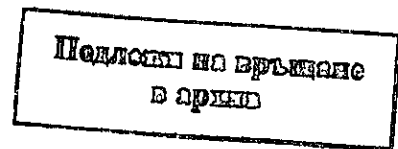


Министерство на външните работи	
Per № 54-210-18/10.07.15г.	
Дирекция: НК	Копие до:



Ambasada Crne Gore u Republici Bugarskoj

No. 279/2015

The Embassy of Montenegro in Sofia presents its compliments to the Ministry of Foreign Affairs of the Republic of Bulgaria and has the honor to convey the Public procurement notice of the Secretariat for projects Development of the Government of Montenegro for participation in the procedure of awarding funds for fostering direct investment.

The Funds for fostering direct investments may be awarded for investment of minimum value of Eur 500.000 and which generate the creation of 20 new jobs within three years from the date of the agreement on the utilization of funds. **The announcement to bid is open till 01 Sept. 2015.**

The link to the Government site is:

- ENG: <http://www.srp.gov.me/en/news/150552/Public-announcement-for-participation-in-the-procedure-of-awarding-funds-for-fostering-direct-investments.html>

The Embassy would very much appreciate if those information are disseminated to the potential users in the Republic of Bulgaria.

The Embassy of Montenegro in Sofia avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Republic of Bulgaria the assurances of its highest considerations.

Sofia

17 July 2015



Ministry of Foreign Affairs of the Republic of Bulgaria
c/o Bulgarian Chamber of Commerce and Industry



Pursuant to Article 21 of the Decree on Fostering Direct Investments (Official Gazette of Montenegro 8/15)

**GOVERNMENT OF MONTENEGRO
SECRETARIAT FOR DEVELOPMENT PROJECTS**

publishes the

PUBLIC ANNOUNCEMENT

for participation in the procedure of awarding funds for fostering direct investments

1. Government of Montenegro - Secretariat for development projects issues the Public Announcement for participation in the procedure of awarding funds for fostering direct investments (hereinafter referred to as the Public Announcement).

A business entity shall mean a domestic or foreign company, legal entity or entrepreneur.

A direct investment shall mean an investment in tangible and intangible assets of business entities with the aim to establish a new business entity, expand the capacities of the existing business entity and diversify the production of a business entity into new products or production processes.

Acquisition of stakes or share in a business entity shall not be considered a direct investment.

2. The funds for fostering direct investments may be awarded for investment projects the minimum investment value of which is EUR 500.000 and which generate the opening of 20 new jobs within three years from the date of agreement on the utilization of funds.

The funds for fostering direct investments are provided for in the budget of Montenegro.

The funds for fostering direct investments **may be used** for financing of investment projects which generate opening of new jobs and contribute to economic and regional development of Montenegro.



The funds for fostering direct investments **may not be used** for financing of investment projects in the sector of:

- a) Primary agricultural production, synthetic fibre production;
- b) Catering industry, construction of catering facilities, except for the construction of primary catering facilities rated with three or more stars in the units of local government of less than 75% development level compared to the average Development Index in Montenegro;
- c) Traffic which includes transport of passengers in air, maritime, road or rail traffic and inland waterways or services of commercial transportation of goods;
- d) Games of chance;
- e) Trade, and
- f) Primary coal and steel production, production of electricity, oil and gas, tobacco and tobacco products, weapons and ammunitions, production of genetically modified organisms and hazardous waste.

Awarded funds for fostering direct investments shall be disbursed in instalments amounting to one third of the total amount of awarded funds for fostering direct investments, in accordance with the dynamics regulated in Article 31 of the Decree on fostering direct investments.

3. Conditions for awarding funds for fostering direct investments

Funds for fostering direct investments may be awarded to a business entity:

- a) registered in the Central Registry of Business Entities;
- b) which has submitted an investment project for which the funds for fostering direct investments are awarded in accordance with the Decree on fostering direct investments;
- c) against which no bankruptcy or liquidation proceedings is initiated, except for reorganization in accordance with the law regulating bankruptcy of business entities;
- d) which is not convicted of a crime committed in the course of pursuing a business activity;
- e) which has settled all liabilities for taxes, customs and contributions;
- f) which has not reduced the number of employees in Montenegro by 10% and more in the previous 12 months prior to the submission of application;
- g) which was not awarded the funds from the Budget of Montenegro allocated for the same purposes;
- h) in which the state or a local government unit does not have a majority interest;
- i) which is not faced with difficulties in accordance with the regulations on state aid;
- j) which is not under the obligation to return illegally received state aid.

A foreign investor participating in the procedure of awarding funds for fostering direct investments may be the beneficiary of funds, i.e. may conclude agreement on the utilization of funds, provided that it establishes a business entity in Montenegro.



4. Amount of funds for fostering direct investments

The amounts of funds for fostering direct investment which may be awarded according to the awarding criteria are:

- 1) EUR 3.000 per new job, for the number of points from 76 to 85;
- 2) EUR 4.000 per new job, for the number of points from 86 to 95;
- 3) EUR 5.000 per new job, for the number of points from 96 to 105;
- 4) EUR 6.000 per new job, for the number of points from 106 to 115;
- 5) EUR 7.000 per new job, for the number of points from 116 to 125;
- 6) EUR 8.000 per new job, for the number of points from 126 to 135;
- 7) EUR 9.000 per new job, for the number of points from 136 to 145;
- 8) EUR 10.000 per new job, for the number of points from 146 to 150.

The amount of funds for fostering investments which may be awarded to large enterprises is set to up to 50% of the reasonable costs of implementation of investment project or up to 60% of the reasonable costs for medium-sized enterprises and up to 70% for small enterprises.

Exceptionally, the funds for fostering investments may be awarded for capital investments, without using the points system, in the amount of up to 17% of the total value of investment project, in accordance with the Decree on fostering direct investments.

5. Criteria for awarding funds for fostering direct investments

Criteria for awarding funds for fostering direct investments are:

- a) references of the investor;
- b) effects of investment project on the productivity of suppliers and other business entities from Montenegro which operate in the same industry sector;
- c) viability of investment project;
- d) effects of investment project in connection with research and development;
- e) effects of investment project on human resources;
- f) environmental impact assessment;
- g) international trade volume;
- h) effects of investment project on the development of less developed local government units, and
- i) Letter of intent of the local government where the investor intends to invest.

6. Deadline, manner and address for submission of applications

Application for participation in the procedure of awarding funds for fostering direct investments (hereinafter referred to as the **Application**), is submitted to the Secretariat for development investments no later than 1 September 2015 to 12 hours (local time), at the indicated address, regardless of the manner of delivery.

Applications are submitted directly or by registered mail to the following address:



**Secretariat for development projects
Moskovska Street 2b, 81000 Podgorica**

Application Form and the Guidance on the submission of application and detailed manner of evaluating criteria for awarding funds for fostering direct investments have been published on the website of the Secretariat for development projects (www.srp.gov.me).

7. Opening of applications

Opening of applications will be carried out on 1 September 2015, in the premises of the Secretariat for development projects, starting at 13 pm.

The opening of applications is public.

Applicants, their representatives or their attorneys may be present at the opening of applications, with the attached authorization for representation or power of attorney.

8. Application bank guarantee

Business entity submitting the Application must submit an **application bank guarantee** issued to the benefit of the Government of Montenegro, in the amount of EUR 5.000 (in words: five thousands euros), payable on first demand, issued by the commercial bank registered in Montenegro, with a validity of 180 days from the public opening of applications. The validity period of this Guarantee may be extended at the request of the Secretariat for development projects.

The costs of the Application Bank Guarantee are borne by the business entity submitting the Application for the Public Announcement.

9. Performance bank guarantee

The Beneficiary of funds for fostering direct investments shall prior to the submission of request for disbursement of funds for fostering investments, within 15 days from the date of conclusion of the Agreement on the utilization of funds, submit to the Secretariat for development projects an **unconditional bank guarantee, to the benefit of the Government of Montenegro**, payable on first demand, without right of objection, issued by the commercial bank registered in Montenegro, in accordance with the Agreement on the utilization of funds.

The Performance Bank Guarantee shall be submitted for the period until the expiry of 60 days after the date of completion of investment project implementation and achievement of full envisaged employment, in accordance with the disbursement schedule and amounts of instalments referred to in item 2 of this Public Announcement and the Agreement on the utilization of funds.

Form of bank guarantees referred to in items 8 and 9 of this Public Announcement have been published on the website of the Secretariat.



10. In addition to the bank guarantee referred to in item 9 of this Public Announcement, the funds Beneficiary shall within 15 days from the date of the Agreement on the utilization of funds, submit two signed blank bills of exchange with signed authorization for the purpose of collection of statutory default interest.

11. For any questions related to this Public Announcement please contact the Secretariat for development projects at the following address and contacts:

Secretariat for development projects
Moskovska Street 2b
81000 Podgorica
Contact person: Anja Čvorović
Tel: 020 220 271
Fax: 020 220 030
E-mail: anja.cvorovic@srp.gov.me

12. The procedure according to the Public Announcement shall be carried out within six months from the date of publishing of the Public Announcement.

13. The Government of Montenegro may amend the provisions of the Public Announcement before the expiry of the deadline for submission of applications, in which case the amendments will be published in the manner in which this Public Announcement was published.

Pursuant to Article 21, paragraph 5 of the Decree on Fostering Direct Investments (Official Gazette of Montenegro 8/15), the Secretariat for development projects prepared the following

**GUIDANCE
ON THE SUBMISSION OF APPLICATION AND DETAILED MANNER OF EVALUATING
CRITERIA FOR AWARDING FUNDS FOR FOSTERING DIRECT INVESTMENTS**

I INTRODUCTION

The Guidance on the submission of application and detailed manner of evaluating criteria for awarding funds for fostering direct investments contains information on how to complete and submit an application for participating in the procedure of awarding funds for fostering direct investments (hereinafter referred to as the **Application**), in accordance with the Public Announcement for participation in the procedure of awarding funds for fostering direct investments (hereinafter referred to as the **Public Announcement**) and the Decree on fostering direct investments (Official Gazette of Montenegro 8/15), as well as the manner of evaluating criteria for awarding funds for fostering direct investments.

Preparation of the Public Announcement and other activities in relation to the Public Announcement is performed by the Secretariat for development projects (hereinafter referred to as the **Secretariat**).

Evaluation of investment projects and report on evaluation with the proposal of the decision on awarding funds for fostering direct investments shall be made by the Commission for evaluation of applications appointed by the Government of Montenegro.

The Secretariat may amend this Guidance at any time, but no later than five days before the deadline for submission of applications. Amendments will be posted on the website of the Secretariat.

II SUBMISSION OF APPLICATION

2.1 Submission of application

2.1.1 Application is submitted to the Secretariat, within the period defined in the Public Announcement.

2.1.2 Application is submitted directly or by registered mail to the Secretariat.

2.1.3 Application and supporting documents are submitted in a properly sealed package (envelope, wrapper or the like).

2.1.4 Employee of the Secretariat is obliged to stamp each received package with the date and hour of receipt of the Application and issue a confirmation of receipt of the Application.

2.1.5 The Application is submitted in the original and copy of the original Application, in writing (hard copy) and electronic format (on CD/USB), in accordance with this Guidance.

2.1.6 Original of the Application must be typed or written in indelible ink.

2.1.7 Business entity submitting the Application (hereinafter referred to as the Applicant) or its authorized person is required to bind the Application and supporting documents and sign each page of the Application and supporting documents.

