



**ЕВРОПЕЙСКИ СЪЮЗ**  
Европейски фонд  
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*Инвестираме във вашето бъдеще*



**ОПЕРАТИВНА ПРОГРАМА**  
**„Развитие на конкурентоспособността**  
**на българската икономика” 2007-2013**  
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## *Annex II*

### **General conditions to the financed under Operational Programme “Development of the Competitiveness of the Bulgarian Economy” 2007-2013 contracts for provision of a grant**

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### GENERAL AND ADMINISTRATIVE REGULATIONS

#### ARTICLE 1- GENERAL OBLIGATIONS

- 1.1. The Beneficiary is obliged to implement the project according to the description included in Annex I, and with a view to implementation of the objectives set in it.
- 1.2. The Beneficiary should implement the project with due diligence, while observing the requirements of effectiveness, transparency and endeavor, in compliance with the best practices in the relevant area and with this contract. Therefore the Beneficiary should provide all the financial, human and material resources necessary for the full and exact implementation of the project which are stipulated in the description contained in Annex I.
- 1.3. The Beneficiary should implement his obligations alone or in collaboration with one or more partners if such are mentioned in the description of the project and in the contracts.
- 1.4. The partners participate in the implementation of the project and their expenses are eligible and should be proved on the same grounds as the expenses done by the Beneficiary. The main part of the project should be implemented by the Beneficiary and, if applicable, by his partners.
- 1.5. The Beneficiary has the right to sign contracts with contractors for implementation of a limited part of the project if the nature of the project requires it.  
In these cases the Beneficiary is obliged to apply the procedures for selection of a contractor which are arranged in the Public Procurement Law and the regulations for its application, when a contracting authority appears in the sense of the Article 7 and Article 14, paragraph 4 and paragraph 5 of the Public Procurement Law and Article 1, paragraph 4 of the Regulation on commissioning of small public procurements.  
The Beneficiary is obliged to keep the Regulation for a preliminary control on procedures of public procurements, fully or partially financed with resources from the European funds when the conditions of the Article 19, paragraph 2, section 22 of the Public Procurement Law are in evidence.  
The Beneficiary is obliged to apply the procedures for selection of a contractor, arranged in Decree № 55/ 12.03.2007 on the conditions and the order of determining of a contractor by the beneficiaries of an agreed grant from the Structural funds and the Cohesion fund of the European Union, the Joint Operational Programme for a cross-border cooperation “Black Sea 2007- 2013” and from the Financial mechanism of the European Economic Area, when there are conditions for this.
- 1.6. The Beneficiary and the Contracting authority are the only parties (hereinafter “the parties”) in the contract. The Contracting authority is not in contracting relations with the partners or contractors of the Beneficiary in relation to the implementation of the project. Only the Beneficiary is responsible in front of the Contracting authority for the implementation of the project.



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- 1.7. The Beneficiary guarantees that the conditions applicable to him under the Articles 1, 3, 4, 5, 6, 7, 9, 11, 12, 14 and 15 of current General conditions also relate to his partners and the conditions under the articles 1, 3, 4, 5, 6, 11.3. “b” and 14 of these General conditions relate to all the contractors. He is obliged to include such regulations in the contracts which signs with those entities.
- 1.8. Within five years after the termination of the operation or three years after the termination of the operation in the member country which had exercised its right of choice to reduce this period for keeping the investment or the work places created by the Ministry of Regional Development, the project should not be changed significantly.  
Significant changes mean changes concerning the nature of the project, the conditions for its implementation or such raising unjustified benefits for the company or the public organization as well as changes, resulting from the change in the nature of the ownership of any element of the infrastructure or the transfer of the production activity.
- 1.9. The Beneficiary is obliged to observe the legislation in the area of the state aids, having in mind the following:
- it is not necessary the aid to be granted by the state itself, it could be granted by a public intermediary organization determined by state;
  - the aid could be expressed in cost savings and providing services at prices lower than the market prices.
  - in view of letters a) and b), the Beneficiary should provide services under equal market conditions without breaking the rules of competition.

## **ARTICLE 2- OBLIGATION TO PROVIDE INFORMATION, FINANCIAL AND TECHNICAL REPORTS**

2.1. The Beneficiary should provide to the Contracting authority and/ or to persons authorized by him, the Managing authority and the Certification authority, all the required information related to the implementation of the project within an explicitly determined period.

The Contracting authority, the Managing authority and the Certification authority have the right to require additional information anytime and this information should be provided within five business days after being requested.

2.2. If the Contracting authority performs current and subsequent evaluation of the project, the Beneficiary is obliged to give the Contracting authority and/ or to persons authorized by him all the documentation or information which could help for the successful performance of the evaluation as well as to provide him the rights for access, stipulated in the Article 14.5 of these General conditions.

2.3. A party under the contract, which had performed or commissioned evaluation within the project, should provide a copy of the evaluation report to the other party.

