

**Agreement between
the EU Member States, Norway and Switzerland,
the Managing Authority and
the Certifying Authority
on the implementation of the INTERREG IVC Programme**

The following agreement for the implementation of the INTERREG IVC Programme (Document CCI 2007 CB 16 3 PO 046), approved by the European Commission on 11 September 2007 (Decision C (2007) 4222)

between

- the EU-Member States: the Republic of Austria, the Kingdom of Belgium¹, the Republic of Bulgaria, the Republic of Cyprus, the Czech Republic, the Kingdom of Denmark, the Republic of Estonia, the Republic of Finland, the French Republic, the Federal Republic of Germany, the Hellenic Republic, the Republic of Hungary, Ireland, the Italian Republic, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Poland, the Portuguese Republic, Romania, the Slovak Republic, the Republic of Slovenia, the Kingdom of Spain, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as MS);
- the Partner States: the Kingdom of Norway and the Swiss Confederation² (hereinafter referred to as Partner States);

and

- the Région Nord-Pas de Calais, Hôtel de Région, 59555 Lille Cedex, France (hereinafter referred to as RNPC)

¹ With regard to Belgium, the obligations of the MS authorities for Interreg IVC are carried out by the authorities designated for this purpose. This is the case whenever this document refers to MS or national authorities.

² Switzerland may decide later on to apply the same obligations as the ones laid down for Norway in the present agreement. This decision would be validated by the MS and Norway through a decision in the Monitoring Committee. It would be documented through an amendment of the present agreement signed by Switzerland, the CA and the MA.

- the Caisse des Dépôts et Consignations, 15 Quai Anatole France, 75356 Paris 07 SP, France (hereinafter referred to as CDC),

is concluded on the basis of:

- EU regulations laying down provisions on the Structural Funds, in particular Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006, Council Regulation (EC) No 1083/2006 of 11 July 2006, Commission Regulation (EC) No 1828/2006 of 8 December 2006,
- the decision made by the "Commission Permanente" of the Conseil Régional Nord-Pas de Calais on 2 April 2007 to accept on behalf of the RNPC the assignment of Managing Authority of the INTERREG IVC Operational Programme,

Preamble

With reference to Article 59 of Regulation (EC) No. 1083/2006 and in accordance with the INTERREG IVC Operational Programme (hereinafter referred to as OP) the MS shall designate a Managing Authority, a Certifying Authority and an Audit Authority. They shall lay down rules and mutual relations between the authorities referred to above defining their tasks and responsibilities.

§ 1

Designation of authorities

1. The MS and the Partner States designate the RNPC to act as Managing Authority (hereinafter referred to as MA) as defined in Article 14 and 15 of Council Regulation (EC) No 1080/2006.
2. The MS and the Partner States designate the CDC to act as Certifying Authority (hereinafter referred to as CA) as defined in Articles 14 of Council Regulation (EC) No 1080/2006 and 61 of Council Regulation (EC) No 1083/2006.
3. According to Article 14 of Regulation 1080/2006, the Audit Authority shall be situated in the Member State of the MA. In compliance with the administrative provisions in France for the audit of actions co-financed by the European Structural Funds³, the Commission Interministérielle de Coordination des Contrôles des Actions co-financés par les Fonds Structurels Européens shall act as Audit Authority (hereinafter referred to as AA) accord-

³ as stipulated in the "Circulaire" of the French Prime Minister no 5210/SG dated 13 April 2007

ing to the provisions included in Articles 62 and 71(3) of Regulation (EC) no. 1083/2006 and Article 14 of Regulation (EC) no 1080/2006

4. For the implementation of the INTERREG IVC Programme, the MA, the Monitoring Committee and, where appropriate, the AA are assisted by the Joint Technical Secretariat (hereinafter referred to as JTS) to carry out their duties, in compliance with Article 14 of Council Regulation (EC) No 1080/2006.
5. The JTS is under the responsibility of the MA. It is agreed that the MA will contribute financially to host the JTS for the whole duration of the programme according to the agreement reached during the INTERREG IVC Programming Committee in Brussels on 12 December 2006. The JTS will be assisted by four Information Points which are contracted by the MA and located in Katowice (Poland), Lille (France, within the JTS), Rostock (Germany) and Valencia (Spain), for the tasks laid out in Chapter 6.1.6 of the INTERREG IVC OP.