2.1.8 Application Bank Guarantee, as a means of financial collateral, must be preserved from damage during packaging as follows:

- packed in special PVC double blade foil which is perforated and sheathed with other evidence;
- plastic foil in which the application bank guarantee is placed must be signed by the business entity submitting the Application or its authorized person.

2.1.9 After returning the Application Bank Guarantee, a confirmation shall be archived at its place as a proof that the guarantee has been returned to the Applicant.

2.1.10 The front of the package in which the Application is submitted together with supporting documents, shall include the name and seat of the body publishing the Public Announcement, number, date and name of the Public Announcement and text with a note: "Do not open before the public opening of applications." The back of the package shall include title and seat, i.e. name and address of the Applicant.

2.1.11 The package shall contain two envelopes:

- (a) The envelope numbered 1 with the inscription "Original", which contains the Application in original, supporting documents in original or certified as defined in Item 2, sub-item 2.2 of this Guidance, in two copies, and two CDs/USBs with the burned Application and supporting documents;
- (b) The envelope numbered 2 with the inscription "Duplicate", which contains a duplicate of the original Application and supporting documents, in two copies.

2.1.12 The Application must be submitted within the period defined in the Public Announcement; otherwise it will not be considered and will be rejected as untimely.

2.1.13 The Secretariat shall determine the Application Form and publish it on its website.

2.2 Language of the Application and supporting documents

2.2.1 The Application is submitted in the Montenegrin language.

2.2.2 The supporting documents submitted by a foreign investor must be certified in accordance with the regulations of the country of their issue and translated into Montenegrin language by the certified court translator.

2.3 Currency

Elements of the Application and supporting documents, which are expressed in value, whether they are related to activities in Montenegro or outside, should be expressed in EUR.

2.4 Opening of Applications

2.4.1 Applications are opened at the time, in the place and manner specified in the Public Announcement.

2.4.2 The public opening of applications begins by determining the number of applications received in order of receipt, including withdrawals of applications, timely submission of applications and title, i.e. name of the Applicants.

2.4.3 The Applicant may withdraw its application by the deadline for submission of applications.

2.4.4 A statement or other document by which the Applicant withdraws its application is submitted directly or by registered mail to the address of the Secretariat.

2.4.5 The submitted application cannot be changed or supplemented.

2.4.6 The Secretariat keeps a log on opening of applications, in which it enters particularly the following information:

- 1) place, date and hour of the start of opening of applications;
- 2) names of employees of the Secretariat who attend the opening of applications;
- 3) names of the present Applicants, their representatives or attorneys with the number and date of issue of their power of attorneys;
- 4) title, i.e. the name of the Applicant not attending the public opening of applications;
- 5) the subject of the Public Announcement;
- 6) the order of opening of applications and data from the applications and supporting documents, and
- 7) other data of importance to the procedure of opening of applications.

2.5 Clarification of applications

2.5.1 The Secretariat may, during the procedure of evaluation of applications validity, request clarification from the Applicant in order to eliminate doubts about the validity of applications.

2.5.2 The clarification of the Application may not be making changes and supplements to the Application.

2.5.3 The clarification referred to in sub-item 2.5.1 of this item shall be submitted within seven days from the submission of the request.

III MANNER OF EVALUATING CRITERIA FOR AWARDING FUNDS FOR FOSTERING DIRECT INVESTMENTS

3.1 Type and manner of evaluating criteria

Criteria for awarding funds for fostering direct investments (hereinafter referred to as the **Criteria**) in accordance with Article 11 of the Decree on fostering direct investments are:

- references of the investor;
- effects of investment project on the productivity of suppliers and other business entities from Montenegro which operate in the same industry sector;
- viability of investment project;
- effects of investment project in connection with research and development;
- effects of investment project on human resources;
- environmental impact assessment;
- international trade volume;
- effects of investment project on the development of less developed local government units, and
- Letter of intent of the local government where the investor intends to invest.

3.1.1 References of the investor

Based on the criterion References of the investor, the investor may be awarded maximum 35 points.

The references of the investor shall be evaluated in accordance with his business operations, as follows:

- 1) **if shares of the investor are listed on well-known international stock exchanges and if the investor has successfully implemented a large number of investment projects - 26 to 35 points will be awarded.**

The highest number of points (35) will be awarded to the investor whose shares are listed on a well-known international stock exchanges and who has successfully

implemented a large number of investment projects in the past five years compared to the other investors who have applied.

Other investors whose shares are listed on well-known international stock exchanges will be awarded points in relation to the largest number of successfully implemented investment projects in the past five years.

2) if the shares of the investor are listed on the stock exchange and the investor has a high credit rating - 16 to 25 points will be awarded.

The highest number of points (25) will be awarded to the investor whose shares are listed on the stock exchange and has the highest credit rating in relation to the other investors who have applied.

Other investors whose shares are listed on the stock exchange will be awarded points in proportion to the highest credit rating.

3) if the investor has an international reputation and experience which includes the investment project which is of similar scope and type to the project for which funds for fostering investments are awarded - from 11 to 15 points will be awarded.

The highest number of points (15) will be awarded to the investor who has an international reputation and experience which includes the highest number of investment projects which are of similar scope and type to the project for which funds for fostering investments are awarded in relation to the other investors who have applied.

Other investors who have an international reputation will be awarded points in proportion to the highest number of investment projects of similar scope and type to the project for which funds for fostering investments are awarded.

4) if the investor has already implemented the projects of similar scope and type to the project for which funds for fostering investments in the domestic market are awarded - 1 to 10 points will be awarded.

The highest number of points (10) will be awarded to the investor who has already implemented the highest number of projects of similar scope and type to the project for which funds for fostering investments in the domestic market are awarded in relation to the other investors who have applied.

Other investors will be awarded points in proportion to the highest number of projects of similar scope and type to the project for which funds for fostering investments in the domestic market.

3.1.2 Effects of investment project on the productivity of suppliers and other business entities

As part of the criterion Effects of investment project on the productivity of suppliers and other business entities the investor may be awarded a total of 15 points on the basis of the following two sub-criteria:

1) according to the share of domestic suppliers in the investment project implementation maximum 10 points may be awarded, for:

- a) more than 75% - 10 points are awarded;
- b) more than 60%, and less than 75% - 8 points are awarded;
- c) more than 50%, and less than 60% - 6 points are awarded;
- d) more than 40%, and less than 50% - 4 points are awarded;
- e) more than 10%, and less than 40% - 2 points are awarded;

2) according to the effect of investment project on the productivity of other business entities maximum 5 points may be awarded, if the investment project:

- a) will make considerable contribution to the increased productivity - from 4 to 5 points will be awarded, as follows:
 - to the investor who will by purchasing components/parts from domestic suppliers affect domestic suppliers to increase production volume above 50% - 5 points are awarded;
 - to the investor who will by purchasing components/parts from domestic suppliers affect local suppliers to increase production volume by 40% to 50% - 4 points are awarded;
- b) contributes to productivity increase - 1 to 3 points will be awarded, as follows:
 - to the investor who will by purchasing components/parts from domestic suppliers affect domestic suppliers to increase production volume by 30% to 40% - 3 points are awarded;
 - to the investor who will by purchasing components/parts from domestic suppliers affect domestic suppliers to increase production volume by 20% to 30% - is awarded 2 points are awarded;
 - to the investor who will by purchasing components/parts from domestic suppliers affect domestic suppliers to increase production volume by 10% to 20% - 1 point is awarded.

3.1.3 Viability of investment project

Based on the criterion Viability of investment project, the investor may be awarded maximum 10 points.

The viability of investment project is evaluates as follows:

1) if investment project precludes the transfer of factory/machinery and equipment outside Montenegro - 6 to 10 points will be awarded, whereby:

- a) to the investor whose equipment is fully integrated into the plant and its dismantling requires total destruction of the facility covered by the investment project, provided that after its dismantling the equipment cannot be installed in another place - 10 points are awarded;
- b) to the investor whose equipment is integrated into the facility covered by the investment project and its dismantling requires demolition of the facility in larger scale, and re-mounting of equipment requires significant costs for construction of

separate structural elements and introduction of special installations (electrical, mechanical and technological installations), both in and out of the facility - 8 to 9 points are awarded;

c) to the investor whose equipment is integrated into the facility covered by the investment project and its dismantling requires demolition of the facility in larger scale, and re-mounting of equipment requires significant costs for construction of separate structural elements and introduction of special installations (electrical, mechanical and technological installations) in the facility itself - 6 to 7 points are awarded;

2) if the equipment, devices and plants may be moved outside Montenegro, but the moving entails high expenses and lasts for a longer period of time (three to five years) - 1 to 5 points will be awarded, as follows:

a) to the investor whose equipment is partially integrated into the facility covered by the investment project, its dismantling requires limited work on the facility itself, and re-mounting of equipment requires certain costs for reinforcement of structural elements and/or introduction of special installations (electrical, mechanical and technological installations) in the facility itself, provided that the moving of the equipment concerned takes more than four and a maximum of five years - 5 points are awarded;

b) to the investor whose equipment is portable, but its dismantling and re-mounting require certain costs, and in the new facility it is necessary to perform the installation works that do not require moderate costs, provided that the moving of the equipment concerned takes more than three and a maximum of four years - 3 to 4 points are awarded;

c) to the investor whose equipment is portable, but its re-mounting in another facility, of different uses compared to the facility covered by the investment project, requires some installation works that do not require a particularly high costs, provided that the moving of the equipment concerned takes three years - 1 to 2 points are awarded.

3.1.4 Effects of investment project in connection with research and development

As part of the criteria Effects of investment project in connection with research and development the investor may be awarded a total of 10 points on the basis of the following two sub-criteria:

1) according to high technology share in an investment project, maximum 5 points may be awarded, if:

a) investment project relates to the activities which are considered as new economics (telecommunications, microelectronics, information technology, biotechnology, new materials, etc.) - 5 points will be awarded;

b) investment project largely includes high technology - 3 to 4 points will be awarded;

The highest number of points (4) will be awarded to the investor for an investment project that includes the highest percentage of high technology in total operating costs compared to the other investors who have applied and other

investors will be awarded points in proportion to the highest percentage of high technology in total operating costs;

- c) investment project includes technology which is at the medium level of development - 1 to 2 points will be awarded;

The highest number of points (2) will be awarded to the investor for an investment project that includes the highest percentage of technology which is at the medium level of development in total operating costs compared to other investors who have applied and other investors will be awarded points in proportion to the highest percentage of participation of technology which is at the medium level of development in total operating costs.

2) according to possibilities of technology transfer to the business entities in Montenegro who are suppliers or who achieve some other kind of cooperation maximum 5 points may be awarded, if the investment project includes:

- a) technology transfer to the business entities in Montenegro - 4 to 5 points will be awarded, as follows:

- to the investor who will provide transfer of the latest technologies currently non-existent in Montenegro and region of the Southeast Europe by implementing the investment project - 5 points are awarded;

- to the investor who will provide transfer of the latest technologies currently non-existent in Montenegro by implementing the investment project - 4 points are awarded;

- b) partial technology transfer to the business entities in Montenegro - 1 to 3 points will be awarded, as follows:

- to the investor who will provide partial transfer of advanced technologies currently non-existent in Montenegro and the region of Southeast Europe by implementing the investment project - 3 points are awarded;

- to the investor who will provide partial transfer of advanced technologies currently non-existent in Montenegro by implementing the investment project - 2 points are awarded;

- to the investor who will provide partial transfer of technology that already exists in the region of Southeast Europe by implementing the investment project - 1 point is awarded.