2.4. The Beneficiary is obliged to prepare a final report. On any request for interim payment the Beneficiary is obliged to present an interim report. These reports consist of a technical and financial part and are prepared according to samples of the Contracting authority, representing annexes to the

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Operational guidance of the particular procedure for provision of a grant. They relate to the whole project, regardless of which part of it is financed through a grant. The reports should contain the necessary annexes with full information about all the aspects of the implementation during the period under review. Each page of the interim/ final report, as well as the annexes to it, should be certified with text: “True to the original” and undersigned and sealed by the beneficiary. A list of the supporting documents for the reported period should be attached to the interim/ final report, as well as certified by the Beneficiary copies of the supporting documents.

2.5. The interim/ final report should be prepared in Bulgarian language. The interim/ final report should be presented together with each payment request. The final report should be presented within up to two months after the expiry of the term for implementation of the activities under the project. The term for presentation of the final report could be extended up to four months after a prior approval by the Contracting authority and/ or the persons authorized by him when the headquarters of the Beneficiary are not in the territory of the Republic of Bulgaria.

2.6. If the Beneficiary does not present a final report to the Contracting authority and/ or the persons authorized by him according to the mentioned in the Article 2.4 of current General conditions format and within the term stipulated in the Article 2.5 of current General conditions and does not prepare an acceptable and comprehensive written explanation related to the non-execution of this obligation, the Contracting authority has the right to terminate the contract according to the Article 11.3 “a” of current General conditions and to require recovery of the amounts unduly paid.

2.7. In addition, in compliance with the Instructions of the Minister of Finance (№ 91-00-502/ 27.08.2007) related to treatment of the value added tax as eligible expenses during implementation of projects under the operational programmes, co-financed by the Structural funds and the Cohesion fund of the European Union, issued on the grounds of §6 of the Transitional and final provisions of Decree of the Ministerial Council № 62/ 21.03.2007 for adoption of national rules on eligibility of expenses under the operational programmes, co-financed by the Structural funds and the Cohesion fund of the European Union, the Beneficiary is responsible for administration of the process of determining the value added tax as an eligible expense. The Beneficiary shall follow the Instructions of the Minister of Finance related to determining the VAT as recoverable and unrecoverable (eligible expense), in order to form the Payment request, the documental accounts, as well as all the other obligations under the Instructions related to the receiving of funds from the Contracting authority. The Beneficiary agrees that the competent revenue authority provides information about him to the Managing authority/ Intermediate unit and/ or the Certification authority on demand.

## **ARTICLE 3- RESPONSIBILITY**

3.1. The Contracting authority is not responsible for damages caused to the employees or property of the Beneficiary during implementation of the project or as a consequence of it. The Contracting authority does not owe any compensation or additional payments beyond those provided under the contract, related to such damages.

3.2. The Beneficiary assumes the whole responsibility towards third persons, including responsibility for damages of any kind, suffered by these persons during the implementation of the project or as a consequence of it. The Contracting authority does not bear any responsibility

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resulting from claims or complaints due to violation of the regulations on the part of the Beneficiary, his employees or persons, subordinate to his employees, or as a result of violation of the rights of a third person.

#### **ARTICLE 4- CONFLICT OF INTERESTS AND COHERENCE**

4.1. The Beneficiary is obliged to undertake all the necessary measures in order to avoid and prevent a conflict of interests and/ or coherence according to § 1 of the Additional regulations of Trade Law as well as to immediately inform the Contracting authority about a circumstance which causes or could cause such a conflict or coherence. During the performance of the contract for a grant the Beneficiary has no right to conclude contracts with entities to which is related in the sense of § 1 of the Additional regulations of Trade Law and/ or are subject of conflict of interests.

The Beneficiary can conclude employment/ civil contracts with persons under § 1, paragraph 1, section 1 of the Additional regulations of Trade Law if they meet the requirements of the position, only after the explicit approval of the Contracting authority after presenting reasoned justification for the need of this.

4.2. The conflict of interests exists when a doubt, related to the unbiased and objective performance by any person of the functions under the contract, can arise, due to reasons connected to the family, emotional life, political affiliation or nationality, economical interests or other common interests, which this person may have with another person according to the Article 52 and Article 82 of Regulation 1605/ 2002 concerning the financial regulations, applicable to the common budget of the European Community, amended by a Council Regulation (EC, Euratom) № 1995/ 2006, as well as according to the Law on prevention and detection of conflict of interests.

There also exists a conflict of interests according to the current article, when:

- a) The Beneficiary who is not a budget enterprise concludes an employment contract or any other kind of contract for management or control with a person on an employment or official relationship in the Managing authority or the Intermediate unit of the Operational programme “Competitiveness” while working in the relevant position or one year after quitting;
- b) A person on an employment or official relationship in the Managing authority or the Intermediate unit of the Operational programme “Competitiveness” while working in the relevant position or one year after quitting had acquired shares or stocks of the capital of a beneficiary under “Competitiveness”;
- c) A beneficiary concludes a contract for consulting services with a person on an employment or official relationship in the Managing authority or the Intermediate unit of the Operational programme “Competitiveness” while working in the relevant position or one year after quitting.

