

DECISION No. 807/2014 of September 17, 2014  
on the establishment of certain State aid schemes to stimulate investments with major  
impact on the economy

UPDATED

Considering the provisions of Regulation (EU) no. 651/2014 of the Commission of June 17, 2014 declaring certain categories of aid compatible with the internal market in the enforcement of articles 107 and 108 of the Treaty and of the Decision of the European Commission C(2014) 2240 final,

pursuant to art. 108 in the Constitution of Romania, republished, and to art. 3 para. (3) in Government Emergency Ordinance no. 117/2006\*) on the national procedures in the field of State aid, approved as amended and supplemented through Law no. 137/2007,

**the Government of Romania** hereby adopts this decision.

## CHAPTER I

### **General Provisions**

#### ART. 1

The purpose of this decision is to establish a State aid scheme with major impact on the economy, hereinafter referred to as the scheme, with the objective of regional development through the performance of investments in all sectors, with the exception of those provided by art. 15 and by the List of activity sectors for which no State aid is granted on the basis of this scheme, as provided in annex no. 1.

#### ART. 2

(1) The State aid for stimulation of investments with major impact on the economy will be granted through this scheme under observance of the provisions related to regional State aid in the Regulation (EU) no. 651/2014 of the Commission of June 17, 2014 declaring certain categories of aid compatible with the internal market in the enforcement of articles 107 and 108 of the treaty, as subsequently amended and supplemented, hereinafter referred to as the Regulation, and shall be exempt from the obligation of notifying the European Commission.

(2) The European Commission shall be informed within 20 business days as of the entry into force of this decision, as provided by the Regulation.

## CHAPTER II

### **Duration, budget of the scheme and estimated number of beneficiaries**

#### ART. 3

(1) Financing agreements can be issued on the basis of this scheme until December 31, 2020, under observance of the legislation in the field of State aid, within the limit of the annual budget allocated to the scheme.

(2) The State aid shall be paid between 2015 and 2023, pursuant to the financing agreements issued, within the limit of the annual budget allocated to the scheme.

#### ART. 4

(1) This scheme shall be included in the Programme “State aid financing investment projects” of the budget of the Ministry of Public Finance – General Actions. The

financing agreements shall be issued and the State aid approved on the basis of this scheme shall be paid under observance of the commitment appropriations and budgetary appropriations approved yearly through the law of the State budget for this programme.

(2) The maximum Budget of the scheme is of 4,070 million Lei, respectively the equivalent of approximately 925 million EUR, as follows:

a) commitment appropriations for the issuance of financing agreements for the period of 2014 – 2020;

b) budgetary appropriations for the payment of State aid for the period 2015-2023.

(3) The annual average Budget of the scheme is of 638 million Lei, respectively the equivalent of approximately 145 million EUR.

(4) The maximum annual budget of the scheme that can be committed includes, apart from the budget provided under para. (3), the amounts established for this use, but not used in previous years, within the limit of the commitment and budgetary appropriations approved through the annual budget laws.

#### ART. 5

The estimated total number of enterprises that shall benefit of State aid on the basis of the scheme is of 300.

### CHAPTER III

#### **Eligible expenditures**

#### ART. 6

(1) Shall be deemed eligible expenditures the costs without V.A.T. that correspond to the realization, respectively the purchase, as applicable, of tangible and intangible assets, such as they are defined by art. 1 letter a) and b) in the Procedure on the award of State aid, as provided in annex no. 2, as well as the expenditure related to the lease of constructions that correspond to the initial investment.

(2) The tangible and intangible assets must cumulatively fulfill the following eligibility requirements:

a) they must be exploited exclusively by the enterprise benefitting of State aid in order to reach the objectives of the investment for which financing was requested;

b) they must be included in the assets of the enterprise benefitting of State aid and must remain associated to the investment for which the financing was granted for a term of at least 5 years as of the completion of the investment;

c) they must be purchased under market conditions.

(3) The intangible assets must cumulatively fulfill the eligibility requirements provided under para. (2) and they must be purchased from third parties that have no relations with the purchaser.

(4) The maximum value of expenditures that can be considered eligible which correspond to constructions cannot exceed the cost standard defined by art. 1 letter jj) in the Procedure on the award of State aid, as provided in annex no. 2.

(5) If the constructions that correspond to the initial investment are leased, the lease agreement must be valid for at least 5 years as of the date of completion of the investment and the maximum eligible value of the rent may not exceed 22 Lei/sq. m./month, respectively the equivalent of approximately 5 EUR/sq. m./month.

(6) In order to be considered eligible, the costs that correspond to the intangible assets may not exceed 50% of the total eligible costs that correspond to the investment.

#### ART. 7

The beneficiary of the State aid must ensure a financial contribution of at least 25% of the eligible costs, either through own resources or through external financing, in a form that is not subject to any other public aid.

**ART. 8**

State aid shall be granted to enterprises, under observance of the provisions of this decision and of the Regulation, through allocations from the State budget, the budget of the Ministry of Public Finance – General Actions, in the form of non-reimbursable amounts, relative to the eligible expenditures and within the limit of the maximum admitted intensity.

**CHAPTER IV**

**The intensity and cumulation of State aid**

**ART. 9**

(1) The maximum level of State aid which can be granted to one enterprise within the scheme relative to the eligible expenditures thereof and under observance of the provisions of art. 11, is the following:

| Region  | Maximum level of State aid             |                                      |
|---|--|--------------------------------------|
|   | 2014 - 2017                            | 2018 - 2020                          |
| Bucharest Region (NUTS3 RO 321)   | equivalent in lei of 11.25 million EUR | equivalent in lei of 7.5 million EUR |
| West Region (NUTS2 RO 42) and Ilfov Region (NUTS3 RO 322)                       | equivalent in lei of 26.25 million EUR |                                      |
| North-West, Center, North-East, South-East, South-Muntenia, South-West, Oltenia | equivalent in lei of 37.5 million EUR  |                                      |

(2) In order to verify the observance of the maximum level of State aid expressed in EUR, the Ministry of Public Finance shall use the exchange rate established by the National Bank of Romania valid on the date of elaboration of the financing agreement.