3.1.5 Effects of investment project on human resources

Based on the criterion Effects of investment project on human resources, the investor may be awarded maximum 10 points.

Effects of investment project on human resources are evaluated in connection with the level of knowledge and skills which are acquired by the rationalization of the investment project and the possibility to use such knowledge and skills in other entities in Montenegro, if:

- 1) these are general knowledge and skills for which special trainings are envisaged by the employer or which are carried out in cooperation with

business entities and institutions, thus leading to increased competitiveness of employees on the labour market - 1 to 3 points are awarded.

The highest number of points (3) will be awarded to the investor who provided for the acquisition of general knowledge and skills leading to increased competitiveness of employees on the labour market to the highest percentage of employees out of the total number of employees, and to the other investors points will be awarded proportionally.

2) trainings are envisaged for acquiring of special knowledge and skills, thus leading to increased competitiveness of employees within a particular industry - 4 to 10 points are awarded.

The highest number of points (10) will be awarded to the investor who provided for the acquisition of specific knowledge and skills leading to increased competitiveness of employees within a particular industry to the highest percentage of employees out of the total number of employees, and to the other investors points will be awarded proportionally.

3.1.6 Environmental impact assessment

As part of the criterion Environmental impact assessment the investor may be awarded a total of 20 points on the basis of the following two sub-criteria:

1) according to impact of investments on the natural resources utilization, maximum 10 points may be awarded, if the investment project:

a) does not include the activities which affect the natural resources - 6 to 10 points are awarded, as follows:

- to the investor for a project which does not use in its technological process any natural resources, and which does not include the activities that may affect reduction or disappearance of certain types of natural resources - 10 points are awarded;

- to the investor for a project using in its technological process renewable or unlimited natural resources and which does not include the activities that may affect reduction or disappearance of certain types of natural resources - 9 points are awarded;

- to the investor for a project using in its technological process non-renewable and limited natural resources, and which does not include the activities that may affect reduction or disappearance of certain types of natural resources - 8 points are awarded;

- to the investor for a project using in its technological process any natural resources, and which does not include the activities that may affect reduction or disappearance, of certain types of natural resources - 6 to 7 points are awarded;

b) includes the activities affecting natural resources but not threatening their sustainable development - 1 to 5 points are awarded, as follows:

- to the investor for a project which in its technological process does not use any natural resources and includes the activities that may affect reduction of certain types of natural resources - 5 points are awarded;
- to the investor for a project using in its technological process renewable or unlimited natural resources and which includes the activities that may affect reduction of certain types of natural resources - 4 points are awarded;
- to the investor for a project using in its technological process non-renewable and limited natural resources and which includes the activities that may affect reduction of certain types of natural resources - 3 points are awarded;
- to the investor for a project using in its technological process any natural resources and which includes the activities that may affect reduction of certain types of natural resources - 1 to 2 points are awarded.

2) according to impact of investments on the generation of harmful waste maximum 10 points may be awarded, if the implementation of the investment project:

a) generates only municipal waste in accordance with the law - 6 to 10 points are awarded, as follows:

- to the investor for a project that does not generate municipal waste - 10 points are awarded;
- to the investor for a project that does not generate dangerous waste, and does generate non-hazardous municipal waste - 8-9 points are awarded;
- to the investor for a project that generates hazardous municipal waste - 6 to 7 points are awarded;

b) in addition to municipal waste, generates hazardous waste the keeping and disposal of which is defined by the investment project in accordance with the law - 1 to 5 points are awarded, as follows:

- to the investor for a project which in addition to municipal waste does not generate hazardous waste and the keeping and disposal of which is defined by the investment project in accordance with the law - 5 points are awarded;
- to the investor for a project which, in addition to municipal waste, generate hazardous waste as well, and the keeping and disposal of which is defined by the investment project in accordance with the law - 1 to 4 points are awarded.

3.1.7 International trade volume

Based on the criterion International trade volume, the investor may be awarded maximum 20 points.

International trade volume is evaluated in accordance with the scope of provided services or the quantity of products to be delivered in the market outside Montenegro, if:

1) service and/or product are marketed in the international market - 14 to 20 points are awarded.

The highest number of points (20) will be awarded to the investor who has the highest percentage of export of final services or products in the total international trade volume.

Other investors will be awarded points in proportion to the highest percentage of export of final services or products in the total international trade volume;

2) part of services and/or product is marketed in the international market - 1 to 13 points are awarded.

The highest number of points (13) will be awarded to the investor who has the highest percentage of export of part of services or product in the total international trade volume.

Other investors will be awarded points in proportion to the highest percentage of export of part of services or product in the total international trade volume.

3.1.8 Effects of investment project on the development of less developed local government units

Based on the criterion Effects of investment project on the development of less developed local government units, the investor may be awarded maximum 25 points.

The effects of investment project on the development of less developed local government units are evaluated according to the development level of local government where the investor intends to invest, if the Development Index value is:

1) from 30% to 50% of the average Development Index in Montenegro - 25 points are awarded;

2) from 50% to 75% of the average Development Index in Montenegro - 15 points are awarded;

3) above 75% of the average Development Index in Montenegro - 10 points are awarded.

3.1.9 Letter of intent of the local government where the investor intends to invest

If the investor has the Letter of intent of the local government to support the investment in accordance with development plans of the local government, 5 points will be awarded.

3.2 Commission for evaluation of applications

3.2.1 Evaluation of applications and report on evaluation with the proposal of the decision on the award of funds for fostering direct investments shall be made by the Commission for evaluation of applications (hereinafter referred to as the Commission).

3.2.2 The Commission shall, while evaluating proper applications and supporting documents apply only the criteria laid down in the Decree on fostering direct investments.

3.2.3 The Commission shall, while evaluating investment projects, award points according to the Criteria, whereby the total number of points cannot exceed 150.

3.2.4 Each member of the Commission shall perform individual evaluation of applications, i.e. award points according to the individual Criteria on the basis of data presented in the Application.

3.2.5 After the individual evaluation, the Commission shall:

3.2.5.1 determine the average number of awarded points based on each of the Criteria defined for each Applicant;

3.2.5.2 establish a ranking list of applications in the descending order;

3.2.5.3 prepare a report on evaluation with the proposal of the decision on the award of funds for fostering direct investments.

3.2.6 If the proposed investment project is not in line with the development priorities of Montenegro, the application shall be rejected in accordance with the Decree on fostering direct investments.

3.2.7 The report referred to in subsection 3.2.5.3, the Commission shall adopt by a majority vote of all members and submitted it to the Government of Montenegro for further proceedings in accordance with the Decree on fostering direct investments.

IV DATA PROTECTION

4.1 Treatment of data

The Secretariat shall treat the data contained in the Application as follows:

4.1.1 shall keep them as secret data contained in the Application, which are in accordance with the law determined as secret and which the Applicant marked in its Application as secret;

4.1.2 shall refuse to provide information which could be conducive to violations of confidentiality of information contained in the Application;

4.1.3 shall keep as confidential the data on the Applicants by the deadline set for the opening of applications.

No.: _____
Podgorica, _____ 2015

Acting Secretary
Biserka Dragičević

The following is documents are provided in the Annex to this Guidance:

- 1) Decree on fostering direct investments,

- 2) Form of the Application for participating in the procedure of awarding funds for fostering direct investments,
- 3) Draft agreement on the utilization of funds for fostering investments,
- 4) Application bank guarantee form, and
- 5) Performance bank guarantee form.

**APPLICATION FOR PARTICIPATION IN THE PROCEDURE OF AWARDING FUNDS FOR
FOSTERING DIRECT INVESTMENTS**

Applicant - investor:

--

(Name and address of the entity/name and address of the entrepreneur)

Application is submitted for awarding funds for implementation of the investment project:

--

(Name and place of implementation of the investment project)

I. WRITTEN DECLARATION OF ACCEPTANCE OF CONDITIONS FOR AWARDING FUNDS

Applicant - investor:

--

Responsible person of the Applicant - the investor:

--

The Applicant for participation in the procedure of awarding funds for fostering investments (hereinafter referred to as the Application), hereby declares to accept the conditions and requirements set out in the Public Announcement for participation in the procedure of awarding funds for fostering direct investments (hereinafter referred to as the Public Announcement) and the Decree on fostering direct investments (Official Gazette of Montenegro 8/15) (hereinafter referred to as the Decree).

In this regard, the Applicant declares to, among other things, meet the following requirements:

- registered in the Central Registry of Business Entities of Montenegro or the appropriate registry of the country in which the Applicant has a seat;
- submitted the investment project in accordance with the Decree;
- against which no bankruptcy or liquidation proceedings is initiated, except for reorganization in accordance with the law regulating bankruptcy of business entities;
- which is not convicted of a crime committed in the course of pursuing a business activity;
- which has settled all liabilities for taxes, customs and contributions;
- which has not reduced the number of employees in Montenegro by 10% and more in the previous 12 months prior to the submission of application;
- which was not awarded the funds from the Budget of Montenegro allocated for the same purposes;
- in which the state or a local government unit does not have a majority interest;
- which is not faced with difficulties in accordance with the regulations on state aid;
- which is not under the obligation to return illegally received state aid.

Place and date:

L.S.

Signature of authorized person:

II. GENERAL INFORMATION ABOUT THE INVESTOR

Name of business entity			
Type of organization			
Year of establishment			
Activity and activity code			
Seat (address)			
Identification number/TIN			
Phone, fax and e-mail			
Internet address			
Contact person			
Position/function of contact person			
Phone and e-mail of contact person			
Turnover in the preceding business year (in EUR)			
Turnover in the year in which the application is submitted (in EUR)			
Average number of permanently employed in the previous two years	20__	20__	
Number of permanently employed in the year in which the application is submitted			
Mission and vision of business entity			
The planned number of permanently employed in the next three years (by years)	1. year	2. year	3. year
Owners of 10% or more of shares	Name of shareholder	Seat/address of shareholder	% of shares

Table 1

The most important products, works and/or services:

The most important products, works and/or services	Share in total sale (%)	Share in total export (%)

Table 2

Data on the sale and markets on which the products, works and/or services are placed:

Year	Amount of sale/export in the previous two years (in EUR)		Current year
	20__	20__	20__
Total sales volume			
Export volume			
Market 1 _____			
Market 2 _____			
Market 3 _____			
Other markets			

Table 3

III. INFORMATION ABOUT THE INVESTMENT PROJECT

Value of the investment project: EUR _____ (in words: _____ euros)

Place and municipality in which the investment project is implemented: _____

Sector (activity) in which the investment project is implemented: _____

The deadline for implementation of the investment project and achievement of full employment envisaged by the investment project: _____

The total number of new jobs for an indefinite period which the business entity undertook to open under the Agreement on the utilization of funds for fostering direct investments:

Value of eligible investment costs in EUR				
Tangible investments				
Year	20__	20__	20__	Total
Land (area and type)				
Buildings and capacities				
Production plants and equipment				

Machinery and other equipment				
Rental costs of business premises				
Investments into leased land, buildings and production plants				
Intangible investments				
Year	20__	20__	20__	Total
Patents, licences or other				
TOTAL				

Table 4

Sources of financing of the investment project

Amount in EUR				
Year	20__	20__	20__	Total
Capital (foreign)				
Capital (domestic)				
Bank loan <i>(indicate the expected interest rate)</i>				
Securities <i>(indicate the expected interest rate)</i>				
Other sources of financing:				
<i>(indicate the type and the expected interest rate)</i>				
TOTAL				

Table 5

Lasting impact of the investment project on the economic development of Montenegro

Assessment of different impacts of the investment project in terms of cost - benefit analysis:

In millions of EUR	In the next three years			Total
	20__	20__	20__	
LABOR COSTS				
Total net earnings				
Total social insurance contributions (pension and				

disability insurance, health insurance and unemployment insurance)				
Total taxes on earnings				
INCOME TAX				
SERVICES TO BE PROCURED IN MONTENEGRO				
Electricity				
Telecommunication services				
Professional development/training				
Premises - rent				
Insurance premiums				
Fuel				
Other (specify)				
CONTINUOUS PROCUREMENT OF PRODUCTS AND SERVICES IN MONTENEGRO (specify)				

Table 6

The project team members

Provide information on the leader of the investment project and its references

First and last name	
Professional qualifications and occupation/working position	
Scope of work	
Experience in similar investment projects	
Total work experience	

Table 7

Provide information on the team members appointed for implementation of the investment project

First and last name	Business entity	Business activity/Type of activity

Table 8

I declare under full substantive and criminal liability that the information given in the Application is true and correct.