4.3. When assigning performance of activities under the project to external contractors, the Beneficiary should observe the following requirements:

- a) At the date of submission of a tender by the relevant participant in a procedure for assignment, the participant in the procedure for should not be represented by a person on an employment or official relationship in the Managing authority or the Intermediate unit of the



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- Operational programme “Competitiveness” while working in the relevant position or one year after quitting;
- b) At the date of submission of a tender by the relevant participant in a procedure for assignment, the participant should not have signed an employment contract or any other contract for management or control with a person on an employment or official relationship in the Managing authority or the Intermediate unit of the Operational programme “Competitiveness” while working in the relevant position or one year after quitting;
  - c) A person on an employment or official relationship in the Managing authority or the Intermediate unit of the Operational programme “Competitiveness” while working in the relevant position or one year after quitting at the date of submission of a tender should not possess shares or stocks of the capital of a participant in the procedure for assignment of activities under a project co-financed according to the Operational programme “Competitiveness”.

4.4. The Beneficiary is obliged to observe all the requirements mentioned in the Article 4.2, letters “a” up to “c” and Article 4.3, letters “a” up to “c”. The Contracting authority has the right to check the fulfillment of the obligations of the beneficiaries. In case of violation of these obligations, the Contracting authority has the right to terminate unilaterally the undersigned contract for provision of a grant and to request reimbursement of the resources under the contract.

The checks for compliance with the requirements mentioned in the Article 4.3 of the current General conditions should be done by the persons who monitor and control the performance of the contracts, including monitoring and spot checks.

## **ARTICLE 5- CONFIDENTIALITY**

5.1. In compliance with the regulation of Article 14 of current General conditions, the Contracting authority, the persons authorized by him, the Managing authority, the Certification authority and the Beneficiary are obliged to keep the confidentiality of all the documents, information and other materials within a period of not less than three years after termination of the operational programme according to the Article 89 (3) of the Council Regulation № 1083/ 2006. The European Commission has the right of access to all the documents, provided to the above mentioned persons, keeping the same confidentiality requirements.

5.2. During realization of their authorities, the Contracting authority, the persons authorized by him, the Managing authority in cases when the Contracting authority is an Intermediate item, the Certification authority, the Beneficiary and the European Commission observe the requirements for protection of personal data in compliance with the regulations of the Article 37 of the Commission Regulation № 1828/ 08.12.2006 and the applicable national legislation.

## **ARTICLE 6- VISUAL IDENTIFICATION**

6.1. The Beneficiary is obliged to do everything necessary in order to disclose the fact that the project is financed or co-financed by the European fund for regional development. The measures undertaken for this purpose should comply with the applicable rules for informing and publicity,



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stipulated in the Article 8 and Annex I to the Article 9 of the Commission Regulation № 1828/2006.

6.2. The Beneficiary should mention the financial contribution, provided by the European fund for regional development through the Operational programme “Development of the Competitiveness of the Bulgarian Economy” in the information provided to the target group under the project, in internal and annual reports, in any types of documents, related to the performance of a particular operation (including participation certificates and other certificates) and in any contacts with the media. When it is required according to the Article 8 of the Commission Regulation № 1828/2006, he should use the logo of EU and the logo of the Operational programme “Development of the Competitiveness of the Bulgarian Economy”. Any publications of the Beneficiary, in any form and in any media, including Internet, should contain the following statement:

*“This document is created with the financial support of the Operational programme “Development of the Competitiveness of the Bulgarian Economy” 2007-2013, co-financed by the European Union through the European fund for regional development. The whole responsibility for the content of the document is borne by < name of the Beneficiary > and under no circumstances can be accepted that this document reflects the official position of the European Union and the Contracting authority”.*

6.3. In all the announcements or publications, related to the project, as well as in conferences and seminars, the Beneficiary is obliged to specify that the project had received financing from the European fund for regional development through the Operational programme “Development of the Competitiveness of the Bulgarian Economy” 2007-2013.

6.4. The Beneficiary authorizes the Contracting authority, the persons authorized by him, the national auditing authorities, the European Commission, the European Anti-Fraud Office, the European Court of Auditors and the external auditors to publish his name and address, the purpose of the grant awarded, the maximum amount of the grant and the correlation in financing of the eligible expenses under the project according to the stipulated in the Article 3 of the contract.

## **ARTICLE 7- RIGHT OF PROPERTY/ USE OF THE RESULTS AND THE PURCHASED EQUIPMENT**

7.1. The right of property, including the right of intellectual and industrial property of the project results, reports and other documents related to the project, arises and belongs to the Beneficiary.

7.2. Regardless of the regulations of the Article 7.1 of current General conditions and observing the regulation of the Article 5 of current General conditions, the Beneficiary provides to the Contracting authority, the persons authorized by him, the Managing authority in cases when the Contracting authority is an Intermediate item, the Certification authority, the national auditing authorities, the European Commission, the European Anti-Fraud Office, the European Court of Auditors and the external auditors the right to use free and according to the range of verification all the documents related to the project, regardless of their form, on condition that there will be no violation of existing rights of intellectual and industrial property.



