



## SUBSIDY CONTRACT

The following contract between

the Land of Salzburg as Managing Authority of the Community Initiative Programme "Interreg III B Alpine Space" (hereinafter named "MA"), represented by the Government Office of the Land of Salzburg, department 15 (economy, tourism, energy),

and

.....(name of the Lead Partner), based in  
.....(address of Lead Partner), represented  
by.....(name of the legal representative of the Lead Partner) as Lead  
Partner of the project .....(name of the project) (hereinafter  
referred to as "LP"), meaning the final beneficiary as defined in No. 31 sentences 4  
and 5 of the Communication from the Commission to the Member States of 28 April  
2000 laying down guidelines for the INTERREG III Community Initiative -

is concluded on the basis of

the EU regulations laying down provisions on the Structural Funds, in particular  
Council Regulation (EC) No. 1260/1999 of 21 June 1999, Regulation (EC) No.  
1783/1999 of the European Parliament and of the Council of 12 July 1999,  
Commission Regulations (EC) No. 1681/94 of 11 July 1994, No. 643/2000 of 28 March  
2000, No. 1159/2000 of 30 May 2000, No. 1145/2003 of 27 June 2003 and No.  
438/2001 and No. 448/2001 of 2 March 2001,

the Communication from the Commission to the Member States of 28 April 2000  
laying down guidelines for the INTERREG III Community Initiative,

the Community Initiative Programme " INTERREG III B Alpine Space", approved by  
the European Commission on 19 December 2001, decision number CCI no 2000 RG  
16 0 PC 020, (hereinafter referred to as "CIP") and the Programme Complement,  
approved by the Monitoring Committee on 14 March 2002,

the agreement between the EU Member States and the Land of Salzburg as Managing Authority and

the declarations of consent given by the Non-Member States Liechtenstein, Slovenia and Switzerland.

**§ 1 Award of subsidy**

(1) Based on the application of the LP dated from..... and the supplementing/amending document/s dated from ..... (altogether hereinafter referred to as "application documents"), in accordance with the decision of the Steering Committee (hereinafter called "SC") dated from ..... an earmarked, non repayable subsidy is awarded to the LP on the below-mentioned conditions from the European Regional Development Fund (ERDF) in the maximum amount of

.....€  
(verbal:.....Euro)

(2) The award of a subsidy from ERDF-funds is limited to the amount as mentioned in par. (1). Furthermore, it is limited with a maximum of 50 % of the total eligible costs of the project. The co-funding with ERDF-funds decreases proportionally if the eligible costs fall below the calculated amount as laid down in the project application. A subsequent increase in the project costs which qualifies for an increase of ERDF-funds is excluded.

**§ 2 Object of Use**

(1) The subsidy is awarded exclusively for the project .....(name of the project), as it is described in the application documents and as it is approved by the SC. All application documents form an integrated component of this subsidy contract. The conditions laid down in the approval decision of the SC are also constituent to this contract.

(2) In order to finance the estimated project costs the following funds will be used:

Source of funds	Amount
National public funds	
Regional public funds	
Local public funds	
Private funds	
ERDF-Funds	
<b>Total</b>	

- (3) Project costs which qualify for a subsidy consist exclusively of project costs listed in the application approved by the SC. The eligibility of project costs for ERDF-Co-funding is regulated in Council Regulation (EC) No. 1145/2003 of 27 June 2003 and other relevant EU-regulations. Eligible are only costs that have arisen after..... (date of start of eligibility of the project).
- (4) The LP is allowed to reallocate funds between categories of costs up to 20 % of the amount indicated in each cost category in the budget plans submitted as part of the project application. In this case the Joint Technical Secretariat (JTS) and the MA will be informed of the reallocation of funds through the regular reporting routines. If the reallocation exceeds this limit an approval by the SC is necessary. To this end the LP has to submit a well-founded request for reallocation to the JTS. The reallocation will enter into force only after approval by the SC.
- (5) It is explicitly stated that in case of a co-funding of the present project with ERDF-funds the LP must not make use of funds from other programmes co-funded by the European Union.
- (6) VAT does not constitute eligible expenditure except where it is genuinely and definitively borne by the final beneficiary.
- (7) The LP safeguards that all project partners take advantage of any price reductions which are offered to them by any of their business partners.