Place and date:

L.S.

Signature of authorized person:

The Applicants are required to submit the supporting documents together with the Application, as follows:

- 1) Investment project for the financing of which funds for fostering direct investments are requested (textual and graphic presentation), with details necessary for the evaluation of criteria referred to in art. 11 to 20 of the Decree, as follows:
 - a) information on the strategic orientation of business entity, with particular emphasis on past experience, references of the investor and data on implemented investment projects,
 - b) evidence of the competent body on the activities of the applicant on stock exchange,
 - c) information on the effects of investment project on the productivity of suppliers and other business entities, data on viability of investment project;
 - d) information on the estimated effects of investment project in connection with research and development;
 - e) information showing the estimated effects of investment project on human resources in relation to the level of knowledge and skills whose acquisition is provided with implementation of the investment project,
 - f) information on investment project environmental impact assessment;
 - g) information on international trade volume in terms of assessment whether the product or service is sold on the international market and to what extent;
 - h) information on the effects of investment project on the development of less developed local government units, and
 - i) submission of the Letter of intent of the local government where the applicant intends to invest.
- 2) a business plan which describes the economic justification and the dynamics of implementation of investment project with a description of the planned investment, draft technological process, marketing plan and assessment of competition in the market;
- 3) Balance Sheet and Income Statement for the previous three operating years, with an authorized auditor's report;
- 4) Total estimated value of investment project made by the authorized assessor based on which the amount of investment can be established as per Article 8 of the Decree;
- 5) evidence of the administration body in charge of tax affairs, or the competent body of the state in which the investor has a seat on the average number of permanently employed persons with the investors in the previous two years (the Tax Administration);
- 6) Projected Balance Sheet and Income Statement for the next three years from the date of application submission;
- 7) excerpt from the Central Registry of the Commercial Court (CRPS), or the excerpt from the appropriate registry of the country in which the investor has a seat, which may not be older than 30 days prior to the date of application submission;
- 8) evidence of the body in charge of tax affairs, i.e. customs affairs or other competent state body of the country in which the foreign investor has a seat of settled liabilities for taxes and contributions, i.e. customs (the Tax Administration);

- 9) confirmation of the competent body that no bankruptcy or liquidation proceedings is initiated against the business entity, except for reorganization in accordance with the law regulating bankruptcy of business entities (confirmation of the Commercial Court);
- 10) confirmation of the competent body that no criminal proceedings is initiated against responsible persons in the business entity (confirmation of the Basic Court);
- 11) confirmation of the competent body that business entity or responsible person in the business entity has not been found guilty in a court of law for an offence which is prosecuted ex officio, i.e. has not been convicted of a crime committed in the course of pursuing a business activity (confirmation of the Ministry of Justice for a responsible person in the business entity, i.e. confirmation of the Central Registry of the Commercial Court (CRPS) for a business entity);
- 12) evidence of the body in charge of tax affairs that the applicant has not reduced the number of employees in Montenegro by 10% and more in the previous 12 months prior to the submission of application (the Tax Administration);
- 13) evidence issued by the Commission for control of state aid that business entity was not awarded the funds from the Budget of Montenegro allocated for the same purposes;
- 14) evidence of the competent body that the state or a local government unit does not have a majority interest in the business entity (excerpt from the Central Registry of the Commercial Court (CRPS));
- 15) evidence issued by the Commission for control of state aid in charge of finance affairs that business entity is not faced with difficulties in accordance with the regulations on state aid;
- 16) evidence issued by the Commission for control of state aid that business entity is not under the obligation to return illegally received state aid.

Documents submitted by a foreign investor must be certified in accordance with the regulations of the country of their issue and translated into Montenegrin language by the certified court translator

Evidence of fulfilment of conditions for participation in the procedure of awarding funds for fostering direct investments must not be older than six months before the date of the public opening of applications, except for the excerpt from the CRPS, or excerpt from the relevant registry of the country in which the foreign investor has a seat, which must not be older than 30 days before the date of application submission.

The Government of Montenegro, represented by xxxxxxxx (**hereinafter referred to as the Government**),

and

_____, _____, identification number: _____, represented by _____, the director (**hereinafter referred to as the Beneficiary**),

(hereinafter referred to individually as **the Party**, and together as **the Parties**)

Considering that:

- *The Government of Montenegro, at its session held on 29 January 2015, adopted the Decree on fostering direct investments (Official Gazette of Montenegro 8/15), (hereinafter referred to as **the Decree**)*
- *on the basis of the Decree, a Public announcement was published on _____ for participation in the procedure of awarding funds for fostering direct investments (hereinafter referred to as **the Public Announcement**), which lasted until _____;*
- *on _____ (hereinafter referred to as the **Application date**), the Beneficiary submitted to the Secretariat for development projects (hereinafter referred to as the **Secretariat**) a correct application and supporting documents in accordance with the Decree (hereinafter referred to as the **Application**);*
- *on _____ the Commission for evaluation of applications (hereinafter referred to as **the Commission**) prepared the Report on evaluation and proposed to the Government decision on awarding funds for fostering investments;*
- *the Government of Montenegro adopted the Decision on awarding funds no. _____ of _____ (hereinafter referred to as the **Decision**);*

The Parties conclude the following:

AGREEMENT ON THE UTILIZATION OF FUNDS FOR FOSTERING DIRECT INVESTMENT

1. INTERPRETATION

- 1.1 Definitions and interpretations referred to in Article 1 of this Agreement shall apply to this Agreement.
- 1.2 All terms defined in this Agreement shall have so defined meaning whenever used in any Annex or other document, unless therein otherwise defined.
- 1.3 Except where otherwise indicated, references to article, paragraph, Annex or part of the Annex shall be a reference to article, paragraph, Annex or part of the Annex to this Agreement.

- 1.4 In the case of inconsistencies or contradictions of any provision of this Agreement to the provisions of the Annex to this Agreement or submitted documents, provisions of this Agreement shall be relevant.
- 1.5 Reference to a document shall include a reference to any future amendments to that document, as well as any document that replaces the original document to which a reference is made.
- 1.6 Reference to the Beneficiary shall include a reference to its legal successors.

2. DEFINITIONS

Bank guarantee: shall mean unconditional and irrevocable performance bank guarantee in the amount of EUR _____ (in words: _____ euros), payable at first call, without right of objection, issued by the commercial bank registered in Montenegro to the benefit of the Government of Montenegro for the period until the expiration of 60 days after the date of implementation of investment project and achieving full envisaged employment, which the Beneficiary shall submit to the Secretariat within 15 days of the conclusion of this Agreement, in the form and content of Annex 3 to this Agreement.

Application bank guarantee: shall mean unconditional and irrevocable application bank guarantee in the amount of EUR _____ (in words: _____ euros), payable at first call, issued by the commercial bank registered in Montenegro to the benefit of the Secretariat for development projects, with a validity period of 180 days from the public opening of applications. The period of validity of this guarantee may be extended at the request of the Secretariat for development projects.

Financial year: shall mean the period of 12 months beginning January 1 and ending December 31.

Financial statement: financial statements of the Beneficiary made in accordance with the Law on Accounting and Auditing and this Agreement.

Investment project shall mean a project for the financing of which funds are awarded and on the basis of which direct investment is realized.

Commission shall mean a body formed in accordance with the Decree and is responsible for evaluation of investment projects and other activities in accordance with the Decree.

Beneficiary shall mean a business entity which, in the manner and under conditions defined by the Agreement, is awarded funds for fostering investments.

Tangible investment: shall mean investment in land, buildings, production plants, machinery and equipment.

Minimum investment shall mean investment in the Investment project in the amount of minimum EUR 500,000.

Applicable law shall mean substantive and procedural law of Montenegro.

Intangible investment: shall mean investment in patents and licenses in accordance with the regulations governing state aid, which are subject to depreciation, and which are used by the Beneficiary and recorded in its balance sheets.

Investment obligation shall mean an obligation of the Beneficiary to make the investment in time and in the manner defined by the investment project and this Agreement.

Employment obligation shall mean an obligation of the Beneficiary to, in order to implement the investment project, open and fill at least 20 new jobs on a permanent basis, within three years from the date of conclusion of this Agreement, in accordance with the Decree.

Decision shall mean decision on awarding funds for fostering direct investments made by the Government.

Eligible investment costs: shall mean an investment in tangible assets, intangible assets, and Rental costs of business premises in which an investment project is realized and investments into leased land, buildings and production plants, provided that the lease period is not less than ten years after the conclusion of this Agreement.

Period of guaranteed investment and employment shall mean a period in which the Beneficiary is obliged to keep the value of the investment project and the number of new jobs created at least three years after completion of the investment project for small and medium-sized companies, or at least five years after completion of the investment project for large companies.

Secretariat shall mean the Secretariat for development projects, in charge of the procedure of implementation of the Public announcement and other activities specified by the Decree.

Bankruptcy proceedings: shall mean bankruptcy and liquidation proceedings in the manner specified by provisions of the Law on Bankruptcy (Official Gazette of Montenegro 1/11).

Request for disbursement of funds shall mean a request that the Beneficiary submits to the Secretariat in the Form contained in Annex 2 to this Agreement, based on which the disbursement of funds awarded for fostering investments is made.

3. SUBJECT OF THE AGREEMENT

3.1 The Government shall conclude with the Beneficiary this Agreement on the utilization of funds for fostering direct investments (hereinafter referred to as the **Agreement**), which regulates the mutual rights and obligations in relation to the

conditions, dynamics of implementation of the investment project and the utilization of awarded funds.

3.2 The subject of this Agreement shall be awarding funds to the Beneficiary for implementation of investment project " _____ " in _____, whose investment value for a period of three years amounts to EUR _____ (in words: _____ euros) and which opens ___ (in words: _____) new jobs.

3.3 On the day of signing of this Agreement, the Beneficiary, which submitted and application as a foreign investor, shall be obliged to submit an excerpt from the Central Registry of Business Entities confirming to have founded the company, legal person or to have been registered as an entrepreneur in accordance with applicable law.

4. INVESTMENT PROJECT

4.1 The Beneficiary undertakes to implement the investment project within a period of three years from the date of this Agreement in quantitative and qualitative terms in accordance with the Decree, this Agreement and the Application, and will be the sole beneficiary of the property acquired by direct investment.