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7.3. When the headquarters of the Beneficiary are not in the country where the project is implemented and if there are no other provisions in the contract, not later than the deadline for implementation of the project the equipment, vehicles and actives, purchased with resources from the budget of the project, should be transferred to the local partners of the Beneficiary or to the target group under the project. Copies of the documents for transfer of the vehicles, equipment and actives should be enclosed to the final report. Such documents should be kept for control purposes in all the other cases.

## **ARTICLE 8- AMENDMENT OF THE CONTRACT**

8.1. The contract for a grant, including its annexes, can be amended by mutual agreement of the parties and for this purpose an additional agreement should be signed. The Beneficiary can present a request for amendment of the contract for provision of a grant to the attention of the Contracting authority within one month prior to the date of entry into force of the requested amendment; unless there are special circumstances duly justified by the Beneficiary and accepted by the Contracting authority. The Contracting authority reserves the right to refuse the amendment of the contract requested by the Beneficiary. The contract for a grant can be amended by mutual agreement of the parties, as in the case of:

- a) In case of changing the initial values of the budget lines when redistribution of resources in the budget under the project is performed, leading to increase or decrease with more than 15% of the agreed in the budget figures divided by budget sections, as well as the division and consolidation of budget lines (types of expenses), the beneficiary has no right to apply the amendment prior to the approval by the Contracting authority and prior to the conclusion of an additional agreement.
- b) In case of changing the deadline of the contract for a grant, when the period for implementation of the project is not longer than the maximum stipulated in the Guidelines for application, the beneficiary has no right to apply the amendment prior to the approval by the Contracting authority and prior to the conclusion of an additional agreement.
- c) In case of changing the legal status and the legal representative, the Beneficiary has the right to implement the amendment and should immediately notify the Contracting authority. In case of approval by the Contracting authority, an additional agreement should be prepared and signed. The Contracting authority has the right to disapprove the change if the conditions of the Article 8.5 “b” of current General conditions are violated, of which disapproval should notify the Beneficiary. If no agreement is achieved between the parties, the contract for a grant shall be terminated according to the Article 11.2 of current General conditions.

8.2. The Beneficiary should inform the Contracting authority without signing an additional agreement in case of change of the following circumstances:

- a) Change of the bank account;
- b) Change of the servicing auditor/s;
- c) Change in the Action Plan for implementation of the project when the amendment does not lead to change in the period and the way of reporting of the different stages (in the cases when key stages are stipulated for the implementation of the project and the non-performance of one key stage does not allow transition to another key stage or the



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performance leads to a negative result which does not allow transition to the next stage) during the implementation of the contract for a grant and does not lead to amendment of the budget, activities and deadline of the contract. The Contracting authority has the right to disapprove the change if the conditions of the Article 8.5 of current General conditions are violated;

- d) Change which does not concern the main objective of the project and the financial effect of the same, is limited to transaction of resources within one budget section or to transaction of one budget section into another with deviation of not more than 15% of the initially agreed amount of the budget sections. The Contracting authority has the right to disapprove the change if the conditions of the Article 8.5 of current General conditions are violated;
- e) Change of name, correspondence address, headquarters and/ or address of management of the Beneficiary. The Beneficiary has the right to apply the change and should immediately inform the Contracting authority. The Contracting authority has the right to disapprove the change if the conditions of the Article 8.5 of current General conditions are violated and should inform the Beneficiary.

8.3. In the cases under the Article 8.2 the Beneficiary has the right to apply the amendment and must notify the Contracting authority in writing. The Contracting authority reserves the right to not accept the amendment if:

- The type of the amendment is not among the listed in the Article 8.2;
- There is no written notice of application of the amendment;
- The conditions of the Article 8.5 of current General conditions are violated;
- The need for its implementation is not well justified.

8.4. In the cases under the Article 8.2 the Beneficiary has the right to apply the amendment if the Contracting authority had not objected to the proposed changes within 15 business days after receiving the written notification.

8.5. The following changes are inadmissible:

- a) Changes in the budget of the contract leading to increase of the initially agreed percentage and amount stipulated in the Article 3 of the contract for provision of a grant and/ or leading to exceeding of the resources in the budget sections, for which there is a certain amount in an enactment, in a legal act of the European Union or in the certain guidelines for application;
- b) Changes which question the achievement of the main objective and the planned results of the project and have as their purpose or effect the introduction of amendments in the contract for provision of non-recourse financial aid, which would question the decision for provision of a grant or would constitute violation of the principal of equal treatment of the candidates and would violate the conditions laid down in the guidelines for application, and the applicable regulation to the relevant procedure for provision of a grant.

## **ARTICLE 9- TRANSFER OF RIGHTS AND OBLIGATIONS UNDER THE CONTRACT**

9.1. The rights and obligations under the contract can not be transferred or commissioned to a third person without the prior written approval by the Contracting authority.