**ART. 10**

(1) The gross intensity of the regional State aid relative to eligible expenditures may not exceed the following percentages:

| Region  | Maximum intensity of State aid |             |
|---|--------------------------------|-------------|
|   | 2014 - 2017                    | 2018 - 2020 |
| Bucharest Region (NUTS3 RO 321)   | 15%                            | 10%         |
| West Region (NUTS2 RO 42) and Ilfov Region (NUTS3 RO 322)                       | 35%                            |             |
| North-West, Center, North-East, South-East, South-Muntenia, South-West, Oltenia | 50%                            |             |

(2) In the case of large investment projects, the aid may not exceed the maximum value provided for every development region under art. 9 para. (1) and shall be calculated in accordance with the formula provided by art. 2 para. (20) in the Regulation.

(3) A single investment project may not be divided into several sub-projects in order to benefit of State aid of a bigger value than the maximum value provided for large investment projects.

(4) If a single investment project is a large investment project, the total cumulated value of the aid for the single investment project may not exceed the value of the maximum aid for large investment projects calculated in accordance with para. (2).

#### ART. 11

(1) In order to establish if the level and intensity of the State aid that an enterprise benefits of observe the maximum limits provided by art. 9 para. (1), respectively by art. 10 para. (1) and (2), it shall be considered the total value of the State aid granted for the activity, investment or enterprise that benefits of State aid.

(2) State aid granted on the basis of this scheme can be cumulated as follows:

a) with any other State aid that corresponds to different eligible costs;  
b) with any other State aid, with regard to the same eligible costs, but only if the cumulation in question does not lead to exceeding the maximum limits provided by art. 9 para. (1), respectively art. 10 para. (1) and (2).

(3) State aid granted on the basis of this scheme shall not be cumulated with the *de minimis* aid relative to the same eligible costs, if such a cumulation leads to an intensity and a level of aid exceeding the limits provided by art. 10 para. (1) and (2).

#### ART. 12

The requested State aid may not exceed the total value of the contributions to regional development that correspond to the investment for which financing is requested, such as they are defined by art. 1 letter h) in the Procedure on the award of State aid, as provided in annex no. 2.

### CHAPTER V

#### **Stimulative effect**

#### ART. 13

(1) This decision shall apply only to State aid with stimulative effect.

(2) It shall be considered that State aid has stimulative effect if the following requirements are cumulatively fulfilled:

a) the enterprise sends to the Ministry of Public Finance a written request for award of the State aid, in accordance with the model provided in annex no. 1 to the Procedure on the award of State aid, before starting the investment;

b) the documentation attached to the request proves that the investment would not be profitable for the enterprise in that region or the enterprise would not have made the investment in that region in the absence of State aid.

c) \*\*\* Repealed

#### ART. 14

If the applicant enterprise starts the investment prior to submitting the request for financing agreement, the entire investment shall not be eligible.

## CHAPTER VI

### Criteria for award of the State aid

#### ART. 15

This decision shall apply to State aid from all economic sectors, with the exception of the following aid provided by art. 1 para. (3) in the Regulation:

a) aid granted in the sector of fishing and aquaculture, such as it is regulated by Regulation (EU) no. 1.379/2013 of the European Parliament and of the Council of December 11, 2013 on the common organization of markets in the field of fishing and aquaculture products, amending Regulations (EC) no. 1.184/2006 and (EC) no. 1.224/2009 of the Council and repealing the Regulation (EC) no. 104/2000 of the Council;

b) aid awarded in the primary production sector;

c) aid awarded in the sector of processing and trading in agricultural products, in the following cases:

(i) when the value of the aid is set on the basis of the price or quantity of such products purchased from primary producers or traded by the enterprises in question, or

(ii) when the award of the aid is conditioned upon their partial or entire transfer to primary producers;

d) aid to facilitate the closing of non-competitive coal mines, such as they are regulated by Decision no. 2010/787 of the Council;

e) aid which favors the activities from the siderurgy sector, the coal sector, the naval constructions sector, the synthetic fibers sector, the transportation and connected infrastructure sector, and the energy and energetic infrastructure sector.

#### ART. 16

Enterprises may not benefit of the following types of State aid:

a) aid dedicated to activities related to export to third countries or to other Member States, respectively aid connected directly to the exported quantities, the creation and operation of a distribution network or other current costs related to the export activity;

b) aid conditioned upon preferential use of national products instead of imported products;

c) aid for exploitation.

#### ART. 17

(1) The enterprises which cumulatively fulfill the following eligibility criteria on the date of registration of the request for financing agreement may benefit of State aid on the basis of the scheme:

a) they are registered in accordance with the Companies Law no. 31/1990, republished, as subsequently amended and supplemented;

b) they make an initial investment in Romania, in any sector, with the exception of those provided under art. 15 and in the List of activity sectors for which State aid is not granted on the basis of this scheme, as provided in annex no. 1;

c) \*\*\* Repealed

d) they do not fall into the category of “enterprises in distress”, as defined by art. 2 para. (18) in the Regulation;

e) they are not undergoing a procedure of forced execution, insolvency, bankruptcy, judicial reorganization, dissolution, operational closure, liquidation or temporary activity suspension;

f) they are not subject to decisions of recovery of State aid or if such decisions were issued they have been enforced in accordance with the legal provisions in force;

g) they have not benefited of regional State aid for eligible costs of the type of salary costs within the same single investment project;

h) they have not made a relocation to the unit where the initial investment is to take place for which the aid is requested within the last two years prior to the registration of the request for financing agreement and, at the time of registration of the request, they offer a commitment that they shall not do this for a term of up to two years after completion of the initial investment for which the aid is requested.

(2) Operational enterprises may benefit of State aid on the basis of the scheme if they cumulatively fulfill on the date of registration of the request for financing agreement the criteria provided under para. (1), as well as the following eligibility criteria:

a) their turnover profitability is bigger than zero in the last concluded financial year;

b) they have positive own capitals in the last concluded financial year.

(3) Newly incorporated enterprises may benefit of State aid on the basis of the scheme if they cumulatively fulfill on the date of registration of the request for financing agreement the criteria provided under para. (1), as well as the following eligibility criteria:

a) their share capital subscribed and paid-up under the law is of at least 100,000 Lei;

b) they do not belong to shareholders which hold or have held in the last 2 years prior to the date of registration of the request for financing agreement another enterprise registered in accordance with Law no. 31/1990, republished, as subsequently amended and supplemented, which performs or has performed the activity for which they request financing.