§ 2

Duties of the MA, CA, AA, MS and Partner States

1. As set out in Article 15 (1) of Regulation (EC) No. 1080/2006 the MA is responsible for the management and implementation of the OP in accordance with the principle of sound financial management as set out in Article 27 of Regulation (EC, EUROATOM) 1605/2002. The MA's responsibilities are set out in the OP section 6.1.1. According to Article 21 of Regulation 1828/2006 the MA shall provide on behalf of France a description of the management and control system as per Article 71 (1) of Regulation (EC) 1083/2006 and in accordance with the model set out in Annex XII of Regulation (EC) 1828/2006. The description will be assessed by the AA as laid out in Article 71 (2 + 3) of Regulation (EC) No 1083/2006.
2. The MA designates within the JTS contact persons to be responsible for information and publicity and informs the European Commission of those designated. These persons shall actively participate in Community networks which may be set up according to Article 10 of Regulation (EC) 1828/2006. To support the MA, the competent national and regional authorities of each MS shall take all the appropriate administrative steps to ensure effective application of all arrangements that rest upon Regulation (EC) 1828/2006 Section 1 and to collaborate with the European Commission.
3. In order to fulfil Article 60 of Council Regulation (EC) No. 1083/2006 the MA will rely on the control systems as described in Article 16 of Regulation (EC) No. 1080/2006 set up in those MS hosting a beneficiary. The MS concerned and Norway shall ensure through their system of financial control of beneficiaries that all supporting documents required for a

sufficient audit trail regarding expenditure incurred and payments made are recorded, stored in computerised form and made available. They shall also ensure that control systems are put in place according to Article 16 of Regulation (EC) No 1080/2006 and the information provided by each MS and Norway in compliance with § 6 of this present agreement.

4. According to Article 60 (g) of Regulation (EC) 1083/2006 the MA shall ensure that the CA receives all the necessary information on the procedures and verifications carried out in relation to expenditure for the purpose of certification so that the sufficiency of the control systems and the audit trail can always be taken into account before a statement of expenditure is presented to the European Commission.
5. The function of the CA will be carried out in compliance with Article 61 of Regulation (EC) 1083/2006. The CA's responsibilities are set out in the OP section 6.1.2.
6. For the purpose of certification, the CA shall ensure that it has received adequate information from the MA on the procedures and verifications carried out in relation to expenditure and that it takes account of the results of all audits carried out by or under the responsibility of the AA. The AA assisted by the group of auditors shall ensure that audits are carried out according to Article 62 (b) of Regulation (EC) No 1083/2006 and § 7 of the present agreement.
7. The functions of the AA will be carried out in compliance with Articles 62 and 71 of Regulation (EC) 1083/2006 and Article 16 to 18 of Regulation (EC) 1828/2006. The AA's responsibilities are set out in the OP section 6.1.3.
8. In accordance with Article 24 of Commission Regulation (EC) No 1828/2006, the MS and Norway will provide the MA, CA and AA with all information that they require to discharge their responsibilities under Articles 60, 61 and 62 of Regulation (EC) No 1083/2006 and Articles 14 and 15 of Regulation (EC) No 1080/2006.

§ 3

National and ERDF funding appropriations

1. The CA administers the ERDF and Norwegian funding of the Programme as well as the national contributions to the Technical Assistance (TA) budget. Three separate bank accounts are required: one for TA contributions, one for the ERDF funding and one for the Norwegian funding. The Swiss funding for projects will be paid out directly by the responsible national body to the Swiss project partners. The Swiss funding for TA will be paid directly to the TA bank account.
2. The MS and the Partner States will transfer their TA contribution in nine instalments during the period 2007 to 2015. The payment of the annual contribution is due by end of

January of the year to be funded. An extension of this deadline is possible only in duly justified cases. The JTS will send a written request three months prior to the due date indicating the account number, the amount of the annual contributions and the payment due dates. The TA budget is based on the financing plan of the OP. It is shared by the MS according to their population size and also comprises a contribution from the Partner States.

3. A report on the payment situation and the interest generated on the account will be given by the CA to the Monitoring Committee (MC) on a regular basis. In compliance with Article 83 of Regulation 1083/2006 any interest raised by the ERDF and Norwegian pre-financing shall be posted to the INTERREG IVC OP, being regarded as a resource for the MS and Norway in the form of a national public contribution. The interest raised by the ERDF pre-financing shall be declared to the Commission at the time of the final closure of the OP. The use of any interest raised by the national TA contributions will be decided by the MS and the Partner States.
4. In the case that – at the end of the programme implementation period – the MS and the Partner States have transferred more funds than have actually been used for TA, the CA will reimburse these funds.