4.2 Minimum investment of the Beneficiary into tangible and intangible assets shall amount to EUR _____ (in words: _____ euros).

4.3 The Beneficiary undertakes to open and fill ___ new jobs on a permanent basis within three years from the signing of this Agreement.

4.4 The Beneficiary must keep the value of the investment project and must not reduce the number of newly employed persons continuously during the Period of guaranteed investment and employment.

4.5 At proposal of the Commission, period of implementation of the investment project and opening and filling of new jobs under Article 4.3 of this Agreement may be extended if the Beneficiary was not able to implement the investment project within the period determined by this Agreement for reasons that could not have been foreseen at the time of signing of this Agreement, no longer than five years from the date of signing of this Agreement.

4.6 In the case of extension of the period referred to in Article 4.5 of this Agreement, the validity period of bank guarantee and other collaterals, shall be extended in proportion to the extension of the period of implementation of the Investment Project.

4.7 The Beneficiary shall, through implementation of investment project, fully meet the criteria based on the points awarded to it in the process of evaluating applications and awarding funds, all in accordance with the Decree.

5. DISBURSEMENT OF FUNDS

5.1 The Government shall approve to the Beneficiary the total amount of funds of EUR _____ (in words: _____ euros) (hereinafter referred to as the **Funds**).

5.2 The funds shall be disbursed in instalments amounting to one-third of the total amount of awarded funds for fostering investments, as follows:

- 1) first instalment in the amount of EUR _____, within 90 days from the date of submission of bank guarantee referred to in Article 6 of this Agreement;
- 2) second instalment in the amount of EUR _____, within 90 days from the date of realization of 50% of investment in accordance with the investment project;
- 3) third instalment in the amount of EUR _____, within 90 days from the date of achieving Employment obligation.¹

5.3 The payment of awarded funds for fostering direct investments shall be made on the basis of the request for disbursement of funds, with which documents shall be submitted evidencing the fulfilment of conditions referred to in Article 5.2 of this Agreement.

5.4 Request for disbursement of funds referred to in Article 5.3 of this Agreement shall be submitted Secretariat by the Beneficiary.

5.5 Upon the receipt of the request for disbursement of funds, the Secretariat shall check the fulfilment of conditions for disbursement of funds for fostering investments referred to in Article 5.2 of this Agreement.

5.6 Disbursement of Funds shall be made by the state administration body in charge of finance affairs, upon approval of the Secretariat.

5.7 Approved funds shall be disbursed by transfer to the commercial bank account of the Beneficiary specified in the request for disbursement.

6. COLLATERALS

6.1 The beneficiary shall prior to the submission of the request for disbursement of funds, within 15 days from the date of conclusion of this Agreement, submit to the Secretariat an unconditional bank guarantee to the benefit of the state of Montenegro, payable on first demand, without right of objection, issued by the commercial bank registered in Montenegro, in the amount of _____, with the validity period of _____.

6.2 The bank guarantee referred to in Article 6.1 of this Agreement shall be submitted for the period until the expiration of 60 days after the end date of the investment project and achievement of full envisaged employment, and may be withdrawn in accordance with the disbursement schedule and amounts of instalments referred to in Article 5.2.

¹ For capital investment funds will be awarded according to a separate schedule which will be defined by the agreement.

6.3 In addition to the bank guarantee, the Beneficiary shall within 15 days from the date of conclusion of this Agreement, submit two signed blank bills of exchange with signed authorization for the purpose of collection of statutory default interest.

6.4 Statutory default interest shall be calculated for the period from the date of disbursement of the last instalment to the date when the conditions are met for termination of this Agreement.

6.5 If the Beneficiary shall fail to submit the bank guarantee referred to in Article 6.1 of this Agreement, or shall fail to submit blank bill of exchange with signed authorization referred to in Article 6.3 of this Agreement, this Agreement shall be terminated. The Government shall have the right to collect the full amount of the Application Bank Guarantee, and the Beneficiary shall have no right to claim damages.

6.6 The Government shall have the right to withdraw the full amount of the bank guarantee in case of default of any obligation under this Agreement, in accordance with Article 9.3 of this Agreement.

7. REPORTING AND MONITORING

7.1 The Beneficiary shall report semi-annually to the Secretariat on the investment project implementation, 6 months from the beginning of the investment project implementation to the expiry of five years upon the expiry of investment project implementation.

7.2 The Report on investment project implementation shall contain:

- a) independent auditor's report on operations of the Beneficiary, which must contain information on the value of the eligible investment costs into tangible and intangible assets and the number of newly employed persons on a permanent basis for the period to which the report relates;
- b) report of the competent administration body in charge of tax affairs on the number of employees of the Beneficiary;
- c) report of the authorized assessor of the investment project implementation in qualitative and quantitative terms with the report on the value of assets included in the investment project, and
- d) report on the data on paid earnings, taxes and contributions for newly employed persons.

7.3 At the request of the Secretariat, the Beneficiary shall also submit other documents and provide additional information on the investment project implementation.

8. GUARANTEED INVESTMENT AND EMPLOYMENT

8.1 The Beneficiary shall during the Period of guaranteed employment and investment not alienate tangible and intangible assets acquired in implementation of the Investment project.

8.2 The Beneficiary shall allow the Secretariat or the person appointed by the Secretariat to control employment and investment planned by the investment projects, as well as access to documentation provided that:

- a) written notice of the intended supervision is submitted to the Beneficiary at least five business days in advance and
- b) that the persons performing insight into confidential documents and information are obliged to confidential treatment of information, in accordance with the regulations governing the protection of data representing a business secret.

8.3 If during the Period of guaranteed investment and employment the Secretariat or the person referred to in Article 8.2 of this Agreement that performs control shall determine that:

- a) the number of permanent employees of the Beneficiary is below the number of employees the Beneficiary is required to employ in accordance with this Agreement;
- b) the Beneficiary has not maintained the value of the Investment Project in accordance with this Agreement;
- c) that the Beneficiary breached the provisions of Article 8.1 of this Agreement;

The Secretariat or the person referred to in Article 8.2 of this Agreement shall submit a written notice indicating deficiencies referred to in items a, b and c of this Article.

8.4 If within 30 days after receipt of the notification referred to in Article 8.3 of this Agreement, the Beneficiary does not remedy the identified deficiencies as per items a, b and c of Article 8.3 of this Agreement, the Government, at the proposal of the Secretariat, shall have the right to terminate this Agreement and request a refund of the total amount of the Funds disbursed to the Beneficiary, plus statutory default interest.

8.5 In the case of Article 8.3 paragraph b of this Agreement, or in the event that the Beneficiary maintains the value of the Investment Project in the amount less than 80% of the Investment Obligation, the Government shall have the right to demand a refund of the total amount of the Funds disbursed to the Beneficiary, plus statutory default interest.

8.6 The Beneficiary shall undertake to in the Period of guaranteed investment and employment seek prior approval of the Secretariat for any status change, a change of legal form or establishment of another legal entity with its property or any other change in ownership structure.

8.7 The Beneficiary may change the business name, address, person authorized for representation, may increase the share capital and may transfer the shares to a related party not altering the effective control over the Beneficiary, and shall be obliged to notify the Secretariat without delay and no later than five working days of occurrence of such change in writing.

9. TERMINATION OF THE AGREEMENT

9.1 Breach of agreement

9.1.1 The Secretariat will propose to the Government to terminate this Agreement by sending written notice to the Beneficiary, if:

- a. it is established that any of the declarations and guarantees of the Beneficiary are false;
- b. it is established that the Beneficiary submitted incorrect information or did not submit information that would have a significant impact on the decision;
- c. the Beneficiary fails to perform any obligation under Article 4 of this Agreement;
- d. the Beneficiary did not submit bank guarantee in accordance with this Agreement;
- e. the Beneficiary is late with any phase of implementation of the Investment Project more than 60 days;
- f. the Beneficiary does not submit any report or information the submission of which is required under this Agreement or in the additional period of 15 days after the warning of the Secretariat and the Government on the delay;
- g. the Beneficiary does not fulfil the of the Investment obligation and/or Employment obligation;
- h. in the event that in the Period of guaranteed investment and employment against the Beneficiary bankruptcy or liquidation proceedings is initiated;
- i. the Beneficiary does not maintain the value of investments and/or the number of employees in the Period of guaranteed investment and employment;
- j. the Beneficiary ceases to exist or any action was taken that may lead to termination of its existence;
- k. the Beneficiary violates any other obligation under this Agreement and fails to remedy the same within 30 days of receipt of written notice from the Secretariat or the Government.

9.2 In the event of termination of this Agreement, the Beneficiary shall, within thirty (30) days of receipt of notice of termination of this Agreement, refund the amount that is equal to the amount of resources that the user received, less any amount paid by Customer Government pursuant to this Agreement. In any case, the user shall be liable for the obligations in connection with this Agreement to the amount of funds received plus statutory interest on arrears.

9.3 If the Beneficiary within deadline and in the manner specified in Article 9.2 of this Agreement shall not return the disbursed funds, the Government will withdraw the full amount of Bank Guarantee with bills of exchange for the purpose of collection of statutory default interest, and if it comes to the termination during the Period of guaranteed investment and employment, the Government shall have the right to claim the amount of disbursed funds in court.

9.4 In the event of termination of this Agreement for any reason, the Beneficiary shall hereby accept to have no right to claim damages of any kind.

10. ENVIRONMENTAL PROTECTION

The Beneficiary shall in carrying out its operations, construction, execution of works, operation of plants and in carrying out other activities, ensure the rational use of natural resources, inclusion of costs of environmental protection within investment and production costs, planning and taking measures to prevent environmental degradation in accordance with the Applicable law.

11. BUSINESS BOOKS

11.1 The Beneficiary shall keep business books in the office with a seat in Montenegro in accordance with applicable law in order to present the income and expenses from operations. Business books and other books and records shall be available at all reasonable times to representative of the Secretariat for control.

11.2 The Beneficiary shall submit to the Secretariat Financial statements for the previous financial year not later than 30 days from the beginning of the current financial year, as well as the audit reports of financial statements prepared by the auditor at the latest by June 30 of the current year for the previous financial year.

11.3 The Beneficiary shall perform its operations in accordance with the investment projects and this Agreement.

12. TRANSITIONAL AND FINAL PROVISIONS

12.1 Any disputes in connection with the execution of this Agreement shall be settled amicably.

12.2 In the event that it is not possible to resolve the dispute amicably, the court in Podgorica shall be competent to resolve the dispute arising out of or in connection with this Agreement.

12.3 On this Agreement shall apply and shall be interpreted according to the applicable law.

12.4 Termination of this Agreement shall not apply to Article 6 of this Agreement, which will apply to the total collection of the Funds as defined in that Article.

12.5 The Beneficiary may not assign this Agreement or transfer any right, claim, obligation, or liability under this Agreement or related to it, to any person, without the prior written consent of the Government.

12.6 This Agreement may be amended or supplemented only in writing, with the signature of both Parties.

12.7 This Agreement constitutes the entire and only agreement between the Parties regarding the subject matter of this Agreement and the same has to be certified.

12.8 This Agreement has been made in five certified copies, three of which for the Government, and two for the Beneficiary.

12.9 This Agreement shall be deemed concluded and enter into force upon signature of the authorized persons of both Parties.