#### ART. 18

The investments made by the enterprises within the scheme must cumulatively fulfill the following eligibility criteria:

a) they must be considered initial investments, such as they are defined by art. 1 letter o) in the Procedure on the award of State aid provided in annex no. 2, respectively initial investments in favor of a new economic activity, such as they are defined by art. 1 letter p) in the Procedure on the award of State aid provided in annex no. 2, in the case of large enterprises which perform investments in the Bucharest – Ilfov Region;

b) their total value, exclusive of VAT, must be of at least 4.5 million Lei, respectively the equivalent of approximately 1 million EUR;

c) they must prove their economic efficiency and viability throughout the implementation of the investment and 5 years as of the date of completion thereof, in accordance with the business plan defined by art. 1 letter y) in the Procedure provided in annex no. 2;

d) they must prove that they fulfill the requirements provided by art. 13 regarding the stimulative effect of the State aid;

e) they must meet the quantitative and qualitative indicators provided in annex no. 3 to the Procedure on the award of State aid;

f) they must generate contributions to regional development, through payment of taxes and charges to the consolidated State budget and the local budgets, throughout the term of implementation of the investment and 5 years as of completion thereof;

g) they must generate a multiplier effect quantifiable in the economy by engaging other related investments and developing local suppliers of goods and services.

## CHAPTER VII

### **Final provisions**

#### ART. 19

(1) The Ministry of Public Finance is required to publish on its website the full text of this scheme, the date as of which requests for financing agreements can be submitted and the annual budget allocated to the scheme, the date of exhaustion of the annual budget, respectively of the total budget allocated to the scheme, in accordance with the provisions of the annual budget laws.

(1<sup>1</sup>) \*\*\* Repealed

(2) \*\*\* Repealed

(3) If, following the analysis of the requests for financing agreements registered by the date of exhaustion of the budget it is found that the annual budget allocated to the scheme has not been fully used or if it is supplemented in accordance with the provisions of the annual budget laws, the Ministry of Public Finance shall publish on its website the budget left unused from the annual budget allocated to the scheme or the additional budget and the date when the process of registration of requests for financing agreements is resumed.

(4) The information provided in annex III to the Regulation on every individual aid exceeding the equivalent of 500,000 EUR will be published by the Ministry of Public Finance on its own website.

#### ART. 20

(1) The Ministry of Public Finance must keep detailed records regarding the aid awarded for all the investments of the scheme. These records which contain all the information necessary to establish whether the criteria of the Regulation are observed must be kept for 10 years as of the date of award of the last aid within the scheme.

(2) The Enterprise benefitting of State aid must keep all the documents related to the State aid received within the scheme for a term of 10 years as of the date of receipt of the financing agreement.

(3) The Ministry of Public Finance, acting as provider of State aid, shall send to the Competition Council annual reports regarding the regional State aid awarded in accordance with this scheme, as per the Regulation of the Competition Council on the monitoring procedures for State aid, which was enforced through the Order of the Chairman of the Competition Council no. 175/2007.

ART. 21

\*\*\* Repealed

ART. 22

Appendices no. 1 and 2 are an integral part of this decision.

## ANNEX 1

### List of activity sectors for which State aid is not awarded

| No.   | NACE code | NACE code name   |
|---|-----------|--|
| 0   | 1         | 2  |
| SECTION A - AGRICULTURE, FORESTRY AND FISHING |           |  |
| 1   | 01        | Crop and animal production, hunting and related service activities |
| 2   | 02        | Forestry and other forestry activities                             |
| 3   | 03        | Fishing and aquaculture  |
| SECTION B - EXTRACTIVE INDUSTRY               |           |  |
| 4   | 05        | Mining of coal and lignite   |
| 5   | 06        | Extraction of crude petroleum and natural gas                      |
| 6   | 0892      | Extraction of peat   |
| 7   | 091       | - Support activities for petroleum and natural gas extraction      |
| SECTION C - PROCESSING INDUSTRY               |           |  |
| 8   | 102       | Processing and preserving of fish, crustaceans and mollusk         |
| 9   | 1101      | Distilling, rectifying and blending of spirits                     |
| 10  | 1102      | Manufacture of wine from grape                                     |
| 11  | 1103      | Manufacture of cider and other fruit wines                         |
| 12  | 1104      | Manufacture of other non-distilled fermented beverages             |
| 13  | 1105      | Manufacture of beer  |
| 14  | 1106      | Manufacture of malt  |
| 15  | 12        | Manufacture of tobacco products                                    |
| 16  | 131       | Preparation and spinning of textile fibers                         |
| 17  | 19        | Manufacture of coke and refined petroleum products                 |
| 18  | 2014      | Manufacture of other organic basic chemicals                       |
| 19  | 2051      | Manufacture of explosives  |
| 20  | 206       | Manufacture of man-made fibers                                     |
| 21  | 24        | Manufacture of basic metals  |
| 22  | 254       | Manufacture of weapons and ammunition                              |
| 23  | 2591      | Manufacture of steel drums and similar containers                  |
| 24  | 301       | Building of ships and boats  |

|  |      |   |
|--|------|---|
| 25   | 304  | Manufacture of military fighting vehicles                                       |
| 26   | 33   | - Repair and installation of machinery and equipment                            |
| SECTION D - ELECTRICITY, GAS, STEAM AND AIR CONDITIONING SUPPLY                  |      |   |
| 27   | 35   | Electricity, gas, steam and air conditioning supply                             |
| SECTION F - CONSTRUCTION   |      |   |
| 28   | 41   | Construction of buildings   |
| 29   | 42   | Civil engineering   |
| 30   | 4399 | Other specialized construction activities n.e.c.                                |
| SECTION G - WHOLESALE AND RETAIL TRADE; REPAIR OF MOTOR VEHICLES AND MOTORCYCLES |      |   |
| 31   | 45   | Wholesale and retail trade and repair of motor vehicles and motorcycles         |
| 32   | 46   | Wholesale trade, except of motor vehicles and motorcycles                       |
| 33   | 47   | Retail trade, except of motor vehicles and motorcycles                          |
| SECTION H - TRANSPORTING AND STORAGE   |      |   |
| 34   | 49   | Land transport and transport via pipelines                                      |
| 35   | 50   | Water transport   |
| 36   | 51   | Air transport   |
| 37   | 522  | Support activities for transportation   |
| SECTION J - INFORMATION AND COMMUNICATION  |      |   |
| 38   | 60   | Programming and broadcasting activities   |
| 39   | 61   | Telecommunications  |
| SECTION K - FINANCIAL AND INSURANCE ACTIVITIES                                   |      |   |
| 40   | 64   | Financial service activities, except insurance and pension funding              |
| 41   | 65   | - Insurance, reinsurance and pension funding, except compulsory social security |
| 42   | 66   | Activities auxiliary to financial services and insurance activities             |
| SECTION L - REAL ESTATE ACTIVITIES   |      |   |
| 43   | 68   | Real estate transactions  |
| SECTION N - ADMINISTRATIVE AND SUPPORT SERVICE ACTIVITIES                        |      |   |
| 44   | 77   | Rental and leasing activities   |
| 45   | 78   | Employment activities   |