§ 4

Subsidy Contracts and Payments to Beneficiaries

1. Following the decision of the MC for project-related expenditure, the MA will use a standard form of Subsidy Contract which is approved by the MC and lays down further details concerning the responsibilities and liabilities of the beneficiaries. The Subsidy Contract is signed by the MA, or by the JTS on behalf of the MA, and will be addressed to the project Lead beneficiary (hereinafter referred to as Lead Partner or LP).
2. In cases where the MA exercises its right to terminate the Subsidy Contract, the MS and/or Norway involved in the project will be consulted prior to such a decision.
3. The MA shall ensure that the Subsidy Contracts clearly states that the LP and the partners will produce all documents, provide necessary information and give access to their business premises to any authorised body of the EU, MS, Norway or the MA for control and audit purposes in compliance with Article 90 of Regulation 1083/2006 and Article 15 of Regulation (EC) No 1828/2006. The Subsidy Contracts make reference to the control systems set up by the MS and Norway in accordance to Article 16 (1) of Regulation (EC) No 1080/2006.
4. The MA/JTS shall assess the reports and monitor the proper implementation of the approved project referred to in the Subsidy Contract according to the procedure laid down

in the description of the management and control system. The regular reports shall be accompanied by the control confirmation of expenditure signed by the designated LP's controller. The first report shall also be accompanied by the partner's individual control confirmations which shall comply with the system set up by MS and Norway in accordance with § 6 of the present agreement. Should there be any suspicion of irregularities, the MA/JTS or the CA shall inform the competent administrations listed in § 10 in compliance with the description of the management and control system and suspend the reimbursement of the ERDF or Norwegian financing related to the partner and expenditure under examination. Payments to project Lead Partners will be made by the CA after approval of the reports by the MA/JTS.

5. TA payments will be effected by the CA on MA's written request, after checks, controls and approvals referred to in § 6.
6. Pursuant to Article 80 of Regulation (EC) No 1083/2006, the CA ensures that Lead Partners receive payment of their ERDF contribution as quickly as possible and in full. No deduction, retention or further specific charges which would reduce the amount of the payment shall be made.
7. The MS will only commit 95 % of the programme's ERDF budget for projects to guarantee that LPs can receive payment of up to the total of their ERDF budget approved. A decision concerning the remaining 5 % of the programme's ERDF budget for projects will be taken at a later stage by the MC.
8. All amounts referred to in the Subsidy Contract are expressed in EURO (EUR). Funds will be disbursed in EURO (EUR) to the bank account specified by the LP in the project application. The exchange rate risk is borne by the LP.

§ 5

Discretionary power in relation to the management of projects

1. The MA/JTS can decide on changes as long as the purpose and the other basic features of the project are not altered. It can also decide on changes which do not have consequences on the eligibility or the results of the project. In particular the MA/JTS can decide on:
 - additional minor conditions to approved projects in case additional mistakes, errors or clarification requests are found during the negotiations with the Lead Partner.
 - the modification of a partnership, the withdrawal or replacement of up to two partners, or if more, up to 10 % of the partners in an project, if the content and the implementation of the main activities do not change. The replacement with new part-

ners is subject to the approval of the MS, Norway or Switzerland depending on the location of the partners,

- a reallocation of the budget by up to 20% of total costs as stated in the approved application,
 - changes in activities which do not change the aim of the project.
 - an extension of the duration of the project not extending the programme deadline,
 - an extension of the date by which progress reports have to be presented by the Lead Partner,
 - a reduction of the approved project budget when a partner withdraws or reduces its activities.
2. The MC decides in all other cases and shall be informed on the decisions taken by the MA/JTS.

§ 6

Financial control of beneficiaries

1. According to Article 16 of the Regulation (EC) No 1080/2006, each MS and Norway designates the controllers responsible for verifying the legality and regularity of the expenditure declared by each beneficiary participating in the project. Each MS and Norway will do its utmost to ensure that the validation of expenditure by the controllers is carried out within a period of two months so that the LP is in a position to submit the progress report to the MA/JTS within three months after the end of each reporting period and so that the CA can declare regularly expenditure to the Commission. Each MS and Norway submit to the MA a description of the control system set up using the form provided by the MA/JTS. The body responsible for the first level control system set up by each MS and Norway will be included in this agreement in § 10. The full description will be included in the Description of the Monitoring and Control System in accordance to Regulation 1828/2006 Annex XII. The MS and Norway shall without delay inform the MA of any changes of responsible body and the control system set up.
2. The MA/JTS shall monitor the activity and financial progress of projects. For this purpose, three main types of information need to be considered:
 - the use of the ERDF subsidy for the purpose mentioned in the Subsidy Contract and the approved application;
 - the progress made in implementing the project in compliance with the Subsidy Contract and the approved application;
 - the certification of expenditure by the LP auditor in compliance with the system set up in each state according to Article 16 of (EC) Regulation 1080/2006.

3. With regard to the TA, the MA ensures that the expenditure is certified in line with the control system set up by the French Member State according to Article 16 of Regulation 1080/2006.

