
Rural Development Program 2007-2013

Regulation (CE) 1698/2005

Axis 4 – Measure 421 “Interterritorial and Transnational cooperation”

Cooperation Agreement

Draft of cooperation agreement by which the Parties also establish a common structure

(in this draft, the common structure is represented by a EEIG)

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This document was produced for the Nation Rural Network within the action 2.1.1 "Technical assistance to interterritorial and transnational cooperation".

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This agreement is only a draft to be adapted to the actual and real purposes of any specific project or transaction. This draft agreement, for example, does not regulate how to manage assets already pertaining to the Partners as a result of the previous activity developed under the 2000-2006 FEOGA Fund. It is necessary to receive specific legal advice for the drafting of an agreement suitable for the specific project the Partners are aiming at. No responsibility may derive to the author for any use of the present draft. Please note that in the text alternative or optional provisions are inserted, as well as notes.

Transnational cooperation project in the framework of LEADER axis

“Name of the project”

COOPERATION AGREEMENT

In the year ____ on the _____ day of the month of _____ between the following:

LAG _____, tax code/VAT number _____ with offices in _____, beneficiary of the 421 measure of the RDP – (*name of the Region/autonomous Province*), in the person of the legal representative _____, born in _____, on _____ and domiciled for this role at the LAG _____ offices in _____, with power of attorney for the execution of this contract, by proxy [*indicate proxy document*]

Henceforth referred to as the **“Lead Partner”**

- on one side-

and

LAG _____, tax code/VAT number _____ with offices in _____, in the person of the legal representative _____, born in _____, on _____ and domiciled for this role at the LAG _____ offices in _____, beneficiary of the 421 measure of the RDP – (*name of the Region/autonomous Province*), with power of attorney for the stipulation of this contract, by proxy [*indicate proxy document*]

LAG (or any other type of public-private partnership, legally established) _____, tax code _____ with offices in _____, in the person of the legal representative _____, born in _____, on _____ and domiciled for this role at the LAG _____ offices in _____, with power of attorney for the stipulation of this contract, by proxy [*indicate proxy document*]

Henceforth referred to as **Partners or LAG, or the Parties**

- on the other side-

Whereas

- The European Community initiative for rural development provided for articles 63 and 65 of EC Regulation no. 1968/2005 aims at supporting cooperation activities between territories which belong to the same Member State (*interterritorial cooperation*) or different Member States and with Third Countries' territories (*transnational cooperation*);
- in accordance with the EU Commission document named "Guidelines for the implementation of the Cooperation measure within the Leader Axis" (dated 19.11.2008), it is desirable to formalise the commitments between the partners of each cooperation Project by means of a cooperation agreement, and , if necessary, to establish a joint legal entity duly established under any of the member states legislation;
- the parties in this agreement intend to create a cooperation Project called " _____ " henceforth referred to as the **Project**;
- with the agreement herein, the Parties (Lead Partner and Partners) wish to regulate the legal, financial, and organisational framework of the Project, and grant the Lead Partner a special collective mandate with representation [*or: without representation*], appointing it as the Project coordinator.

All such things considered, the Parties agree and stipulate as follows:

ART. 1 – Premises and attachments

The premises and the attachments form an integral and substantial part of this Agreement.

ART. 2 – Scope of the agreement

The scope of this agreement is to regulate between the Parties the tasks and responsibilities for the setting up and implementation of the Project, with the purposes and goals listed below and specified in detail in the Project Fiche attached to this agreement as attachment n. 1.

ART. 3 – Aims and Goals

The project " _____ " has the following goals:

A) _____;

B) _____;

[*OPTIONAL: For the full achievement of the above mentioned goals, the implementation of the*

Project will involve, beyond the Parties, also the following areas and entities, which however will not be considered as Parties to this agreement: _____.]

ART. 4 – Project Actions

According to what is described in detail in the Project fiche attached, the Project's activities will deal with the following macro targets:

(i) Competitiveness; (ii) Biodiversity and environment; (iii) Quality of life;

The Project's actions must be carried out through joint management and coordination between the various Partners involved in the management and operational choices, in order to support and aid the Lead Partner in its decisions and to supervise its work. For this purpose, the Partners involved in the Project will meet as a joint committee (the "Steering Committee"), as provided under article 9 below.