|   |    |   |
|---|----|---|
| SECTION O - PUBLIC ADMINISTRATION AND DEFENSE;<br>COMPULSATORY SOCIAL SECURITY  |    |   |
| 46  | 84 | Public administration and defense; compulsory social security                                 |
| SECTION R - ARTS, ENTERTAINMENT AND RECREATION  |    |   |
| 47  | 92 | Gambling and betting activities   |
| 48  | 93 | Sports activities and amusement and recreation activities                                     |
| SECTION S - OTHER SERVICES ACTIVITIES   |    |   |
| 49  | 94 | Activities of membership organizations  |
| SECTION T - ACTIVITIES OF HOSEHOLDS AS EMPLOYERS; UNDIFFERENTIATED GOODS<br>- AND SERVICES - PRODUCING ACTIVITIES OF HOUSEHOLDS FOR OWN USE |    |   |
| 50  | 97 | Activities of households as employers of domestic personnel                                   |
| 51  | 98 | - Undifferentiated goods- and services-producing activities of private households for own use |
| SECTION U - ACTIVITIES OF EXTRATERRITORIAL ORGANISATIONS AND BODIES   |    |   |
| 52  | 99 | Activities of extraterritorial organizations and bodies                                       |

## ANNEX 2

### **PROCEDURE on the award of State aid**

#### **CHAPTER I Definitions**

##### **ART. 1**

For the purpose of this procedure, the terms and expressions below have the following meanings:

- a) tangible assets – the assets associated to the initial investments, represented by:
  - (i) constructions of any type, respectively the expenditure made with the execution of constructions;
  - (ii) new technical installations, machines, and equipment classified in accordance with Government Decision no. 2.139/2004 approving the Catalogue on the classification and normal operating duration of fixed assets, as subsequently amended, with a minimum entry value of fixed assets established in accordance with the legal provisions in force;
- b) intangible assets – the amortizable assets associated with the initial investment which do not have a physical or financial form, like patents, licenses, know-how or other intellectual property rights;

c) identical or similar activity – the activity which is part of the same class (four letter numeric code), in accordance with the Order of the President of the National Institute of Statistics no. 337/2007 on the update of the Classification of activities in the national economy – NACE;

d) purchase of assets under market conditions – manner of purchase of assets based on the following principles: non-discrimination, equal treatment, mutual recognition, transparency, proportionality, and efficient use of funds;

e) operational aid – aid for reducing current expenditure of an enterprise. These expenditures include cost categories like personnel, materials, contracted services, communications, energy, maintenance, rent and administration, but exclude amortization costs and financing costs in case they were included in the eligible costs when the investment aid was granted;

f) unfolded area – the sum of areas of all the levels of a construction, in accordance with STAS 4908-85 "Civil, industrial and agricultural-zootechnical buildings. Conventional areas and volumes";

f<sup>1</sup>) investment performance calendar – period of realization of the investment plan as of the date when the investment is started and until December 31 of the year when it is completed;

g) trading of agricultural products – holding or exposing an agricultural product for sale purposes, putting on sale, delivery, or any other form of introduction on the market, with the exception of the first sale by a primary producer to resellers or processors and of any other activity of preparation of the product for this first sale; a sale made by a primary producer to end consumers is considered trading if it is performed in separate places, reserved for this activity;

h) contribution to regional development – the value of the contributions to regional development of the type of taxes and charges to the general consolidated budget of the State corresponding to the initial investment and the jobs created directly by it, which are effectively paid by the enterprise that benefits of State aid throughout the implementation and 5 years as of completion thereof;

i) date when the documentation is considered complete – the date when the enterprise submits the entire documentation, including the documentation subsequently requested by the Ministry of Public Finance;

j) start of the investment - either the start of the construction works within the investment, or the first commitment of mandatory legal nature ordering equipment or any other commitment through which the investment becomes irreversible, whichever comes first; the purchase of land plots and the preparatory works, like obtaining permits and performing feasibility studies, are not considered start of the works;

k) performs economic activity – obtains revenues from the activity it performs;

l) diversification of the production of an existing unit – obtaining products or services which were not previously made in that unit; the eligible costs must exceed by at least 200% the accounting value of the reused assets, such as they were registered in the financial year prior to the start of the works;

m) concluded financial year – the financial year for which the enterprise has the financial statements submitted and approved in accordance with the legal provisions in force;

n) extending the capacity of an existing unit – increasing the production capacity in the existing location due to outstanding demand;

n<sup>1</sup>) group – mother –company and all its subsidiaries;

o) initial investment – the investment in tangible and intangible assets from the same perimeter, related to the start of a new unit, the extension of an existing unit's capacity, the diversification of production in a unit through products which have not been previously manufactured in that unit or a fundamental change in the general production process of an existing unit;

p) initial investment in favor of a new economic activity – investment in tangible and intangible assets from the same perimeter related to the start of a new unit or the diversification of activity in a unit, provided the new activity is not identical or similar to the activity previously performed in that unit;

q) establishment of a new unit – creation of a new location for performance of activity for which the financing is requested, which is independent in technological terms from other existing units;

r) enterprise – any entity with legal personality established in order to obtain revenues from the performance of an economic activity;

s) \*\*\* Repealed

t) large enterprise – the enterprise which does not fall under the definition of SMEs in accordance with annex I in Regulation (EU) no. 651/2014 of the Commission of June 17, 2014 declaring certain categories of aid compatible with the internal market in the enforcement of articles 107 and 108 in the treaty, hereinafter referred to as the Regulation;