### **§ 3 Request for payments**

- (1) The LP may only request payments by providing a financial report and an activity report (both are hereinafter referred to as "progress report") to the JTS. Model reports will be provided by the JTS.
- (2) The financial report shall contain all certifications of expenditure related to the project expenditures that have occurred so far and that can be objectively and spatially be imputed to the project or about costs that are to be considered similar according to relevant EU-regulation. All expenditures must be certified by the responsible national authorities or private institutions, depending on the national frame for this first level control. To this end the LP verifies that each project partner enables the responsible authority/institution in the state it is situated to audit the proper use of funds as will the LP itself.
- (3) The activity report shall inform about the project realisation (realisation of workpackages so far and the envisaged next steps).
- (4) The LP shall make sure that the project implementation sticks to the work packages and the time schedule as indicated in the application documents. Only if it is inevitable the LP is allowed to change the time schedule. A change of up to 3 months is to be reported to the JTS through the regular reporting routines. A change of 3 - 6 months needs the approval of the MA, a change of more than 6

months has to be approved by the SC. To this end the LP has to submit a well-founded request for the change of the time schedule to the JTS. The change in the time schedule will enter into force only after approval by MA respectively SC.

- (5) The first progress report must be submitted to the JTS at the latest ..... (to be agreed between MA and LP in the individual case, whereby 3-6 months will be the usual period) months after the conclusion of this contract.
- (6) Subsequently further progress reports have to be submitted every ..... (to be agreed between MA and LP in the individual case, according to the application, whereby 6 to 12 months will be the usual period) months.
- (7) Based on the fact that the payments by the European Commission to the Paying Authority (PA) will only be made in accordance with the corresponding budget commitments (Article 32 (1) in conjunction with Article 31 (2) of Council Regulation (EC) No. 1260/1999, the LP must request payments within the following timeframe:
  - Year: ..... (until 15 October), Amount:.....
  - Year: ..... (until 15 October), Amount:.....
  - Year: ..... (until 15 October), Amount:.....
  - Year: ..... (until 15 October), Amount:.....
  - Year: ..... (until 15 October), Amount:.....This allocation is subject to the provision that the European Commission has paid corresponding amounts to the PA beforehand.
- (8) A final report shall be submitted to the JTS within three months after completion of the project. Beside the elements mentioned in par. (2) and (3) the final report shall include the following items:
  - a comparison of planned and actually realized activities (indicating reasons for occurred deviations) and expenditure occurred and a critical assessment of the project process,
  - a presentation of results, especially with regard to the fulfilment of the criteria and indicators laid down in the CIP and the Programme Complement,
  - experiences with transnational co-operation,
  - details on planned follow-up activities and further steps for utilisation and dissemination of the results.
- (9) If the LP is a legal entity or body governed by private law or a natural person, the MA is entitled to demand presentation of securities as customary in banking practice, particularly a deficiency guarantee from a bank. The guarantee must apply at least until 31 December 2012.

#### **§ 4 Paying out of subsidy**

- (1) After the documents according to § 3 are presented in due time and completely to the JTS and the JTS in co-ordination with the MA has proved that the documents

fulfil all conditions, the MA will instruct the PA to pay out the subsidy to the LP according to the presented statements.

- (2) The funds will be disbursed in Euro (€). Unless the LP announces a different bank account, the subsidy will be transferred to the account no. ...., in the name of the holder ....., at the bank ..... (bank code.....).
- (3) Disbursement of the subsidy is subject to the condition that it can be covered by the available ERDF-funds the PA has received from the European Commission.
- (4) By paying out the subsidy according to this agreement the Land of Salzburg fulfils its obligations resulting from the present contract. The LP has no further right to claim against the Land of Salzburg.