ART. 5 – Financial resources

The Parties undertake to co-fund the cooperation actions and the expenses borne for the interest of the Project, including those for the execution of this Agreement, in accordance with the financial plan, as shown in the Project fiche attached to this Agreement.

Each Party will bear the expenses which are not foreseen in the Project and for which it committed autonomously.

In case any expense is considered partly or totally not eligible or in case of reduction or revocation of the funding of the Project, and save for the case these events occur for responsibility or defaults by any of the Parties under this Agreement, the Parties will proportionally share the above expenses between them.

ART. 6 – Parties' roles and functions

The Parties undertake to comply with the terms and timeframe foreseen for the carrying out and management of the Project, also with reference to the tasks and financial commitments assigned to each Party, according to what is specified in the attached Project fiche.

Each Party will carry out its own fiscal, management and operational services fully independently, with personal liability for the performance of the tasks assigned to it. Each Party shall also take care independently of the reporting *vis-à-vis* the respective Managing Authority.

If one of the Party breaches any obligation under this Agreement, and save the liability deriving

from the law to the breaching Party towards the other Party, all the other Parties will perform any reasonable efforts to guarantee the carrying out and completion of the Project's goals, for their reciprocal interest.

ART. 7 – Roles and functions of the Lead Partner

The Lead Partner undertakes to carry out and to coordinate and manage the following activities necessary for the best implementation of the Project (*NOTE: the following list is not exhaustive*):

- the planning and organisation of activities connected with the Project and the adapting of the Project to any possible new needs and aims due to the entry of new partners, at the meantime acting in compliance with the purposes and goals provided for in this Agreement;
- leadership and coordination of the Project and of all the Parties in order to ensure the full implementation of the Project;
- the activities necessary for preparing financial reports on the activities that have been carried out (financial coordination) and where necessary, the signing of documents connected with the carrying out of the Project;
- preparation of monitoring reports and any other documents needed for the Project, and verification and updating of the time schedule for the activities and the relevant flow-chart of costs;
- take care of the ordinary administrative and legal issues;
- communication and meetings between Parties, also encouraging communication with the Managing Authorities;
- in case of establishment a joint legal entity for the Project, take care in the interest of all the Parties, of the contacts with the representatives of this legal entity, entrusting it with commitments related to the Project and verify the costs borne;
- develop contacts with new perspective partners in order to increase the partnership of the Project.

While carrying out the above activities, the Lead Partner will be supported by the supporting and supervising activity carried out by the Steering Committee.

[OPTIONAL: as contribution for the above activities, each Party will pay to the Lead Partner a yearly lamp-sum consideration of €_____ .]

[OPTIONAL: The mandate granted to the Lead Partner can be terminated by means of a decision taken by the other Party in the Steering Committee, save for the reimbursement of any expenses incurred by the Lead Partner for the Project as of the day of the termination of the mandate].

[OPTIONAL: A Project administrative organisational office may be set up, with supporting functions, to be entrusted with the following tasks:_____

- a. maintaining the Project protocol;*
- b. checking consistency between any expense documents and the financial management rules;*
- c. keeping and filing of Project documentation;*
- d. filing of invoices and any other proof of expenses, of ongoing and coordinated collaboration contracts, of any temporary or professional contracts signed with various subjects;*
- e. preparation of payment orders and relevant wire transfer.*

The organisational office tasks will be carried out by employees of the Parties or by external persons who perform their activities under the responsibility of the Lead Partner.]

ART. 8– Roles and functions of the Partners

The terms of realisation of the Project are entrusted to the Partners in accordance with the provisions of this Agreement and its attachments and with the possible indications of the Steering Committee.

The Partners shall also draw up financial reports of all the costs borne for the activities entrusted to them in full respect of the current laws in force and of procedures set down by the respective Managing Authorities; moreover, they shall be responsible for the drafting of the reports of the activities which are necessary to the Project and for the informative reports to be filed with its Managing Authority, including the final report.

The Partners shall also take part in all the phases of their responsibilities for carrying out the Project, in compliance with the agreed timeframe. The Partners undertake also to provide the utmost possible collaboration for completing the Project.