u) operating enterprise – the enterprise which performs economic activity for more than 3 consecutive fiscal years as of the date of registration of the request for financing agreement and has annual financial statements approved in accordance with the last concluded financial year;

v) newly established enterprise – the enterprise financed in the year of registration of the request for financing agreement or the enterprise which has carried out/has not carried out economic activity, but not more than 3 consecutive financial years before the date of registration of the request;

w) perimeter – the same cadastral land plot or neighboring land plots;

x) authorized person – the legal representative of the enterprise or the person authorized by the legal representative to represent the enterprise;

y) business plan – document which presents the economic efficiency of the enterprise and the viability of the investment, targeting at least the following aspects: business description, location of performance of the investment, presentation of the investment, investment plan and substantiation of the turnover, current financial situation and financial projections. The document shall substantiate: the classification of the investment in the category of initial investment, the stimulative effect of the State aid, the manner of fulfillment of the quantitative and qualitative indicators provided in annex no. 3. The business plan has supporting documents attached, which are necessary to substantiate it. The business plan is elaborated for the period of implementation of the investment and 5 years as of completion thereof;

z) investment plan – synthetic document, presented in table form, which includes the eligible and ineligible expenditures corresponding to the initial investment with determination of the total investment value, in accordance with the provisions of art. 6 in the decision, as well as of the calendar of performance of the investment;

aa) relevant market – the products and/or services the consumer considers interchangeable or substitutable, due to the features, prices and use they are dedicated to, as well as the geographical area where they are traded;

bb) large investment project – an initial investment with eligible expenditures of more than 50 million EUR, value calculated at the Exchange rate set by the National Bank of Romania and valid on the date of elaboration of the financing agreement;

cc) single investment project – any initial investment started by the same beneficiary, at group level, within an interval of 3 years as of the starting date of the works for another investment that benefits of aid in the same level 3 region from the Common nomenclature of territorial statistical units (NUTS 3), respectively county;

dd) primary agricultural production – the production of soil products or animal breeding, listed in appendix I to the Treaty of Functioning of the European Union, without performing any other operation that changes the nature of those products;

ee) agricultural products – the products listed in annex I to the treaty, with the exception of the products obtained from fishing and aquaculture listed in annex I to the Regulation (EU) no. 1.379/2013 of the European Parliament and of the Council of December 11, 2013 on the common organization of markets in the sector of fishing and aquaculture products, amending Regulations (EC) no. 1.184/2006 and (EC) no. 1.124/2009 of the Council and repealing Regulation (EC) no. 104/2000 of the Council;

ff) processing of agricultural products – any operations performed on an agricultural product, which results in a product that is also an agricultural product, with the exception of activities performed in agricultural exploitations necessary to prepare a product of animal or vegetal origin for first sale;

ff<sup>1</sup>) relocation – transfer of an identical or similar activity or of part thereof from one unit of one of the contracting parties to the EEA Agreement, called the initial unit, to the unit of another contracting party of the EEA Agreement where the investment benefiting of aid is performed, namely the unit benefiting of aid. There is a transfer if the product or service from the initial unit and the unit benefiting of aid have at least partially the same purposes, fulfill the requirements or needs of the same type of clients and jobs are lost in identical or similar activities in one of the initial units of the EEA beneficiary;

gg) payment request of approved State aid – a payment request settled by the Ministry of Public Finance with total or partial payment of the requested State aid;

hh) fundamental change of the general production process – purchase of assets whose accounting value exceeds the amortization calculated during the three previous financial years, of the similar assets related to the activity for which financing is requested. The mere replacement of existing assets is not considered fundamental change of the general production process;

ii) European Economic Area – includes the Member States of the European Union and the Member States of the European Free Trade Association;

jj) cost standard – the maximum value considered eligible in the case of tangible assets like constructions, which cannot exceed 1,650 Lei/sq. m. unfolded area, respectively the equivalent of approximately 375 EUR/sq. m. unfolded area;

kk) financing source – the resources of strictly financial nature of the enterprise dedicated to the performance of the initial investment, obtained from own sources, respectively increase of the subscribed and paid-up share capital, reinvested profit, intra-group loan or bank loan;

kk<sup>1</sup>) third parties without relations to the purchaser – private individuals or legal entities that do not find themselves in at least one of the following cases:

(i) private individuals who are spouses or relatives up to the 3<sup>rd</sup> degree, inclusive, of the personnel or management of the purchaser;

(ii) private individuals who are employees of the purchaser;

(iii) private individuals or legal entities that are sellers and have an influence on the structure, votes, or decisions of the purchaser's management bodies;

(iv) private individuals or legal entities who are sellers and on whom the purchaser has an influence with regard to the structure, votes or decisions of its management bodies;

ll) physical wear – the process of deterioration in time of the quality features of an asset, due to the action of external factors;

mm) moral wear – phenomenon due to the subsequent evolution of assets with the same use, due to technical progress;

nn) total investment value – the value of the eligible expenditures, in accordance with [art. 6](#) para. (1) from this decision, and the value of all tangible and intangible assets, exclusive of V.A.T.

## CHAPTER II

### **Manner of award of the State aid**

#### ART. 2

(1) In order to benefit of State aid, the requesting enterprise must obtain a financing agreement from the Ministry of Public Finance.

(2) The registration of the requests for financing agreement starts on the date communicated by the Ministry of Public Finance on its website, as per art. 19 para. (1) in the decision.

(3) The requests for financing agreement registered after the date of exhaustion of the annual budget allocated to the scheme shall be returned to the enterprises.

#### ART. 3

The requesting enterprise shall send to the General Registrar Office of the Ministry of Public Finance a request for financing agreement, in accordance with the form provided in appendix no. 1, accompanied by the following supporting documents:

a) ascertaining certificate, in the original counterpart, issued by the Trade Register Office with the tribunal where the enterprise is seated, mentioning at least the following information: identification details, sole registration code, shareholders and legal representatives of the enterprise, main field of activity, all secondary fields of activity and working units of the enterprise;

b) approved annual financial statements corresponding to the last concluded financial year, in copies certified for conformity with the original counterpart, as applicable;

c) the business plan showing the viability of the initial investment and the economic efficiency of the Enterprise, including in electronic form;

d) the power of attorney signed by the legal representative of the requesting enterprise, if another person than the legal representative signs the request for financing agreement;

e) copy of the identity document of the person authorized to legally represent the enterprise;

f) list with the submitted documents.