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## **ARTICLE 10- EXTENSION, CESSATION, EXTRAORDINARY CIRCUMSTANCES AND DEADLINE OF THE CONTRACT**

10.1. The Beneficiary is obliged to immediately inform the Contracting authority and/ or the persons authorized by him about any circumstances which could impede or delay the implementation of the project. The Beneficiary can request extension of the period for implementation of the project not later than one month before its expiry, provided that the term does not go beyond the frameworks for performance of the relevant operation under the Operational programme and in compliance with the stipulated in the Article 8 of current General conditions. The request should be motivated and supported by all the reasonable evidences, necessary for the decision to amend the contract.

10.2. The Beneficiary can stop temporarily the implementation of the project in full or partially if exceptional circumstances arise, which make its continuation very difficult or dangerous, provided that the term does not go beyond the frameworks for performance of the relevant operation under the Operational programme and in compliance with the stipulated in the Article 8 of current General conditions. The Beneficiary should immediately inform the Contracting authority and/ or the persons authorized by him and enclose all the necessary documentation.

Each of the parties can cease the contract according to the Article 11.1 of current General conditions. If the contract is not terminated, the Beneficiary is obliged to do the necessary in order to decrease the period of cessation of the performance to the minimum and to renew it when the circumstances allow, as well as to immediately inform the Contracting authority and/ or the persons authorized by him of these activities.

10.3. The Contracting authority and/ or the persons authorized by him can require the Beneficiary to stop temporarily the implementation of the project in full or partially if exceptional circumstances arise, including in case of doubt about irregularities which make its continuation very difficult or dangerous.

Each of the parties can cease the contract according to the Article 11.1 of current General conditions. If the contract is not terminated, the Beneficiary is obliged to do the necessary in order to decrease the period of cessation of the performance to the minimum and to renew it when the circumstances allow with a prior written approval by the Contracting authority.

10.4. The period of performance shall be extended for as long as it has been lost during the temporary cessation of the execution without affecting the opportunity to amend the contract, necessary for adapting the project to the new circumstances for execution.

10.5. An extraordinary circumstance is any unforeseen exceptional situation or event beyond the control of the parties which does not allow one of them to fulfill its obligations under the contract; its occurrence can not be attributed to error or negligence on their part (or on part of their contractors, representatives or employees) and can not be overcome by exercising due diligence.

- a) Deficiencies in equipment or materials or delay in their provision, labour disputes, strikes or financial difficulties do not constitute an extraordinary circumstance.

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The parties are not responsible for violation of their obligations under the contract if they are not able to perform them due to an extraordinary circumstance.

- b) Without affecting the regulations of the Articles 11.2, 11.3 and 11.6 of current General conditions, the party affected by an extraordinary circumstance is obliged to immediately notify the other party of the occurrence of an extraordinary circumstance, indicating the nature, probable duration and foreseeable effects of its occurrence, as well as to undertake all the necessary measures in order to minimize the possible adverse effects.

10.6. The obligations of the Contracting authority to the Beneficiary for all outstanding payments under the contract are invalid in the cases under the Article 93 of the Council Regulation № 1083/2006 and the contract should be ceased on the grounds of the Article 11 of current General conditions. The Beneficiary bears the risk of untimely submission of requests for certification of the expenditures. The Contracting authority should inform in writing the Beneficiary about the expiry of the period according to the Article 93 of the Council Regulation № 1083/2006 at least 6 months prior to the expiry.

## **ARTICLE 11- TERMINATION OF THE CONTRACT**

11.1. If any of the parties considers that the contract can not be performed effectively anymore, it should turn for coordination to the other party. If the parties fail to agree on the problem, each of them has the right to terminate the contract with one month written notice, without liability to pay compensation, unless in cases where the Beneficiary owes resources provided from the grant, which are not duly certified.

11.2. The Contracting authority has the right to terminate the contract without notification and without paying any compensation in case that the Beneficiary:

- a) Has declared bankrupt or a legal procedure of bankruptcy has been started against him, or he is in proceedings of liquidation, if the company is managed by an appointed bankruptcy judge, if he has agreed with the creditors to discharge his liabilities, if he has stopped the activity or is in a similar situation, resulting of an analogical procedure, stipulated in the national legislation;
- b) If he has been convicted with an effective sentence or has an administrative sanction imposed with an effective punitive ordinance, related to his professional activity, or is guilty of grave violation of his professional duties, duly proved;
- c) If he changes his legal-organizational form or reorganizes, unless the Contracting authority has expressed written consent to continue the contractual relationships with the new or reorganized legal entity according to the Article 8.5 of current General conditions.

11.3. The Contracting authority has the right to terminate the Contract without notification and without payment of any compensation in case of irregularity (1) on the part of the Beneficiary as like as in the following cases:

- a) Unjustified non-performance of any of his obligations under the contract and/ or annexes to it if he continues to not perform them or does not provide a satisfactory explanation within 5 business days after a written notification on the part of the Contracting authority has been sent;

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- b) Suspicion of fraud (2) according to the Article 1 of the Convention to protect the financial interests of the European Communities, corrupt practices, participation in criminal organizations or any other illegal activities to the detriment of the financial interests of the European Communities. This condition also refers to the partners, contractors and representatives of the Beneficiary;
- c) Non-compliance with the regulations of the Articles 2, 9 and 14 of current General conditions;
- d) Declaring false or incomplete data in order to obtain the grant, subject to the contract, or providing reports with false contents;
- e) Found violation of the regulations of the Article 4 of current General conditions.