Annexes:

- 1. Annex 1 - Investment project and Business plan**
- 2. Annex 2 - Form of Request for disbursement of funds**
- 3. Annex 3 - Bank guarantee form**

In Podgorica, date _____

GOVERNMENT OF MONTENEGRO

BENEFICIARY

XXXXXXXXXXXXXX

XXXXXXXXXXXXXX

APPLICATION BANK GUARANTEE

Beneficiary:

GOVERNMENT OF MONTENEGRO
Address: Karađorđeva bb, 81000 Podgorica

We, [name and address of the bank issuing the Application Bank Guarantee], understand that [name of the Applicant] (hereinafter referred to as the **Investor**), with its seat in _____, submitted an application for participation in the procedure of awarding funds for fostering direct investments (hereinafter referred to as the **Application**), dated _____, in relation to the Public Announcement for participation in the procedure of awarding funds for fostering direct investments (hereinafter referred to as the Public Announcement) published on _____ by the Secretariat for Development Projects (hereinafter referred to as the **Secretariat**), and that it is necessary that the Investor provides the Application Bank Guarantee (hereinafter referred to as the Application Guarantee), payable at first call, in the amount of EUR _____ (_____ euros), in accordance with the terms and conditions of the Public Announcement.

Taking into account the above, we shall hereby irrevocably and unconditionally undertake as first-binding to pay the amount of EUR _____ (_____ euros) on your first written request (hereinafter referred to as the Disbursement Request), regardless of validity and legal effect of the underlying transaction and waiving the right to exceptions or objections in this regard, if such a written request contains your explicit remark that the **Event of activation of the Application Bank Guarantee** occurred (as defined below). We imply that your statement will be accepted from our side as evidence that the amount claimed is due in accordance with the purposes of this Application Guarantee.

For the purposes of this Application Guarantee, it was agreed that the **Event of activation of the Application Bank Guarantee** implies your claim that one of the following events occurred:

- the Investor refuses to sign the Agreement on the utilization of funds for fostering direct investments (hereinafter referred to as the **Agreement**), or
- the Investor, after conclusion of the Agreement, fails or refuses to provide a performance bank guarantee in accordance with the terms of the Agreement.

This Guarantee shall remain in force until _____, whereby it automatically and fully expires at that moment, regardless of whether it was returned or not, unless the Request for disbursement was sent prior to the expiration date, and if the same was not extended upon request of the Secretariat. For the Investor invited to sign the Agreement, the Application Guarantee shall remain in force for 120 days after signing the Agreement.

Form

Each payment in connection with this Application Guarantee will reduce the obligation for our bank accordingly, but in any case such partial payment will not be considered its full execution or expiry. All such payments will not include any discounts, compensations or retentions by the bank or the Investor, and if not otherwise stated in writing, shall be disbursed to the account of the Government of Montenegro, at _____ Bank (account number: _____ - for payments from abroad, or account number: _____ - for payments in Montenegro).

We hereby guarantee that each Request for disbursement, which has been sent in accordance with the terms of this Application Guarantee, will be settled within 3 working days after receipt of such request.

We acknowledge and accept that there is no need to inform us about any reason for collecting the Application Guarantee, except for the reasons set out above, nor provide us with any evidence that you have the right to collect the Application Guarantee.

For the purpose of identification of the Request for disbursement, such notice shall be delivered to us through Your bank, with a statement confirming that the signatures registered by the Government of Montenegro are legally valid, to the address below:

(Bank name)

(Address)

(Attention) (.)

(Division) (.)

For any disputes arising under this Application Guarantee [insert competent court] shall be competent.

Signature/place/date

PERFORMANCE BANK GUARANTEE

BENEFICIARY: The Government of Montenegro, represented by [*insert name of institution's representative*], (hereinafter referred to as the **Beneficiary**).

ORDERING PARTY: [*Insert name of the Beneficiary of funds for fostering direct investments*], company [*insert legal form of the Beneficiary of funds for fostering direct investments*], registered, in accordance with Montenegrin law, in the Central Registry of Business Entities, under identification number [*insert identification number of the company*], with its office in [*insert address of the company's office*], represented by [*insert name of the company's representative*], (hereinafter referred to as the **Ordering Party**).

At the request of the Ordering Party of [*insert date of request for issuance of guarantee*] and the Agreement on the utilization of funds for fostering direct investments, concluded between the Beneficiary and the Ordering Party, on [*insert date of conclusion of the Agreement on the utilization of funds for fostering direct investments*], (hereinafter referred to as the **Agreement**). Article 6 of the Agreement provides for the issuance of the Performance Bank Guarantee (hereinafter referred to as the Guarantee) in the amount of EUR _____ (_____ euros), in accordance with the provisions of the Agreement.

We, [*insert bank details*] (hereinafter referred to as the **Bank**), issue the Guarantee in the amount of:

EUR _____
(in words: _____ euros)
(hereinafter referred to as the **Guaranteed amount**)

We, the **Bank**, hereby **unconditionally and irrevocably, without right of objection**, guarantee to pay to the Beneficiary of this Guarantee full or upon request partial amount which does not exceed the guaranteed amount, on first demand of the Beneficiary submitted in the form of a written request (hereinafter referred to as the Request for disbursement), as defined in Art. 6.6, 6.7 and 9 of the Agreement, which contains the written confirmation:

- that the Ordering Party did not extend the validity period, or make renewal of the existing Guarantee or prolong the validity period of other collaterals as required by article 4.6 of the Agreement and/or
- that there has been a termination of the Agreement, for reasons that are, including but not limited to, provided for in Article 9 of the Agreement or any other non-compliance with obligations by the Ordering Party, which led to the termination of the Agreement and/or
- that there have been any other circumstances provided for by the Agreement, and resulting in the activation of this Guarantee.

Form

We acknowledge and accept that there is no need to inform us about any reason for collecting this Guarantee, except for the reasons set out above, nor provide us with any evidence that you have the right to collect this Guarantee.

For the purpose of identification, the Request for disbursement shall be delivered to us through Your bank, with a statement confirming that the signatures registered by the Government of Montenegro are legally valid, to the address below:

(Bank name)
(Address)
(Attention) (.)
(Division) (.)

The Request for disbursement must be accompanied by the original copy of this Bank Guarantee.

This Guarantee shall enter into force on the date of its issuance and shall remain in force until *[insert expiration date, i.e. the date which falls 60 (sixty) days after the scheduled completion date of implementation of the investment project and achieving full envisaged employment]*.

Accordingly, we must receive the Request for disbursement under this Guarantee no later than on the day of expiry of the Guarantee or before that date. After the expiry of the Guarantee, the original of the same should be returned to us, but regardless of whether the original guarantee was returned to us or not, after the said date this Guarantee shall be considered null and void.

For any disputes arising under this Guarantee, the Commercial Court in Podgorica shall be competent, applying the substantive and procedural law of Montenegro.

This Guarantee is made in 1 (one) original that belongs to the Beneficiary and 2 (two) duplicates, one for the Ordering party and one for the Bank.

[Insert place], [insert date]

Bank

[Insert name and position of bank's representative]

174.

Pursuant to Article 16 of the Law on Budget of Montenegro for the year 2015 („Official Gazette of Montenegro“, number 59/14), at the session held on 29 January 2015, the Government of Montenegro adopted the following

DECREE ON FOSTERING DIRECT INVESTMENTS

Subject Matter

Article 1

The Decree hereof regulates the conditions and manner for fostering development through attracting direct investments in the production sector or service sector, the criteria for awarding funds for fostering direct investments (hereinafter „Funds for Fostering Investments“) and disbursement schedule for such funds.

Direct Investments

Article 2

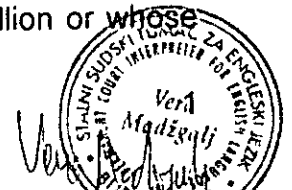
In accordance with the Decree hereof, a direct investment shall mean an investment in tangible and intangible assets of business entities with the aim to establish a new business entity, expand the capacities of the existing business entity and diversify the production of a business entity into new products or production processes. Acquisition of stakes or shares in a business entity shall not be considered a direct investment under the Decree hereof.

Definitions

Article 3

The terms used in the Decree hereof shall have the following meaning:

- 1) **Investment project** is a project through which a direct investment is realized;
- 2) **Investor** is a domestic or foreign company, legal entity or entrepreneur (hereinafter: „business entity“) participating in the procedure of awarding funds for fostering investments;
- 3) **Beneficiary of funds** for fostering investments is an investor who was awarded the funds for fostering investments;
- 4) **Capital investments** are investments in the value of minimum 10 million Euros which generate the opening of at least 50 new jobs within the period defined in the Agreement on the utilization of funds for fostering investments (hereinafter: „Agreement on the utilization of funds“);
- 5) **Infrastructure** is a public infrastructure necessary for the implementation of an investment project which can be accessed by an unlimited number of users, and for the construction or the reconstruction of which the refund of funds can be made in accordance with the Decree hereof, based on an infrastructural project.
- 6) **Small enterprise** shall mean an enterprise which employs fewer than 50 persons and whose annual turnover or annual balance sheet total does not exceed EUR 10 million.
- 7) **Medium-sized enterprise** is defined as an enterprise which employs 50 to 250 persons and whose annual turnover does not exceed EUR 50 million or whose annual balance-sheet total does not exceed EUR 43 million.



- 8) **Large enterprise** is an enterprise which employs over 250 persons and whose annual turnover is greater than EUR 43 million.

Use of Gender-Sensitive Language

Article 4

The terms used in this Decree for natural persons in masculine gender shall imply the same terms in feminine gender.

Sources and purpose of funds for fostering investments

Article 5

The funds for fostering investments are provided for in the budget of Montenegro. The funds for fostering investments may be used for financing of investment projects which generate opening of new jobs and contribute to economic and regional development of Montenegro.

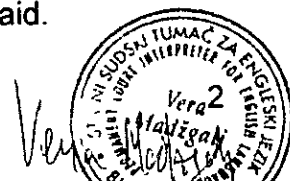
The funds for fostering investments may not be used for financing of investment projects in the sector of: primary agricultural production, synthetic fiber production, hospitality, construction of hospitality facilities, except for the construction of primary hospitality facilities rated with three or more stars in the units of local government of less than 75% development level compared to the average Development Index in Montenegro, traffic which includes transport of passengers in air, maritime, road or rail traffic and inland waterways or services of commercial transportation of goods, games of chance, trade, primary coal and steel production, production of electricity, oil and gas, tobacco and tobacco products, weapons and ammunitions, production of genetically modified organisms and hazardous waste.

Conditions for awarding funds for fostering investments

Article 6

Funds for fostering investments may be awarded to a business entity:

- 1) registered in the Central Registry of Business Entities (hereinafter CRPS);
- 2) which has submitted an investment project for which the funds for fostering investments are awarded in accordance with the Decree hereof;
- 3) against which no bankruptcy or liquidation proceedings is initiated, except for reorganization in accordance with the law regulating bankruptcy of business entities;
- 4) which is not convicted of a crime committed in the course of pursuing a business activity;
- 5) which has settled all liabilities for taxes, customs and contributions;
- 6) which has not reduced the number of employees by 10% and more in the previous 12 months prior to the submission of application;
- 7) which was not awarded the funds from the budget of Montenegro allocated for the same purposes;
- 8) in which the state or a local government unit does not have a majority interest;
- 9) which is not faced with difficulties in accordance with the regulations on state aid;
- 10) Which is not under the obligation to return illegally received state aid.



A foreign investor may be the beneficiary of funds, provided that it establishes a business entity in Montenegro.