Each Partner will be responsible for the following (the following list is not exhaustive):

- the observance of all obligations under this Agreement for the complete and correct com-

pletion of the Project, including the obligation to pay the pro-rata of the expenses borne by the common structure which can be established by the Parties for the realisation of the Project;

- organisation of meetings and exchanges in their own territory;
- the development of contacts and relations with perspective new partners in their own territory;
- involvement of local administrations and economic and social stakeholders in the respective territory;
- spreading of information about the Project's progress in their areas.

ART. 8–bis Establishment of a common structure - EEIG

The Partners will establish within [____] an European Interest Economic Group – EEIG, pursuant to EC Regulation n. 2137/1985, to act as common structure for the achievement of the Project's goals.

The EEIG shall be established on the basis of the draft agreement attached to this Agreement and will be named: [____].

The EEIG will be funded by the Partners pro-quota, save for different agreement between Parties for single activities to be entrusted to the EEIG; it will be established under the laws of (____) and will have its registered office in (____).

The Lead Partner, on the basis of the Project and of the decisions taken in the Steering Committee, will confer to the EEIG's directors the tasks and will agree upon the relevant terms of realisation and costs, to be divided between all Parties.

The EEIG will deal with the following tasks (*Note: the following list is not exhaustive*):

A) to project and carry on the following activities:

- (i) drafting of the marketing plan;
- (ii) drafting of plans for the enlargement of the partnership;
- (iii) marketing activities of goods and products;
- (iv) organisation of fairs and events;

B) to select, on behalf of the Partners, the services/goods providers necessary to the Project's

activities;

C) to manage payments to the services providers in accordance with the assignment received, invoicing the relevant costs to the Partners pro – quota or on the basis of the different agreement reached between Parties from time to time; to provide the relevant financial documentation and adequate information on the activities carried out;

D) to manage, on the basis of specific assignment by the Parties, the assets deriving from the Project's activities which may not be diverted at least for 5 (five) years from the goals of the funding, in order to maintain a profitable use of such assets even after the conclusion of the Project.

The tasks above mentioned shall be realised under the control and coordination of the Lead Partner, to which the EEIG's directors shall report on the activities developed and relevant costs at least each 6 months.

The EEIG shall be managed by n. (X) directors, of which n. (X), including the President of the managing body, appointed by the Lead Partner

The Partners may regulate the appointment of the other directors by means of separate Shareholders' Agreements.

ART. 9 – Steering Committee

The Steering Committee supports the Lead Partner in detailing the Project and in its carrying out.

The Steering Committee is convened, also by means of teleconference or audio conference, at any time at any time three (3) or more Partners will so request, and in any case every six months (*or: every three months*).

The notice of call, complete of agenda and time of the meeting, shall be sent with at least a 7 (seven) days –advance. The Steering Committee is composed by one representative of each Party. Each Party may be represented by another Party by means of a written and duly signed proxy, to be shown to the Lead Partner at the meeting. Each Party may not represent more than [•] Parties at each meeting.

The decision shall be taken with the following *quorum*:

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- a) for the decisions on the modification to this Agreement, the admissions of new Partners, exclusions and liability of the Parties, termination of the mandate granted to the Lead Partner and judicial actions to be brought against any of the Party: (i) the meeting will be validly established with 2/3 of the Parties participating in the meeting; (ii) the decision will be validly approved with the vote of 2/3 of the participating Parties.
 - b) For the decisions on activities of the Project, including those to be entrusted to the EEIG expenses and financial plan: (i) the meeting will be validly established with 50% plus one of the Parties participating in the meeting; (ii) the decision will be validly approved with the vote of 5% plus one of the participating Parties.

The Lead Partner shall draft minutes of the meeting to be approved at the end of any meeting or, at least, within 5 days.

ART. 10 – Breach of contract and exclusions

In the event of a serious breach of any obligation under Art. 5, 6, 7 and 8 above, which may jeopardize the realisation of the Project, each Partner may be excluded from this Agreement and the Project by a decision of the Steering Committee.

[OPTIONAL: by way of example, delay of more than 60 days in reimbursing the sum due to the Lead Partner by any Party for the performance of joint activities is deemed as serious breach under this Article 10.]

Save for the right to claim for the damages which may have been caused to other Partners due to the default of any Partner, the excluded Party shall also pay its part of the expenses already borne or which will be borne for commitments already taken for the Project.