11.4. Under the conditions of the Article 11.2 and Article 11.3 of current General conditions, the Contracting authority can also terminate the contract when the deadline according to the Article 93 of the Council Regulation № 1083/ 2006 comes.

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- (1) Each violation of a regulation of the Community legislation as a result of activity or inactivity of an economic entity which has resulted or would result in violation of the common budget of the Communities or the budgets, managed by them, or by reducing or losing incomes, proceeding from own resources which are gathered directly on behalf of the Communities, or by performance of unjustifiable expense.
  - (2) With regard to incomes and expenses, each deliberate activity or inactivity, related to:
    - use or provision of false, wrong or incomplete statements or documents which leads to misuse, improper withdrawal or illegal reduction of funds from the common budget of the European Communities or from budgets managed by or on behalf of the European Communities;
    - Hiding of information in violation of a particular obligation, with the same result;
    - Use of such funds for purposes other than those for which were originally granted;
    - Abuse of legally obtained benefit with the same effect.

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11.5. The Contracting authority has the right to terminate the contract without notification and without owing compensation in the cases when the grounds under the Article 11.2 “b” and the Article 11.3 of current General conditions exist in relation to the persons who are empowered to represent the Beneficiary or the partner and are registered in the Trade register or in the Register of legal entities with non-profit purpose or have been determined as such in the basic instrument, when these circumstances are not subject to registration when the Beneficiary is a legal entity.

11.6. In case of termination of the contract, excluding the cases under the Article 11.3 “b” and “d” of current General conditions, the Beneficiary has the right to receive, after a motivated decision by the Contracting authority, only such a part of the grant, which has been duly certified and complies with the implemented part of the project, with exclusion of the expenses related to ongoing commitments which should be performed after termination of the contract. For this purpose the Beneficiary should submit a payment request and a final report according to the Article 2 and the Article 13 of current General conditions.

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11.7. In case of illegal termination of the contract by the Beneficiary and in the cases stipulated in the Article 11.2 and the Article 11.3 of current General conditions, the Contracting authority can require full or partial refund of already paid amounts of the grant, in proportion to the severity of violations, giving the Beneficiary the opportunity to express his position.

11.8. Prior to or instead of termination of the contract under the regulations of this article, the Contracting authority has the right to take precautions which are expressed in a temporarily cessation of payments without notification.

11.9. This contract shall be automatically terminated if no payment requests are done within three years after its signing.

## **ARTICLE 12- ELIGIBLE COSTS**

Without contradicting the regulations of the Council Regulation № 1083/ 11.07.2006, Commission Regulation № 1828/ 08.12.2006 and Regulation of the European Parliament and Council № 1081/ 05.07.2006 as well as Decree № 62/ 21.03.2007 of the Ministerial Council and Decree № 236/ 27.09.2007 of the Ministerial Council in order to be recognized as eligible under the project, the expenses should meet the requirements stipulated in the Guidelines for application under this procedure.

## **ARTICLE 13- PAYMENT AND INTERESTS ON OVERDUE PAYMENTS**

13.1. The Contracting authority makes the payments according to the stipulated in the Article 4 of the contract.

13.2. For all the reports and documents, presented in compliance with the Article 2 of current General conditions which form the grounds for payment, the Contracting authority and/ or the persons authorized by him should rule under the conditions of Decree of the Ministerial Council № 179/ 2010 on defining the mechanism for verification of the expenses and payment of grant under the operational programmes, co-financed by the Structural funds and the Cohesion fund of the European Union and should inform the Beneficiary in writing.

- a) The Contracting authority and/ or the persons authorized by him can stop the deadline for ruling on particular request for payment/ report by notifying the Beneficiary in writing that the request/ report can not be approved and clarifications, corrections and/ or additional information are necessary. In such cases the Contracting authority and/ or the persons authorized by him can require clarifications, corrections and/ or additional information which should be submitted within 10 business days after the Beneficiary receives the request. After receiving the required clarifications, the deadline for ruling on the request/ report continues to run from the date following the date when the requested information had been received.
- b) In the cases when additional verifications are performed (including spot checks) where there is no need of additional clarifications, corrections and/ or additional information from the Beneficiary, the term for review and approval of the request/ report shall be suspended till



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- the end of the verification but for not longer than 10 business days and the Contracting authority and/ or the persons authorized by him should inform the Beneficiary in writing. In case a statement of another authority is necessary for taking a decision by the Contracting authority or the persons authorized by him, the period for the decision shall be extended with the legally specified period for issuing of the particular document. The term for review and approval of the report continues to run from the date when the notification of termination of the check has been sent to the Beneficiary by the Contracting authority or the persons authorized by him.
- c) In cases of irregularities or evidences of such, the Contracting authority or the persons authorized by him have the right to stop the payments until clarification of the circumstances related to the irregularity, notifying the Beneficiary in writing.
  - d) These terms do not apply in relation to the reports when the Managing authority had requested additional clarifications, corrections, information and/ or checks, when performs verifications on his part, in the cases when an Intermediate item is a Contracting authority.