### **§ 5 Representation of project partners, liability**

- (1) The LP guarantees that it is entitled to represent the partners participating in the project and that it has established with the project partners the division of the mutual responsibilities in a partnership agreement. The present subsidy contract will not enter into force unless the LP has presented this partnership agreement to the JTS and it has been checked by the JTS and the MA to verify if all essential provisions have been made. The LP guarantees furthermore that it has complied with all the relevant legal and other requirements under the law which applies to it and to the project partners and that all necessary approvals have been obtained.
- (2) The LP is liable towards the MA for ensuring that the project partners fulfil their obligations under this contract. It is liable towards the MA for infringements by the project partners of obligations under this contract in the same way as for its own conduct.
- (3) If the MA demands repayment of subsidy funds in accordance with this contract, the LP is liable to the MA for the amount requested to be repaid.

### **§ 6 Changes in the project partnership**

- (1) In the partnership agreement the contribution of each project partner is clearly defined. The LP guarantees that in case a project participant backs out of or is debarred from the project its contribution to the project will be covered by one or more of the present or new project participants as soon as possible, within three months at the latest. If this is not possible a re-approval of the project by the SC is necessary.
- (2) In case the contribution of the project participant that left the project is covered by the remaining project participants the LP will immediately report to the JTS the loss

of the project participant and the new division of work between the project participants (§ 7 par. (1) lit c). Furthermore, it will adapt the partnership agreement accordingly and send the draft of the amendments for approval to the MA immediately.

(3) In case the contribution of the project participant that left the project shall be at least partially covered by a new project participant the LP will immediately report to the JTS the loss of the project participant and the envisaged new division of work between the project participants (§ 7 par. (1) lit c). At the same time it will send a well-founded request for the entry of a new project participant to the JTS and a draft of the envisaged amendments to the MA.

(4) The JTS will examine the request and give its recommendation, after consultation of the relevant NCP, within one month. The MA will examine and approve the changes of the partnership agreement. The entry of a new project participant as well as the adaptation of the partnership agreement have to be approved by the Steering Committee respectively the MA.

(5) In case of a loss of a project partner, the project costs are eligible and will be co-funded until the date on which the LP reports to the JTS the backing out of a project partner.

(6) The LP is aware of the fact that the MA is entitled to withdraw from this subsidy contract if the minimum number of project partners is not given any longer (§ 9 par. (1) lit a)). If a reduction of the project partners would mean a change in the classification of the project a re-approval by the SC is necessary. Until this decision is made in the SC the LP and its project partners shall stop any payments related to the project.

## **§ 7 Obligations of the LP**

- (1) In addition to the obligations of the LP as mentioned in this contract the LP undertakes:
- a) to co-ordinate the start and implementation of the project according to the time schedule approved by the Steering Committee and to inform the JTS when the project has been implemented (The LP should keep in mind that all financial transactions of the programme have to be completed before September 2008),
  - b) to install a separate (sub)account for the settlement of the present project and to safeguard that the eligible costs as well as the received subsidies can be clearly reproduced.
  - c) to inform the JTS immediately about all circumstances that delay, hinder or make impossible the realisation of the project as well as all circumstances that mean a change of the disbursement conditions and frameworks as laid down

in this contract (e.g. loss of a project partner, making use of additional subsidies) or circumstances which entitle the MA to reduce payment or demand repayment of the subsidy wholly or in part,

- d) to retain for audit purposes (§ 8) all files, documents and data about the project at least until 31 December 2012, either in original or as certified copies on commonly used data media safely and orderly. Other possibly longer statutory retention periods as might be stated by national law remain unaffected.
  - e) to point out in the framework of any public relations measures that the present project was implemented through financial assistance from ERDF-funds of the Community Initiative Programme "Interreg III B "Alpine Space" in accordance with Commission Regulation (EC) No. 1159/2000 of 30 May 2000 on information and publicity measures to be carried out by the Member States concerning assistance from the Structural Funds.
  - f) to comply with the European Union's and national legislation including public procurement.
  - g) to use the monitoring system provided by the MA in compliance with this contract and according to the MA's instructions,
  - h) to inform the MA without any delay about any envisaged changes of the partnership agreement.
- (2) In the name of all project partners the LP agrees, according to the Law on Data Protection 2000, Austrian Federal Law Gazette No. 165/1999, that the MA is entitled to use the personal data, which are contained in the project application and which are acquired in the course of the realisation and winding-up of controls of the project and that the MA may convey these data to the organs and authorised representatives of the following bodies and authorities: Land Audit Office (according, in particular, to § 9/2 of the Law on the Salzburg Land Audit Office 1993, Regional Law Gazette No. 35/1993 in the version in force); Federal Audit Office (according, in particular, to §3/2, §4/1 and § 13/3 of the Law on the Audit Office, Federal Law Gazette No. 144/1946, each in the in the version in force); Federal Ministry of Finance (according, in particular, to §§ 43 to 47 of Federal Budget Law, Federal Law Gazette No. 213/1986, each in the version in force); to the European Union according to the provisions under Community Law.
- (3) Furthermore the LP agrees on behalf of all project partners that the names and addresses of all project partners, the purpose and the amount of the subsidy may be used by the MA in the framework of public relations measures concerning the CIP.