§ 7

Auditing of beneficiaries

1. In compliance with Article 14 of (EC) Regulation 1080/2006, a group of auditors (hereinafter referred to as GoA) will be set up at the start of the Programme to assist the AA in carrying out the duties provided for in Article 62 of Regulation (EC) No 1083/2006. This group will be chaired by the AA and shall comprise a representative of each State participating in the INTERREG IVC OP. The representatives have to be entitled to participate in decision-making within the GoA on behalf of their MS and be from a unit independent from the MC members, the controllers designated according to Article 16 of Regulation (EC) 1080/2006 and any INTERREG IVC project's activities and finances. Each State shall inform the MA of their GoA representative within three months of the approval of the OP using the standard form developed by the MA/JTS. The contact details of the respective GoA representative will be listed in § 10 (3) of the present Agreement. The information on the GoA representation will also be included in the description of the Management and Control System according to Regulation (EC) 1828/2006 Annex XII.
2. The GoA will assist the AA in carrying out its duties provided for in Article 62 of Regulation (EC) No. 1083/2006 and Annex V of Regulation (EC) 1828/2006. The audits referred to in Article 62 (1b) of Regulation (EC) No. 1083/2006 shall be carried out each twelve-month period from 1 July 2008 on a sample of projects selected by a random statistical sampling method in accordance with Article 17 of Regulation 1828/2006. The AA in agreement with the GoA may decide to contract an external audit firm for the implementation of the audits of projects referred to in Article 62 (1b) of Regulation (EC) no. 1083/2006.
3. The result of such checks and controls will be sent to the MA/JTS for coordination purposes and the MC will be informed of the results (and follow-up action if necessary).

§ 8

Reduction and recovery of payments to beneficiaries

1. For the application of Articles 98 to 101 of Regulation (EC) No 1083/2006 on financial corrections and of the INTERREG IVC OP, any exchange of correspondence between the European Commission and a MS will be copied to the MA/JTS and the CA.

2. In the case of irregularities discovered, for example, by the Court of Auditors or by the European Commission, which result in certain expenditures being considered ineligible and in a net correction being the subject of a European Commission decision on the basis of Articles 98 to 101 of Regulation No 1083/2006, the financial consequences for the MS are laid down in § 9 of this Agreement.

§ 9

Liabilities and irregularities

1. The MS and Norway will bear liability in connection with the use of the Programme ERDF funding as follows:
 - each MS, as well as Norway, bears the possible financial consequences of irregularities committed by the partners, associated participants, the MA/JTS, the CA, or one of the four Information Points located on its national territory, in compliance with Article 17 of Regulation No 1080/2006;
 - in case of systemic irregularity the MS and Norway will jointly bear the financial consequences, whereby each MS/Norway shall be responsible in proportion to the ERDF/Norwegian contribution of the respective national project partners involved;
2. If the MA/JTS, the CA, any MS or Norway becomes aware of irregularities, it shall without any delay inform the liable MS or Norway and the MA.
3. According to Article 28 of Regulation 1828/2006, each MS hosting a beneficiary is responsible for reporting irregularities detected in compliance with Article 28, 29, 31 and 36 of Regulation 1828/2006 to the European Commission and at the same time to the MA, CA and AA. They are also responsible for reporting the procedures instituted with respect to all irregularities previously notified and of important changes resulting from them in compliance with Article 30 and 31 of Regulation (EC) 1828/2006.

§ 11

Concluding Provisions

1. The working language of the Programme shall be English.
2. This Agreement shall be governed in accordance with the laws of France.
3. If any provision of this agreement should be, or become, wholly or partially ineffective, all other provisions remain valid. The parties concerned will undertake all necessary steps and actions to replace the ineffective provision by an effective provision which comes as close as possible to the purpose of the ineffective provision.
4. Where disputes arise from or in connection with this Agreement, the Partners shall seek an amicable solution.
5. Should the Partners fail to reach an amicable solution, all disputes arising from or in connection with this Agreement shall be settled by the competent jurisdiction of the "Tribunal administratif de Lille, France" in the first instance.
6. Four originals of this Agreement shall be signed by representatives of each Government of the MS, the Partner States, the MA, and the CA. It shall enter into force retrospectively as from the date of the approval of the INTERREG IVC OP and shall apply for the duration of the implementation of the OP including the preparation of the final report according to Article 67 of Regulation No 1083/2006 and the winding-up of the whole programme.
7. This Agreement may be amended only in writing and on agreement between the MS, the Partner States, the MA, and the CA.

The Member State/Partner State:

Place and date: _____

Name and function of the signatory: _____

Signature/Stamp: _____

The Managing Authority: Région Nord-Pas de Calais

Place and date: _____

Name and function of the signatory: _____

Signature/Stamp: _____

The Certifying Authority: Caisse des Dépôts et Consignations

Place and date: _____

Name and function of the signatory: _____

Signature/Stamp: _____