143(2) of Regulation (EU) 1303/2013 and to recover State aid within the meaning of article 107(1) Treaty on the Functioning of the European Union (TFEU) and under article 14 of Council Regulation (EC) No 659/1999.
10. After recovery, the MA in collaboration of the CA repays the irregular payments recovered, together with interest received on account of late payment, by deducting the amounts concerned from its next statement of expenditure and request for payment to the European Commission, or if this is insufficient, by effecting a refund to the EU.

#### Article 10

#### Eligibility Rules

The participating countries agree to common eligibility rules, as stipulated in the calls for



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project proposals, being approved by the JMC and in accordance with the provisions of the Commission Delegated Regulation (EU) 481/2014.

## Article 11

### Final Provisions

1. This Agreement shall be governed by the law of the Hellenic Republic. In case differences arise that are not covered by this agreement, the parties agree to find an amicable and mutually acceptable solution. Should the parties fail to do so, all disputes arising in connection with this agreement shall be settled by the competent Courts that have jurisdiction in Greece.
2. The participating countries undertake the responsibility to support the MA, CA, AA and JS in their efforts to best implement the Programme and to comply with their tasks pursuant to this agreement.
3. If any provision of this agreement should become wholly or partly ineffective or null and void, all other provisions remain valid. The parties to this agreement undertake the obligation to take all necessary actions to amend, if possible, the subject matter of this agreement that is affected.
4. Amendments to this agreement by the parties should always be made in writing and in agreement among the participating countries.
5. The official language of the Programme is English. Additionally to the English language, Greek and Albanian, as the national languages of the participating countries, are considered as working languages. Written communication between the Managing Authority, Certifying Authority, Audit Authority, Joint Secretariat and the participating countries is conducted in English.
6. This agreement on the implementation of Interreg IPA CBC Programme "Greece – Albania" 2014-2020 shall be signed by the representatives of the Ministry of Economy, Development and Tourism of the Hellenic Republic and the Ministry of European Integration of the Republic of Albania,

## Article 12

### Entry into force

This Agreement shall enter into force on the date on which it is signed by the last party.

This agreement forms part of the trilateral Financing Agreement of Interreg IPA CBC Programme "Greece – Albania" 2014-2020 as "ANNEX V".

This agreement is drawn up in three exemplars.



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~~The Ministry of Economy, Development and Tourism:~~

Name and function of the person entitled to represent the Ministry of Economy, Development and ~~Tourism~~ of the Hellenic Republic, as the Member State participating in the Programme:

Place, Date:

9/12/2016

Signature:

[Signature]



The Ministry of European Integration:

Name and function of the person entitled to represent the Ministry of European Integration, of the Republic of Albania, as participating country in the Programme:

Mrs. Klajda Gjoshaj

Minister of European Integration, National IPA Coordinator

Place, Date: Tirana, on 17. 11. 2016

Signature:

[Signature]



[Signature]