### **§ 8 Audit rights**

- (1) The responsible auditing bodies of the EU, and, within their responsibility, the auditing bodies of the participating EU Member States are entitled to audit the

proper use of funds by the LP or by the project partners or arrange for such an audit to be carried out by authorised persons.

- (2) Beside the reports mentioned in § 3 and the LP's obligations laid down in § 7 par. (1) lit d, the LP is obliged to:
  - a) give the bodies/persons mentioned above any information about the project they request,
  - b) give access to the accounting books and accounting documents and other documentation related to the project, whereby the auditing body decides on this relation, at least until 31 December 2012,
  - c) give access to its business premises during the ordinary business hours and also beyond these hours by arrangement and to allow these bodies/persons to carry out measurements and tests related to the project at least until 31 December 2012.
- (3) The LP is obliged to guarantee fulfilment of the duties stipulated above in relation to all its project partners.
- (4) The LP shall inform the JTS at the occasion of submitting a progress report about any audits that have been carried out by the above-mentioned bodies.

### **§ 9 Right of withdrawal**

- (1) The MA is entitled to withdraw from this contract (this shall be done by registered letter), especially in case the European Commission requests for it, and to demand immediate repayment of funds in full or in part, if
  - a) the co-funded project cannot or could not be realized resp. realized in due time, or a precondition for the approval of the project (e.g. minimum number of project partners) is lost,
  - b) the correctness of the final report and herewith the entitlement to make use of ERDF-cofunding cannot be verified any longer before 31 December 2012, unless the documents have got lost without fault of the LP, or
  - c) the LP has become insolvent or bankruptcy proceedings have been instituted against the LP before the project has been properly terminated or if bankruptcy proceedings are instituted against the LP or the institutions of such proceedings are refused because of lack of assets within 3 years after termination of the project and therefore especially the objectives of the CIP do not seem accessible or secured, or if the LP wholly or partly closes down, sells, leases or lets the project to a third party within this time, or
  - d) the LP has obtained the subsidy through false statements or has given false or incomplete information towards organs/appointees of the European Commission and the MA or any other authority involved in the implementation of the programme, or
  - e) the LP fails to submit foreseen reports or to provide evidence or to provide necessary information, provided a written notice of cancellation including a



- reasonable “period of grace” and the expressive reference to the legal consequences of noncompliance of this notice has been without success, or
- f) the LP fails to provide immediate information about circumstances that delay hinder or make impossible the realisation of the co-funded project, as well as about any circumstances that mean a change of the disbursement conditions and frameworks as laid down in this contract or entitle the MA to reduce or demand repayment of the subsidy wholly or in part,
  - g) the LP hinders or frustrates foreseen control measures, or
  - h) the subsidy has been used wholly or partly against its dedication, or
  - i) the prohibition of cession has not been obeyed, or
  - j) regulations of the EU-law (especially provisions concerning competition and environmental law and regulations concerning equal treatment of men and women) have been violated, or
  - k) any other preconditions for subsidy or obligations of the LP contained in the present contract, the CIP or in any other Austrian and Community regulations, especially those which shall safeguard the achievement of the general objectives of the CIP, have not been observed.

(2) If the MA exercises its right of withdrawal the LP is obliged to reimburse the repayment amount to the MA. The repayment amount is due within one month following the date of the letter by which the MA asserts the repayment claim.