ART. 3<sup>1</sup>

\*\*\* Repealed

ART. 3<sup>2</sup>

\*\*\* Repealed

ART. 4

(1) The Ministry of Public Finance shall verify the compliance of the documents provided under art. 3, as per the provisions of annex no. 2 and shall analyze the viability of the investment and the economic efficiency of the enterprise, in accordance with the provisions of annex no. 3.

(2) Following the process of assessment of the request for financing agreement, the Ministry of Public Finance shall send to the requesting enterprises, as applicable:

a) a financing agreement, if all the requirements and eligibility criteria provided by this decision are cumulatively fulfilled;

b) a request for information and/or documents to supplement the request for financing agreement, if:

(i) there are inconsistencies in the supplied information;

(ii) the documents do not observe the compliance requirements provided in annex no. 2;

(iii) it is found that certain additional documents are necessary in order to settle the request;

c) letter of dismissal of the request for financing, if:

(i) the request for financing agreement is not accompanied by the documents provided under art. 3;

(ii) all the requirements and eligibility criteria provided by this decision are not cumulatively fulfilled;

(iii) the Enterprise does not observe the maximum term of 15 business days as of the date of receipt of the request for information and/or documents to supplement the request for financing agreement.

(iv) \*\*\* Repealed

(3) Following the process of assessment of the requests for financing agreement registered and not settled in accordance with para. (2) letter a) and c) until the date of exhaustion of the annual budget allocated to the scheme, the Ministry of Public Finance shall send to the requesting enterprises, as applicable:

a) a request for information and/or documents to supplement the request for financing agreement, if:

(i) there are inconsistencies in the supplied information;

(ii) the documents do not observe the compliance requirements provided in annex no. 2;

(iii) it is found that certain additional documents are needed in order to settle the request;

b) a letter of dismissal of the request for financing agreement, if:

(i) the request for financing agreement is not accompanied by the documents provided by art. 3;

(ii) all the requirements and eligibility criteria provided by this decision are not cumulatively fulfilled;

(iii) the enterprise does not observe the maximum term of 15 business days as of the date of receipt of the request for information and/or documents to supplement the request for financing agreement.

#### ART. 5

(1) The Ministry of Public Finance requests information and/or documents to supplement the request for financing agreement under the conditions provided by art. 4 para. (2) letter b) within at most 15 calendar days as of the date of registration of the request for financing agreement.

(2) The documents sent by the requesting Enterprise at its own initiative in order to supplement the request for financing agreement shall not be taken into account in the process of assessment of the request for financing agreement.

#### ART. 6

The Ministry of Public Finance shall finalize the assessment process of the request for financing agreement within at most 30 calendar days as of the date when the entire documentation is considered complete in accordance with the provisions of this scheme.

#### ART. 6<sup>1</sup>

(1) If the annual budget allocated to the scheme was exhausted, but there are requests for financing agreements which were not covered by the allocated budget but cumulatively fulfill the requirements and eligibility criteria provided by this decision, the Ministry of Public Finance shall issue the draft financing agreement.

(1<sup>1</sup>) The registration of the requests for financing agreements continues even if the annual budget allocated to the scheme was not approved through the Annual law of the State Budget. If the requests for financing agreement cumulatively fulfill the requirements and eligibility criteria provided by this decision, the Ministry of Public Finance shall issue the draft financing agreement.

(2) The draft financing agreements provided by para. (1) and (1<sup>1</sup>) shall be approved by order of issuance, after the approval or supplementation of the annual budget allocated to the scheme, in accordance with the provisions of the annual budget laws.

#### ART. 7

(1) All the documents sent to the Ministry of Public Finance by the enterprise must be submitted in Romanian language. If the documents are submitted in a foreign language, the enterprise shall present these documents accompanied by translations thereof into Romanian certified by certified translators.

(2) The documents issued by the requesting Enterprise in original counterparts must be dated and signed by the person authorized to legally represent the enterprise.

### CHAPTER III

#### Payment of State aid

#### ART. 8

Enterprises are required to start the investment for which they requested financing within at most 4 months as of the date of issuance of the financing agreement, under observance of the calendar provided in the documentation attached to the request, subject to the provisions of art. 17.

#### ART. 9

The State aid shall be paid to the enterprises that received financing agreements after they fully cover the eligible expenditures, in accordance with the financing agreement, within the limit of the approved annual budgetary appropriations.

#### ART. 10

(1) For the purpose of payment of the State aid, the enterprise shall send to the General Registrar Office of Ministry of Public Finance at least the following documents:

- a) the request for payment of the State aid accompanied by the supporting documents, in accordance with the form provided in annex no. 4a;
- b) the deduction form, in accordance with the form provided in annex no. 4b;
- c) approved annual financial statements corresponding to the last concluded financial year, in copies, as applicable;
- d) \*\*\* Repealed
- e) \*\*\* Repealed
- f) \*\*\* Repealed
- g) list with the documents sent for payment of the State aid.

(1<sup>1</sup>) Within 10 days as of registration of the payment request sent by the Enterprise, the Ministry of Public Finance shall request to the central and local tax bodies to issue the tax ascertaining certificate in accordance with art. 158 and 159 in Law no. 207/2015 on the Code of Fiscal Procedure, as subsequently amended and supplemented, as applicable. The Ministry of Public Finance shall make the payment if the tax certificates do not provide outstanding debts.

(2) The payment requests of the State aid shall be submitted by September 30 of every year. If the requests are submitted after September 30 of every year, they shall be returned to the company.

(3) The enterprises that fail to submit payment requests by September 30 shall be required to submit a notification within 10 calendar days as of this date for the purpose of reallocation of the unused amounts by the end of the current year.

#### ART. 11

(1) The Ministry of Public Finance shall verify the compliance of the transmitted documents and the fulfillment of the requirements provided by this scheme in order to make the payment.

(2) If it is found that certain documents are missing or that there are inconsistencies between the data and information sent, the Ministry of Public Finance may request documents and information that will be transmitted to the General Registrar Office of the Ministry of Public Finance within 15 days as of the date of receipt of the request.

(3) If the enterprise does not confirm the receipt of the request sent by the Ministry of Public Finance or does not observe the term provided under para. (2), the Ministry of Public Finance shall return to the enterprise the request for payment of State aid within 15 days to have it supplemented.