13.3. The Beneficiary has the right to lodge a protest within 5 business days, supported with evidences, against the decision of the Contracting authority to recognize the expenses. In order to express about the objection and to review the submitted new evidences, the conditions of the Article 13.2 of current General conditions shall apply.

13.4. The terms for payments, stipulated in the Article 4 of the contract, expire in the day of transfer of the amount from the bank account of the Contracting authority into the bank account of the Beneficiary. Without violating the rule of the Article 11.8 of current General conditions, the Contracting authority and/ or the persons authorized by him have the right to stop this term, notifying the Beneficiary that the payment request is unacceptable due to the fact that the requested amount is undue or due to the fact that the suitable supporting documents are not presented or because they find it necessary to take additional checks, including spot checks, to ensure that the indicated expenses are eligible. The payment deadline starts to run again from the date when a correct payment request is registered.

13.5. After expiry of the term stated in the Article 13.4 of current General conditions, if the delay is on the part of the Contracting authority, the Beneficiary has the right to submit a claim for payment of compensation for delayed payment in the amount of the legal interest for the period of delay.

13.6. A report for an external audit of the accounting documentation under the project, prepared by a registered auditor, should be enclosed to the request for interim/ final payment. The auditor should check whether the expenses declared by the Beneficiary are actually incurred and paid, correct and eligible in compliance with the contract, and should prepare a report for certification of the expenses, conforming to a sample provided by the Contracting authority.

The Beneficiary grants the auditor full access according to the Article 14.5 of current General conditions.

The report prepared by a registered auditor, supporting the request for final payment, covers all the expenses incurred during the implementation of the contract.



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13.7. The amounts, paid to the Contracting authority, are transferred into the bank account of the Beneficiary, specified in the financial identification form according to a sample of the Contracting authority.

13.8. The Contracting authority makes the payments in leva, according to the regulations of the contract.

13.9. All the interests in the bank account of the Beneficiary, opened only for the purposes of the project and specified in the financial identification form, or eventual incomes and/ or other profits, generated at the time of implementation of the project, accumulated on funds paid by the Contracting authority to the Beneficiary, should be listed in the final report and deducted from the final payment up to the amount due or recovered to the Contracting authority in the cases when they exceed them.

## **ARTICLE 14- ACCOUNTING REPORTS AND TECHNICAL AND FINANCIAL CHECKS**

14.1. The Beneficiary should keep accurate and regular documentation and accounting reports, reflecting the implementation of the project and using a suitable system for documentation and accounting. These systems could be an integral part of the ongoing accounting system of the Beneficiary or a supplement to this system. These systems should be applied in compliance with the national legislation.

14.2. The accounting reports and the expenses related to the project should be subject to clear identification and verification and for the implementation of the project there should be differentiated separate accounting analytics.

14.3. In the cases when the Beneficiary is not a budget enterprise and the payment scheme chosen under the contract includes payment in advance, he is obliged to open and maintain a separate bank account or a separate account in his existing bank account only for the purposes of project, guaranteeing that the interests generated in it can be traceable and proven as well as that the information in the bank account would allow the easy identification and tracing of the expenses to and in the accounting systems. The accounting reports should contain data about the accumulated interests on the funds paid by the Contracting authority.

14.4. The Beneficiary should guarantee that the data in the reports, stipulated in the Article 2 of current General conditions, correspond to those in the accounting system and documentation and exist till the expiry of time for documentation keeping according to the Article 14.8 of current General conditions.

14.5. The Beneficiary is obliged to allow the Contracting authority, the persons authorized by him, the Managing authority in cases when the Contracting authority is an Intermediate item, the Certification authority, the national auditing authorities, the European Commission, the European Anti-Fraud Office, the European Court of Auditors and the external auditors, performing verifications according to the Article 13.6 of current General conditions, to check through studying of the documentation or spot checks, the implementation of the project, and to perform a full audit, when necessary, on the grounds of the supporting documents, enclosed to the accounting reports, accounting documentation and other documents related to the financing of the project. These checks

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could be performed within three years after termination of the operational programme in compliance with the requirements of Council Regulation 1083/ 2006, as well as till the end of eventual administrative, investigating or legal proceedings.