(3) In all cases mentioned under par. (1) lit a, c, d, f, g, h, i and k the LP is obliged to pay moratory interests of 3% above the Austrian basic rate of interest per annum on the amount to be paid back from the date on which the PA has transferred the respective ERDF-funds. In the other cases interests in the same height are to be paid if the LP or any other person it has commissioned to prepare the documents needed for the award of subsidy or for implementing the project, is culpable for the circumstance leading to the demand of repayment. If in the lastly mentioned cases the LP or any other person are not culpable, 4 % per annum of interests shall be paid on the amount demanded to be repaid.

(4) In case one of the circumstances listed above occurs before the ERDF-co-funding has fully been paid out the MA is entitled to stop any further payment of subsidies and to commission a control in order to confirm the suspicion. If this suspicion is confirmed any claim of the LP for paying out of ERDF-funds that have not yet been transferred expires.

(5) Any other legal-based claims of the parties are not touched by this agreement.

### **§ 10 Assignment, legal succession**

(1) The assignment of a claim of the LP resulting from this subsidy contract is illegitimate. However, the LP is allowed to assign its duties and rights under this contract if prior consent of the MA and the Steering Committee is given

- (2) In cases of legal succession, e.g. where the LP changes its legal form, the LP is obliged to transfer all duties under this contract to the legal successor.

### **§ 11 Ownership/use of results**

- (1) Ownership, title and industrial and intellectual property rights in the outputs of the projects and the reports and other documents relating to it shall vest in the Lead and Project Partners.
- (2) The results of the project shall be made available to the public in order to guarantee a widespread publicity of the project's outcomes. The adequate way of publication will be indicated by the JTS.

### **§ 12 Concluding provisions**

- (1) All correspondence between LP and MA respectively JTS under this contract must be in English language. In general it has to be transmitted by e-mail, and only when not possible or expressly demanded by the MA or the JTS by postal service and to be sent to the following addresses:

**Managing Authority:**

Mag. Dr. Christian Salletmaier  
Amt der Salzburger Landesregierung  
Abteilung 15 (Wirtschaft, Tourismus,  
Energie)  
Fanny-von-Lehnert-Straße 1, PF 527  
A-5010 Salzburg  
Tel. no. +43/662 8042 3799  
Fax no.: +43/662 8042 3808  
e-mail: [alpine.space@salzburg.gv.at](mailto:alpine.space@salzburg.gv.at)

**Joint Technical Secretariat:**

Jost Rotar  
c/o Alpenforschungsinstitut gemn.  
GmbH  
Kreuzeckbahnstraße 19  
D-82467 Garmisch-Partenkirchen  
Tel.no. +49/8821/183 - 321  
Fax no.: +49/8821/183 - 310  
e-mail: [jts@alpinespace.org](mailto:jts@alpinespace.org)

- (2) Both parties agree herewith that the subject of the present agreement is exhaustively and completely regulated in this document and the above-mentioned integrated parts. Any prior oral or written agreements concerning the object of the present contract between the Land of Salzburg and the LP are cancelled by the present contract.
- (3) Any costs, fees or taxes not eligible or any other duties arising from the conclusion or implementation of this agreement shall be borne by the LP.
- (4) Amendments and supplements to the present agreement and any waiver of the requirement of the written form must be in written form and have to be indicated as such.
- (5) If any provision in this contract should be wholly or partly ineffective, the remaining provisions remain binding for the parties. In this case the parties

undertake to replace the ineffective provision by an effective one which comes as close as possible to the purpose of the ineffective one, obeying the provision laid down in par (4).

- (6) In case of differences that are not ruled by this agreement, the parties agree to find a conjoint solution.
- (7) This agreement is governed by Austrian law. The parties will make an effort to settle any disputes arising from this contract out of the court. In case an agreement cannot be made in due time, the parties herewith agree that Salzburg shall be the venue for all legal disputes arising from this contract.
- (8) Two copies will be made of this agreement; of which each party keeps one.

Place, date: \_\_\_\_\_ Place, date: \_\_\_\_\_

For the Land of Salzburg:

For the Lead Partner:

\_\_\_\_\_  
(Mag. Dr. Christian Salletmaier, head of unit) (name of the legal representative of the LP)