#### ART. 12

(1) The Ministry of Public Finance shall settle the request for payment of State aid:

a) after analyzing at the seat of the ministry the supporting documents attached to the payment request and the eligibility of the assets for which it requests State aid; and

b) after verifying on the spot the existence of the assets and of the compliance of the statements/documents that correspond to the expenditures made by the enterprise.

(2) Throughout the performance of the verification on the spot, the enterprise shall be required to allow access to the control team, under the law, to the assets that correspond to the initial investment and to all original documents that certify the fulfillment of the requirements imposed by this decision.

#### ART. 13

(1) The payment of State aid cannot form the object of compensatory payments.

(2) The actual transfer of the State aid shall be made by the Ministry of Public Finance into the account 50.70 "Funds available from subsidies and transfers", opened with the State Treasury unit where the enterprise that benefits of State aid has its fiscal domicile, within at most 15 calendar days as of the date when the request for payment of State aid is considered complete within the meaning of the provisions of this scheme and the verification on the spot was made.

(3) Enterprises are required to verify the value of State aid transferred by the Ministry of Public Finance into account 50.70 "Funds available from subsidies and transfers". If any undue amount is found, the enterprises shall be required to inform at once the Ministry of Public Finance for the amount's return.

(4) The amounts unduly collected shall be paid back into the accounts opened with this use with the State Treasury if the amounts are returned in the year they were collected, respectively if the amounts are returned in the years following that when they were collected.

(5) For the undue amounts that were collected by enterprises, the Ministry of Public Finance shall charge corresponding interests and penalties owed as of the date of

collection and until the date of return, in accordance with Law no. 207/2015, as subsequently amended and supplemented.

#### CHAPTER IV

#### **Maintenance of the investment and recovery of the State aid**

##### ART. 14

(1) The Enterprise shall be required to maintain the initial investment in operation for a term of at least 5 years as of completion thereof.

(2) If it is found within the term provided by para. (1) that the assets that correspond to the initial investment have been subject to physical or moral wear, their replacement shall be allowed in order to ensure continuity of the financed activity, subject to informing the Ministry of Public Finance.

##### ART. 15

By July 1 of the year following that of completion of the investment, or of performance of the last payment of approved State aid, as applicable, the enterprise will present to the Ministry of Public Finance a report audited by an authorized enterprise that is not an affiliate of the enterprise benefitting of State aid, which will certify that the investment was made within the proposed parameters and that the economic and financial results undertaken through the request for financing agreement and the documentation attached thereto were obtained.

##### ART. 16

(1) The requesting enterprises shall be required to finalize the investment for which they requested financing within the terms provided in the investment plan that formed the basis for issuance of the financing agreement.

(2) If the calendar of performance of the investment is amended, the enterprise shall be required to request to the Ministry of Public Finance approval for these amendments throughout the implementation of the initial investment, within 30 days as of the time it became aware of that amendment, and attach a substantiation document in this respect.

(3) The Ministry of Public Finance shall analyze the received documentation, proceeding as follows:

a) if it is found that the investment continues to fulfill all the requirements provided by this scheme, including the observance of the annual budgets of the scheme, the financing agreement shall be correspondingly amended;

b) if it is found that the investment no longer fulfills the requirements provided by this scheme, the financing agreement shall be revoked.

(4) \*\*\* Repealed

(5) The Ministry of Public Finance may approve amendments to the financing agreements at any point in time during the term provided by art. 3 para. (2) in this decision, under observance of the provisions of this article.

##### ART. 17

(1) The financing agreement shall be revoked in the following situations:

- a) the enterprise has not started the investment within the term provided by art. 8;
- b) the enterprise does not observe the requirement related to maintaining the initial investment provided under art. 14 para. (1);
- c) the enterprise does not observe the provisions under art. 15;
- d) the enterprise does not observe the provisions of art. 16 para. (1) and (2);
- e) the total value of the investment does not observe the provisions of art. 18 letter b) in the decision;
- f) the enterprise does not observe the provisions of art. 17 para. (1) letter h) in the decision;
- g) the failure to fulfill the requirements provided in the financing agreement for which the revocation thereof is specified.

(2) In the situations provided under para. (1) the Ministry of Public Finance shall send to the enterprise a letter of revocation of the financing agreement.

(3) The revocation of the financing agreement in the situations provided under para. (1) shall determine the application of the necessary measures for full recovery of the paid State aid.

(4) The paid State aid shall be recovered proportionally to the degree of non-realization in the following cases:

- a) the enterprise does not make the contribution to regional development as defined by art. 1 letter h) in the amount provided in the documentation attached to the request for financing agreement;

- b) the enterprise does not fulfill other requirements provided in the financing agreement.

(4<sup>1</sup>) If more conditions are provided in the financing agreement, the value of the State aid paid that shall be recovered shall be calculated in accordance with the following mechanism:

- a) it shall be calculated the degree of fulfillment of every requirement by comparing the value of the realized indicator to the value of the indicator mentioned in the financing agreement or in the business plan, as applicable;

- b) the arithmetic mean of the degree of fulfillment of all requirements shall be calculated;

- c) the percentage calculated in accordance with letter b) shall be applied to the value of the paid State aid;

- d) the difference between the value of the paid State aid and the value calculated in accordance with letter c) represents the value of the State aid that has to be recovered.

(4<sup>2</sup>) If, after the issuance of the financing agreements, certain amendments are brought to the general legislation regulating the framework of organization and operation of companies, at the end of the period of maintenance of the investment, the value of the contribution to regional development provided in the documentation attached to the request for financing agreement shall be recalculated in accordance with these amendments.

(5) The paid State aid shall be recovered in accordance with the recovery procedures provided by Government Emergency Ordinance no. 77/2014 on the national procedures in the field of State aid, as well as amending and supplementing Competition Law no. 21/1996, approved as amended and supplemented through Law no. 20/2015, as subsequently amended, as well as by Order of the Minister of Public

Finance no. 324/2016 approving the Methodological norms of enforcement by the Ministry of Public Finance of the procedures for stopping/recovering State aid or *de minimis* aid, as subsequently amended.