- a) Besides the specified in the Article 14.5 of current General conditions, the Beneficiary is obliged to allow the Contracting authority, the authorized by him persons the Managing authority in cases when the Contracting authority is an Intermediate item, the Certification authority, the national auditing authorities, the European Commission, the European Anti-Fraud Office, the European Court of Auditors and the external auditors performing verifications according to the Article 13.6 of current General conditions to perform spot checks and inspections in compliance with the procedures stipulated in the legislation of the European Community on protection of the financial interests of the European Communities against frauds and other violations and the applicable national legislation.
- b) For this purpose the Beneficiary is obliged to provide to the employees or representatives of the Contracting authority, the authorized by him persons the Managing authority in cases when the Contracting authority is an Intermediate item, the Certification authority, the national auditing authorities, the European Commission, the European Anti-Fraud Office, the European Court of Auditors and the external auditors performing verifications according to the Article 13.6 of current General conditions, access to the places where the project is implemented, including access to the information systems as well as to all the documents and data bases related to the financial-technical management of the project and to do everything necessary to facilitate their work. These documents include invoices, information about worked off days, as well as all the other documents related to the financial-technical management of the project as tender documentation with regard to the procedures performed by the Beneficiary in relation to the implementation of project, offers from applicants in the procedures, documents related to evaluation procedures, contracts with contractors, accounting documentation, pay-roll sheets, correspondence with the Contracting authority and/ or the persons authorized by him, payment documents, records of handover etc. The access provided to the employees or representatives of the Contracting authority, the authorized by him persons the Managing authority in cases when the Contracting authority is an Intermediate item, the Certification authority, the national auditing authorities, the European Commission, the European Anti-Fraud Office, the European Court of Auditors and the external auditors performing verifications according to the Article 13.6 of current General conditions, should be confidential in relation to third parties without violating their public-legal obligations. The documents should be kept in an accessible place and indexed in a way that facilitates the check and the Beneficiary should notify the Contracting authority and/ or the persons authorized by him of their exact location.

14.6. In case the Beneficiary does not provide originals or acceptable copies of the above mentioned documents on request by the persons according to the Article 7.2 of current General conditions, this would be a reason for request by the Contracting authority for recovery of the grant.

14.7. The Beneficiary guarantees that the rights of the employees or representatives of the Contracting authority, the authorized by him persons the Managing authority in cases when the Contracting authority is an Intermediate item, the Certification authority, the national auditing authorities, the European Commission, the European Anti-Fraud Office, the European Court of Auditors and the external auditors performing certifications according to the Article 13.6 of current General conditions, to perform audits, checks and investigations, shall be exercised equally, on

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equal terms and in compliance with equal rules related to his partners and subcontractors. When an international organization is partner or subcontractor of the Beneficiary, the inspection agreements concluded between this organization and the European Commission shall apply.

14.8. Term for storage of documents according to the Article 14.4 of current General conditions is three years after termination of the operational programme in compliance with the Article 89 (3) of Council Regulation № 1083/ 2006. The Contracting authority is obliged to notify the Beneficiary of the term expiry.

## **ARTICLE 15- FINAL AMOUNT OF THE FINANCING PROVIDED BY THE CONTRACTING AUTHORITY**

15.1. The total amount which the Contracting authority shall pay to the Beneficiary can not exceed the maximum amount of the grant, stipulated in the Article 3 of the contract.

15.2. The Beneficiary accepts that the grant may under no circumstances be profitable and should be limited to the amount which is necessary to recover the incomes and expenses under the project after deduction of the incomes generated during the implementation of project. Income means the exceeding of the incomes over the expenses under the particular project at the moment of submission of the final payment request. Deduction can be also made with declared and proved incomes in interim payments.

15.3. The amount of the grant under the contract is due up to the amount of the verified eligible costs according to the Article 12 of current General conditions, after deducting the accumulated interest on the transferred advance payments. Incurred by the Beneficiary ineligible costs are not recoverable.

15.4. In addition and without concerning the rights of termination of the contract according to the Article 11.2 and Article 11.3 the Contracting authority can, by a duly motivated decision, if the Project is not performed or is performed in an inadequate way, partially or with a delay, in compliance with the Guidelines for application, reduce the originally stipulated amount of the grant in proportion to the actually performed part of the Project under the conditions of this contract.

## **ARTICLE 16- RECOVERY**

16.1. The Beneficiary is obliged to recover to the Contracting authority all the funds, including the accumulated interest, paid in excess of the certified costs, as well as in the cases according to the Article 11 of current General conditions, within two weeks after receiving a call for voluntary repayment.

16.2. In case the Beneficiary does not recover the due amounts within the period specified in the Article 16.1 of current General conditions, the Contracting authority should inform the National Revenue Agency of the necessity to take actions on their compulsory collection under the terms provided for in the Bulgarian legislation. The Contracting authority has the right of compensation for delayed payment in the amount of the legal interest for the period of delay, increased by the



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amount of interest due from the date of payment by the Contracting authority to the bank account of the Beneficiary, specified in the financial identification form.

16.3. The amounts recoverable by the Beneficiary can be deducted from any amounts due by the Contracting authority to the Beneficiary. This regulation does not violate the right of the parties to negotiate deferred payment.

16.4. The bank fees related to the recovery of a due amount to the Contracting authority are entirely borne by the Beneficiary.

## ARTICLE 17- APPLICABLE LAW AND SETTLEMENT OF CONTROVERSIES

17.1. In relation to this contract the legislation of the Republic of Bulgaria shall apply.

17.2. The parties should make every effort to achieve settlement of disputes arising between them by mutual agreement. Each of the parties is obliged to respond within 5 business days to a request of the other party to settle a dispute by mutual agreement. After expiry of this period or if the attempts for settlement of the dispute had not led to results within 20 business days from the date of the initial request, each of the parties can notify the other party in writing that it considers the procedure as unsuccessful.