Awarding funds for fostering investments

Article 7

The funds for fostering investments may be awarded for investment projects the minimum investment value of which is EUR 500.000 and which generate the opening of minimum 20 new jobs within three years from the date of the agreement on the utilization of funds.

The implementation period of an investment project and opening of new jobs referred to in paragraph 1 of the Article hereof may be extended if the investor was not able to implement the investment project within the period defined in the Agreement for the reasons which could not have been foreseen at the moment of the conclusion of the Agreement on utilization of funds, not longer than five years from the date of conclusion of the Agreement on the utilization of funds.

The amount of funds for fostering investments shall be defined according to the criteria defined in the Decree hereof in relation to the justified costs of investments in tangible and intangible assets.

Tangible and Intangible Assets

Article 8

Investments into tangible assets shall include investments in land, buildings, production plants, machinery, and equipment.

In addition to the investments referred to in paragraph 1 of the Article hereof, the justified costs of investment project shall include the rental costs of premises in which investment project shall be implemented and investments into leased land, buildings and production plants, provided that the lease period is not shorter than ten years from the date of conclusion of the Agreement on the utilization of funds. Intangible assets are investments into patents and licenses in accordance with the regulations defining state aid and to which amortization is calculated, and which are used by the funds beneficiary and are recorded in the balance sheets of such beneficiary.

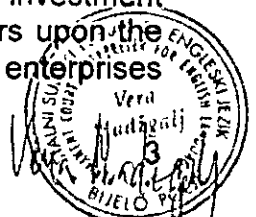
New Jobs

Article 9

In accordance with the Decree hereof, a new job shall be considered a permanent job opened for the purpose of the implementation of the investment project which has increased the number of job openings in Montenegro by the funds beneficiary.

A new job referred to in paragraph 1 of the Article hereof shall not be deemed a job created by a reorganization or transfer of employees to a subsidiary or other related entities of the fund beneficiary.

The Fund beneficiary shall continuously maintain the value of an investment project and the number of new job openings for minimum three years upon the completion of an investment project for small and medium-sized enterprises and/or minimum five years for large enterprises.



If the fund beneficiary fails to continuously maintain the value of investment project and the number of new job openings for minimum three years upon the completion of an investment project for small and medium-sized enterprises and/or minimum 5 years for large enterprises, the Government of Montenegro (hereinafter: „Government“) shall demand the return of funds awarded for fostering investments.

Amount of awardable funds for fostering investments

Article 10

The amounts of funds for fostering investments which may be awarded according to the awarding criteria are:

- 1) EUR 3.000 per new job, for the number of points from 76 to 85;
- 2) EUR 4.000 per new job, for the number of points from 86 to 95;
- 3) EUR 5.000 per new job, for the number of points from 96 to 105;
- 4) EUR 6.000 per new job, for the number of points from 106 to 115;
- 5) EUR 7.000 per new job, for the number of points from 116 to 125;
- 6) EUR 8.000 per new job, for the number of points from 126 to 135;
- 7) EUR 9.000 per new job, for the number of points from 136 to 145;
- 8) EUR 10.000 per new job, for the number of points from 146 to 150;

The amount of funds for fostering investments which may be awarded to large enterprises is set to up to 50% of the reasonable costs of the implementation of an investment project or up to 60% of the reasonable costs for medium-sized enterprises and up to 70% for small enterprises.

Exceptionally from paragraph 2 of the Article hereof, the funds for fostering investments may be awarded for capital investments, without using the points system, in the amount of up to 17% of the total value of investment project, in accordance with the Decree hereof.

Criteria for awarding funds for fostering investments

Article 11

Criteria for awarding funds for fostering investments are:

- 1) References of the investor;
- 2) The effects of investment project on the productivity of suppliers and other business entities from Montenegro which operate within the same industry sector;
- 3) viability of investment project;
- 4) effects of investment project in connection with research and development;
- 5) effects of investment project on human resources;
- 6) environmental impact assessment;
- 7) international trade volume;
- 8) effects of investment project on the development of less developed local government units;
- 9) Letter of Intent of the local government where the investor intends to invest.

The total score of points according to the criteria as per paragraph 1 of the Article hereof may amount to maximum 150 points.



References of the Investor

Article 12

The references of the investor shall be evaluated in accordance with his business operations, as follows:

- 1) if shares of the investor are listed on a well-known international stock exchanges and if the investor has successfully implemented a large number of investment projects, 26 to 35 points will be awarded;
- 2) if the shares of the investor are listed on the stock exchange and the investor has a high credit rating – 16 to 25 points will be awarded;
- 3) if the investor has an international reputation and experience which includes the investment project which is of similar scope and type to the project for which funds for fostering investments are awarded – from 11 to 15 points will be awarded;
- 4) if the investor has already implemented the projects of similar scope and type to the project for which funds for fostering investments in the domestic market are awarded – 1 to 10 points will be awarded.

Effects of investment project on the productivity of suppliers and other business entities

Article 13

The effects of investment project on the productivity of suppliers and other business entities from Montenegro who operate in the same industry sector are evaluated according to:

- 1) Share of domestic suppliers in the investment project implementation, for:
 - a) more than 75% - 10 points are awarded;
 - b) more than 60%, and less than 75% - 8 points are awarded;
 - c) more than 50%, and less than 60% - 6 points are awarded;
 - d) more than 40%, and less than 50% - 4 points are awarded;
 - e) more than 10% and less than 40% - 2 points are awarded;
- 2) effects of investment project on the productivity of other business entities if the investment project:
 - a) will make considerable contribution to the increased productivity – from 4 to 5 points will be awarded;
 - b) contributes to productivity increase – 1 to 3 points will be awarded;

Viability of Investment Project

Article 14

The viability of investment project is evaluated as follows:

- 1) if investment project precludes the transfer of factory/machinery and equipment outside Montenegro – 6 to 10 points will be awarded;
- 2) if the equipment, devices and plants may be moved outside Montenegro but the moving entails high expenses and lasts for a longer period of time (three to five years) – 1 to 5 points will be awarded



Effects of investment project in connection with research and development

Article 15

The effects of investment project in connection with research and development are evaluated according to:

- 1) high technology share in an investment project, if:
 - a) investment project relates to the activities which are considered as new economics (telecommunications, microelectronics, information technology, biotechnology, new materials, etc.) – 5 points will be awarded;
 - b) investment project largely includes high technology – 3 to 4 points will be awarded;
 - c) investment project includes technology which is at the medium level of development – 1 to 2 points will be awarded;
- 2) possibilities of technology transfer to the business entities in Montenegro who are suppliers or who achieve some other kind of cooperation, if the investment project includes:
 - a) technology transfer to the business entities in Montenegro – 4 to 5 points will be awarded;
 - b) partial technology transfer to the business entities in Montenegro – 1 to 3 points will be awarded.

Effects of investment project on human resources

Article 16

The effects of investment project on human resources are evaluated in connection with the level of knowledge and skills which are acquired by the rationalization of the investment project and the possibility to use such knowledge and skills in other entities of Montenegro, if:

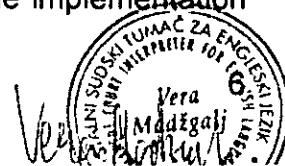
- 1) these are general knowledge and skills for which special trainings are envisaged by the employer or which are carried out in cooperation with business entities and institutions, thus leading to increased competitiveness of employees on the labor market – 1 to 3 points are awarded;
- 2) trainings are envisaged for acquiring of special knowledge and skills, thus leading to increased competitiveness of employees within a particular industry – 4 to 10 points are awarded.

Environmental Impact Assessment

Article 17

Environmental impact assessment in connection with investments is evaluated according to:

- 1) impact of investments on the natural resources utilization, if the investment project:
 - a) does not include the activities which affect the natural resources – 6 to 10 points will be awarded;
 - b) contains the activities affecting natural resources but not threatening their sustainable development – 1 to 5 points will be awarded;
- 2) impact of investments on the generation of harmful waste, if the implementation of the investment project:



- a) generates only municipal waste in accordance with the law – 6 to 10 points are awarded;
- b) in addition to municipal waste, generates hazardous waste the keeping and disposal of which is defined by the investment project in accordance with the law – 1 to 5 points will be awarded.

International Trade Volume

Article 18

International trade volume is evaluated in accordance with the scope of provided services or the quantity of products to be delivered in the market outside Montenegro, if:

- 1) service and/or product is marketed in the international market – 14 to 20 points are awarded;
- 2) part of services and/or product is marketed in the international market – 1 to 13 points are awarded.

Effects of investment project on the development of less developed local government units

Article 19

The effects of investment project on the development of less developed local government units are evaluated according the development level of local government were the investor intends to invest, if the Development Index value is:

- 1) from 30% to 50% of the average Development Index in Montenegro – 25 points are awarded;
- 2) from 50% to 75% of the average Development Index in Montenegro – 15 points are awarded;
- 3) above 75% of the average Development Index in Montenegro – 10 points are awarded.

Letter of Intent of the local government

Article 20

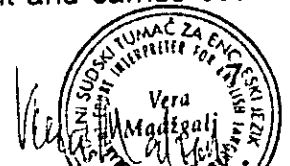
If the investor has the Letter of Intent of the local government to support the investment in accordance with the development plans of the local government, 5 points will be awarded.

Public Announcement

Article 21

Awarding of funds for fostering investments shall be carried out based on the international public announcement published in one international economic journal, in one print media distributed in Montenegro, and on the website of the Government and the Secretariat for Development Projects (hereinafter: „Secretariat“)

The Secretariat prepares the proposal for public announcement and carries out other activities in connection thereto.



The proposal for public announcement the Secretariat shall submit to the Government for consideration and adoption. Public announcement shall particularly include:

- 1) name and seat of the authority publishing the public announcement;
- 2) subject of the public announcement;
- 3) conditions for awarding the funds for fostering investments defined in the Decree hereof;
- 4) criteria for awarding funds for fostering investments;
- 5) deadline, manner and address for submission of the application for participation in the awarding procedure (hereinafter: "Application");
- 6) person in charge of providing information in connection with the participation of awarding procedure;
- 7) deadline for the implementation of procedure according to the public announcement,
- 8) date, place and manner of opening of applications for participation in the procedure for awarding funds for fostering investments;
- 9) amount, type and validity period of bid bond,
- 10) amount, type and validity period of performance bond,

The Secretariat shall prepare and publish on its website the draft agreement on the utilization of funds for fostering investments and the instructions for the submission of application and evaluation criteria for awarding funds for fostering investments.

The Secretariat may engage experts (financial, legal and technical) for the provision of professional assistance in the procedure following the public announcement.

Application

Article 22

The application is submitted to the Secretariat within the period defined in the public announcement. The application is submitted in the Montenegrin language. The application shall particularly include:

- 1) general information of investor (name, seat, or name, surname and address for entrepreneur, vision, objectives, details on products and services, experience and information of implemented projects),
- 2) information of investment project (sector, business plan, total value of investment project, number of employees, investment project implementation schedule etc.),

The following is submitted with the application:

- 1) investment project for the financing of which funds for fostering investments are requested (textual and graphic presentation), with details necessary for the evaluation of criteria referred to in Article 11 of the Decree hereof;
- 2) Balance Sheet and Income Statement for the previous three operating years, with an authorized auditor's report;
- 3) Total estimated value of investment project made by the authorized assessor based on which the amount of investment can be established as per Article 8 of the Decree hereof;
- 4) Projected Balance Sheet and Income Statement for the next three years from the date of application submission;



- 5) Excerpt from CRPS or the excerpt from the appropriate registry of the country in which the investor has a seat, which may not be older than 30 days prior to the date of application submission;
- 6) Evidence of settled liabilities for taxes, customs and contributions;
- 7) Confirmation that no bankruptcy or liquidation proceedings is initiated against the business entity;
- 8) Confirmation that no criminal proceedings is instituted against responsible persons in the business entity;
- 9) Confirmation that business entity or responsible person in the business entity has not been found guilty in a court of law for an offence which is prosecuted ex officio and
- 10) Other evidence confirming the fulfilment of conditions defined in the Decree hereof.