If the Lead Partner is excluded, the Partners shall replace it and inform the respective Managing Authorities.

ART. 11 – Subscription of new partners

The subscription of new partners to the Project is permitted by means of written request to the Lead Partner. The application must contain a declaration of acceptance and acknowledgment of the Project's activities that have already been developed, and of the relevant commitments under Article 8 above, with an express undertaking to ensure the continuity of the Project.

The Lead Partner will bring the application for the approval of the Steering Committee, which

must approve it in accordance with Article 9 above and establish the obligation and financial commitments, taking into account the stage of development of the Project.

The request shall be evaluated on the basis of the following criteria:

(i) Organisation of the applicant LAG (or partnership); (ii) added value of the participation; (iii) prospected commitments and willingness; (iv) _____.

After the acceptance, the new partner will provide the necessary documentation for the review of the Project fiche which will be carried out by the Lead Partner, who will then update the following items:

- partners personal detail sheets;
- foreseen activities;
- financial plan.

The subscription will have effect starting from the execution of a declaration of subscription by both the Lead Partner and the applicant LAG (or partnership). As of such execution, the applicant will become Partner of the Project and a Party fully subject to this Agreement.

ART. 12– Withdrawal by one or more of the Partners

The Parties may withdraw from taking part in the actions foreseen in the Project by giving grounded notice of their decision in writing to the Lead Partner. The withdrawal by one Party or the consensual termination approved by the Steering Committee will have effect only for the future and will not affect the part of the Agreement already completed. The withdrawing Partner must reimburse to the other Parties any expense possibly borne for its account and any expense which shall be borne for commitments already taken at the time of withdrawal, save for the possibility for any Party to claim damages deriving from its withdrawal.

ART. 13 – Expiration term

This agreement will be binding upon the Parties from the date on which it is stipulated and will cease to have effect on the date when all the obligations taken have been completed, which however will be no later than _____, save for any possible privacy obligations and cooperation duties, such as exchange of information and reports necessary for the Managing Authorities. In any case, the assets deriving from the Project's activities may not be diverted at least for 5 (five) years from the goals of the funding. To this end, the Parties agree that the Lead Partner is allowed, upon expiration of this Agreement, to register trademarks or patents, to grant licence or concession if applicable, or, in any case, to entrust the use and development of

such assets with any available contract, in order to maintain a profitable use of such assets. Possible profits resulting from such concessions or contracts, shall be shared between all the Parties, net of expenses. Before the expiration of this Agreement, the Steering Committee will resolve upon the actual terms of the prospected entrustment, giving power to the Lead Partner to further execute it.

ART. 14 – Amendments and additions

This agreement can only be amended and/or supplemented by means of a decision taken by the Steering Committee. Further to this decision the amendments shall be reflected, if necessary, in a new Agreement replacing the present Agreement to be executed by all Parties.

ART. 15 – Applicable laws and competent courts

The parties agree that this agreement and disputes arising from it will be governed by Italian law.

The courts of _____ will exclusively have jurisdiction for any dispute which may arise between the parties in relation to this agreement.

[Or: ART. 15 - Applicable laws and competent courts]

The parties agree that this agreement and relations arising from it will be governed by Italian law.

The parties agree that in the event of any dispute that may arise over the effect, interpretation and carrying out of this agreement, and in any case relating to any connected issue, the dispute will be submitted to an arbitration panel made up of three members, two of whom will be appointed by each party in dispute and the third of whom will be appointed by the President of the Chamber of Commerce of _____ .]

ART. 16 – Final provisions

This agreement, of which ____ copies have been drawn up, will only be subject to registration in case of use. The registration fees will be paid by the requesting party.

This document is made up of ____ single pages for stamp duty. It must be translated, only for unofficial use, in English and _____ *[indicate any language chosen]* and signed in each page by the Parties after being duly read and confirmed.

The attachments are _____ [*indicate type of attachment and number of pages.*].

This agreement for transnational cooperation is signed by the representative of the Parties who have decided to adhere to the “_____” Project.

The Lead Partner’s Legal Representative

The Partners’ Legal Representative

The parties expressly approve article 15 (applicable laws and competent courts) pursuant to and in accordance with article 1341, paragraph 2 of the Italian Civil Code.

The Lead’s Legal Representative

The Partners’ Legal Representative