The documents submitted by a foreign business entity must be certified in accordance with the regulations of the country of their issue and translated into Montenegrin language by the certified court translator. The Secretariat shall define the application form and publish it on its website.

Opening of Applications

Article 23

The Secretariat shall open the application in the place and at the time specified in the public announcement. The opening of applications shall be public.

Applicants, their representatives or their attorneys may be present at the opening of applications.

For the purpose of protection of trade, military, or state secret, the public announcement may specify that the application opening procedure is not public

Review and Evaluation of Applications Validity

Article 24

The evaluation of application validity shall be made by the Secretariat.

The application validity shall be evaluated by inspecting whether the application meets the conditions defined in the public announcement and the Decree hereof.

A valid application shall be the application which fully meets the conditions specified in the public announcement and the Decree hereof.

Opening and assessment of the application validity shall be recorded in the minutes by the Secretariat.

Any application which does not fully meet the conditions specified in the public announcement and the Decree hereof shall be rejected as invalid.

The Decision on the rejection of the invalid application shall be submitted to the applicant within three days from the date of its adoption.

The Decision as per paragraph 6 of the Article hereof shall be final.



Analysis of Investment Projects

Article 25

The analysis of compliance of investment projects enclosed to the valid applications from the perspective of compliance with planning documents and development plans shall be made by the Secretariat.

The Secretariat may also perform other analyses of the applications.

For the analysis of the compliance of investment projects as per paragraph 1 of the Article hereof, Secretariat may engage experts (financial, legal and technical) for the provision of professional assistance or may ask the competent state administration authorities for their opinion.

The Secretariat shall submit the report on the analysis of investment projects compliance, with the valid application and supporting documents, to the Commission for Evaluation of Applications (hereinafter: „Commission“).

Commission

Article 26

The evaluation of investment projects and the report on evaluation with the proposal of the decision on the award of funds for fostering investments shall be made by the Commission.

Upon the proposal of the head of the state administration authority in charge of economic affairs, and after the consultations with the heads of the state administration authority in charge of finance affairs, sustainable development, agriculture, transport and the Government Vice President in charge of economic policy and financial system, the Commission shall be appointed by the Government.

The Commission shall comprise of the President and minimum six members, provided that there is an odd number of Commission members together with the President.

The Commission shall decide by the majority votes of the total number of members. The Commission shall have a Secretary.

The President and the Secretary of the Commission shall be appointed by the Government upon the proposal of the Minister in charge of economy affairs.

For the purposes of the Commission, the Secretariat shall carry out administrative and technical activities.

Evaluation of Investment Projects

Article 27

Investment projects shall be evaluated according to the criteria defined in the Decree hereof.

In the evaluation procedure of investment projects the Secretariat may, at the request of the Commission, engage experts (financial, legal and technical) for the provision of professional assistance or may ask for the opinion of the competent government administration authorities or for the additional information.

The representative of the Secretariat shall be present and the meeting of the Commission without the right to vote.

If the proposed investment project is not in accordance with the development priorities of Montenegro, the Commission shall reject the proposal.



The decision on the award of funds for fostering investments shall be passed by the Government. The decisions referred to in Articles 4 and 5 of the Article hereof shall be final.

Extension of investment project implementation

Article 28

Upon the proposal of the Commission, the Government may adopt the decision on the extension of the investment project implementation period
In the event that the period referred to in paragraph 1 is extended, the validity period of the bank guarantee and other security interests shall be extended in proportion to the extension of the investment project implementation period.

Agreement on the utilization of funds

Article 29

Mutual rights and obligations of the Government and the fund beneficiary as well as the investment project implementation schedule shall be regulated by the Agreement on the utilization of funds.

Termination of the Agreement on the utilization of funds

Article 30

The Agreement on the utilization of funds for fostering investments may be terminated upon the proposal of the Secretariat if the beneficiary fails to meet the obligations stipulated in the Agreement on the utilization of funds.
The Decision on the termination of the Agreement on the utilization of funds as per paragraph 1 of the Article hereof shall be passed by the Government.
In the event of the termination of the Agreement on the utilization of funds the funds shall be collected in the amount of the disbursed funds awarded for fostering investments and the statutory default interest under the submitted performance bond and promissory note.

Disbursement schedule for funds for fostering investments

Article 31

Awarded funds for fostering investments shall be disbursed in instalments amounting to one third of the total amount of awarded funds, as follows:

- 1) first instalment within 90 days from the date of submission of bank guarantee referred to in Article 32 of the Decree hereof;
- 2) second instalment within 90 days from the date of realization of 50% of investment in accordance with the investment project;
- 3) third instalment within 90 days from the date of achieving full employment envisaged by the investment project.



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Madžgalj

The payment of allocated funds for fostering investments shall be made based on the request for disbursement of funds for fostering investments with which documents shall be submitted evidencing the fulfilment of conditions referred to in paragraph 1 of the Article hereof.

The request as per paragraph 2 of the Article hereof shall be submitted to the Secretariat by the beneficiary.

Upon the receipt of the request referred to in paragraph 2 of the Article hereof, the Secretariat shall check the fulfilment of conditions for disbursement of funds for fostering investments as per paragraph 1 of the Article hereof.

The disbursement of funds for fostering investments as per paragraph 1 of the Article hereof shall be made by the state administration authority in charge of finance affairs, upon the approval of the Secretariat.

Exceptionally from paragraph 1 of the Article hereof, the disbursement schedule for funds for fostering investments in connection with capital investments shall be defined under the Agreement on the utilization of funds.

Bank guarantee

Article 32

The beneficiary of funds for fostering investments shall prior to the submission of request for disbursement of funds for fostering investments, within 15 days from the date of conclusion of the Agreement on the utilization of funds, submit to the Secretariat an unconditional bank guarantee to the benefit of the state of Montenegro, payable on first demand, without right of objection, issued by the business bank registered in Montenegro.

The bank guarantee as per paragraph 1 of the Article hereof shall be submitted for the period until the expiry of 60 days after the date of completion of investment project implementation and achievement of full envisaged employment, in accordance with the disbursement schedule and amounts of instalments as per Article 31 of the Decree hereof and Agreement on utilization of funds.

In addition to the bank guarantee, the funds beneficiary shall, within 15 days from the date of the Agreement on the utilization of funds, submit two signed blank bills of exchange with signed authorization for the purpose of collection of statutory default interest.

Statutory default interest is calculated for the period from the date of disbursement of the last instalment to the date when the conditions are met for the termination of the Agreement on the utilization of funds.

If the funds beneficiary fails to submit the bank guarantee referred to in paragraph 1 of the Article hereof or fails to submit blank bill of exchange with signed authorization, the Agreement on the utilization of funds shall be terminated.

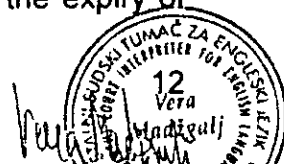
The Secretariat shall define the bank guarantee form and shall publish it on its website.

Report on investment project implementation

Article 33

The funds beneficiary shall report to the Secretariat on the investment project implementation for which funds for fostering investments are awarded.

The report referred to in paragraph 1 of the Article hereof shall be submitted semi-annually, from the beginning of the investment project implementation to the expiry of five years upon the expiry of investment project implementation



The report on investment project implementation shall contain:

- 1) independent auditor's report on operations
- 2) report of the competent administration authority of the number of employees;
- 3) report of the authorized assessor of the investment project implementation in qualitative and quantitative terms with the report on the value of assets included in the investment project;
- 4) report of the data on paid salaries, taxes and contributions for newly employed persons.

At the request of the Secretariat, the funds beneficiary shall also submit other documents and provide additional information on the investment project implementation.

The Secretariat shall submit to the Government the report on the investment project implementation once a year.

Refund of funds for infrastructure

Article 34

If for the purpose of investment project implementation it is necessary to invest additional funds for the construction or reconstruction of infrastructure, the funds beneficiary may submit to the Secretariat the request for the refund of part or whole amount of such funds

The request for the refund of funds for infrastructure referred to in paragraph 1 of the Article hereof shall contain: value of approved investment project, infrastructural project, estimated value of work on infrastructural project made by the authorized assessor, number of new job openings in the project, evidence that the submitted infrastructural project is necessary for the investment project implementation and the agreement or other documents signed between the investor and contractor.

In accordance with the Decree hereof, the value of infrastructural project shall include the costs of:

- 1) preparation and obtainment of planning and design documents;
- 2) construction;
- 3) engagement of professional supervision;

Acting upon the request for the refund of funds for infrastructure

Article 35

The Secretariat shall evaluate the compliance of the request for the refund of funds for infrastructure with the conditions referred to in Article 34 of the Decree hereof.

When evaluating the request for the refund of funds for infrastructure as per paragraph 1 of the Article hereof, the Secretariat may engage experts (financial, legal and technical) for the provision of professional assistance.

The request referred to in paragraph 1 of the Article hereof, which meets the stipulated conditions, the Secretariat shall submit to the Commission, for the purpose of evaluation of fulfilment of the conditions for the refund of funds.



Awarding funds for refund

Article 36

The Decision on awarding and amount of funds for the refund of construction or reconstruction of infrastructure or the decision on the rejection of the request for the refund of funds for infrastructure shall be passed by the Government upon the proposal of the Commission.

Agreement on the refund of funds

Article 37

Mutual rights and obligations of the Government and funds beneficiary and infrastructural project implementation schedule shall be defined in the Agreement on the refund of funds.

The funds allocated for the refund of the construction of infrastructure shall be disbursed based on the submitted and paid invoices of the contractor.

The Agreement on the refund of funds may be terminated in all phases of its performance, upon the proposal of the Secretariat, if the beneficiary who was awarded the refund of funds for infrastructure fails to perform his obligations defined in the Agreement on the refund of funds.

Supervision and Monitoring of Implementation

Article 38

The supervisory authority for the execution of works on infrastructure shall submit to the Secretariat the report on the implementation of the infrastructural project with received payment certificates.

Ownership of Infrastructure

Article 39

The infrastructure constructed with funds stipulated in the Decree hereof shall be in the state ownership, in accordance with the law.

Keeping of documents

Article 40

Submitted applications, contracts, bank guarantees and other documents from the procedure conducted after the public announcement the Secretariat shall keep in its archives minimum ten years from the date of conclusion of the Agreement on the utilization of funds.



Coming into force

Article 41

The Decree hereof shall come into force on the eighth day of its publishing in the "Official Gazette of Montenegro".

Number 08-78

Podgorica, 29 January 2015

Government of Montenegro

President

Milo Đukanović, signed

I, Vera Madžgalj, permanent court interpreter for English language, appointed by the Decision of the Ministry of Justice of the Republic of Montenegro, Decision number 03-8658/08 dated 14th October 2013, hereby certify this text is a true copy of the original written in Montenegrin language.

17.03.2015.