(6) The paid State aid which must be recovered includes the corresponding interest owed as of the date of payment and until the date of recovery. The applicable interest rate shall be the one set in accordance with the provisions of Regulation (EU) no. 1.589/2015 of the Council of July 13, 2015 setting the norms of enforcement of article 108 in the Treaty on the Functioning of the European Union and Regulation (EC) no. 794/2004 of the Commission of April 21, 2004 of enforcement of Regulation (EC) no. 659/1999 of the Council setting the norms of enforcement of article 93 in the EC Treaty.

ART. 18

Annexes no. 1 - 3, 3<sup>1</sup>, 4a and 4b are an integral part of this procedure.

*ANNEX no. 1 to the procedure*

Registration date .....

Registration no. ....

**Request for financing agreement**

We, the undersigned, ....., having the identification details mentioned under point I, legally represented by Mr./Mrs. ...., in his/her capacity of....., hereby request financing in accordance with the provisions of the scheme whose object is to stimulate investments with major impact on the economy, approved through Government Decision no. 807/2014, as subsequently amended and supplemented.

**I. Presentation of the enterprise**

Enterprise name: .....

Enterprise registration date: .....

Registration no. with the trade register: .....

Tax identification code: .....

Address: ....., zip code: .....

Phone: ....., fax: .....

E-mail: .....

Legal form: .....

Share capital: ..... lei, held by:

- private individuals: .....%;

- SMEs\*1): .....%

- large enterprises\*2): .....%.

Main object of activity: .....

NACE code: .....

Secondary object of activity\*3): .....

NACE code: .....

-----  
\*1) Enterprise which falls under the definition provided in annex no. 1 to the regulation.

\*2) Enterprise which does not fall under the definition of SMEs in accordance with the provisions of annex no. 1 to the regulation.

\*3) To be filled in if financing is requested for the secondary object of activity.

## **II. Presentation of the current status of the enterprise**

Data from the approved annual financial statements corresponding to the last concluded financial year, as applicable:

- average number of employees: .....

- turnover: ..... lei

- value of total assets\*4): ..... lei

- turnover profitability\*5): ..... lei

- own capitals\*6): ..... lei

-----  
\*4) Total assets means intangible assets plus current assets plus advance expenditures.

\*5) Turnover profitability =  $100 \times (\text{Net profit} / \text{Turnover})$ .

\*6) The element "Own capitals" in the balance sheet.

## **III. Brief presentation of the investment made within the scheme:**

- investment objective:

.....

- classification of the investment in the category of initial investment:

incorporation of a new unit

extension of the unit's capacity

diversification of the unit's production

fundamental change in the general production process of the unit

or

- classification of the investment in the category of initial investment in favor of a new economic activity:

incorporation of a new unit

diversification of the unit's activity

- investment value: ..... lei

- location of performance of the investment: .....

- estimated start date of the investment according to the investment plan:

.....

- estimated end date of the investment according to the investment plan:  
 .....

**IV. Stimulative effect**

**The State aid awarded on the basis of this scheme has a stimulative effect, because:**

- the investment would not be profitable for the enterprise in that region in the absence of the aid;
- or
- the investment would not be made in that region in the absence of the aid.

**V. Presentation of the eligible costs and of the requested financing**

| Activity name  | Type of eligible expenditure for which the financing is requested |   | Value of eligible expenditures*<br>- lei- |         |          |       | Maximum intensity of the aid in the region | Value of requested State aid<br>-lei- |         |          |       |
|--|---|---|---|---------|----------|-------|--|---------------------------------------|---------|----------|-------|
|  |   |   | Year I**)                                 | Year II | Year ... | Total |  | Year I                                | Year II | Year ... | Total |
| Performance of investments in tangible and intangible assets | <input type="checkbox"/>  | a) Eligible costs for performance of investments in tangible assets             |   |         |          |       |  |                                       |         |          |       |
|  | <input type="checkbox"/>  | a1) Execution of constructions  |   |         |          |       |  |                                       |         |          |       |
|  | <input type="checkbox"/>  | a2) Maintenance of constructions  |   |         |          |       |  |                                       |         |          |       |
|  | <input type="checkbox"/>  | a3) Technical installations, machines, and equipment                            |   |         |          |       |  |                                       |         |          |       |
|  | <input type="checkbox"/>  | b) Eligible costs for the performance of investments in intangible assets       |   |         |          |       |  |                                       |         |          |       |
|  | <input type="checkbox"/>  | b1) Costs for patents, licenses, know-how or other intellectual property rights |   |         |          |       |  |                                       |         |          |       |
|  |   | <b>TOTAL</b>  |   |         |          |       |  |                                       |         |          |       |

\*) Value of eligible expenditures without V.A.T.

\*\*) Please indicate the calendar years.

## VI. Declaration of honor

I, the undersigned, ....., identified with identity card series.....no....., issued by.....on....., domiciled in....., ..... Street, building....., entrance....., apt. ...., district/county....., acting as legal representative of the enterprise.....hereby declare on my own responsibility that all the information provided and registered in this request is correct and complete and that all copies of documents that accompany the request are compliant with the originals.

I understand that any omission or inaccuracy in presenting the information for the purpose of obtaining money advantages is punished in accordance with the law.

I hereby declare on my own responsibility that the enterprise:

- is classified in the category of large enterprises;
- is classified in the category of small and medium enterprises;
- has not started the investment project for which it requests financing;

does not fall into the category of “enterprises in distress” as provided by art. 2 para. (18) in the Regulation (EU) no. 651/2014 of the Commission of June 17, 2014 declaring certain categories of aid compatible with the internal market in the enforcement of art. 107 and 108 of the treaty;

is not undergoing a procedure of forced execution, insolvency, bankruptcy, judicial reorganization, dissolution, operational closing, liquidation or temporary suspension of activity;

is not subject to decisions of recovery of State aid or, if such decisions have been issued, they have been enforced, in accordance with legal provisions in force;

it has not benefited and will not benefit of regional State aid for eligible costs of the type of salary costs within the same single investment project;

it has not made a relocation to the unit where the initial investment is to take place for which it requests aid in the last 2 years prior to the registration of the request for financing agreement and, at the time of registration of the request, it offers a commitment that it will not do this for a term of up to 2 years after finalization of the initial investment for which the aid is requested;

it does not belong to shareholders who own or have owned in the last 2 years prior to the date of registration of the request another enterprise registered in accordance with the Companies Law no. 31/1990, republished, as subsequently amended and supplemented, which carries out or has carried out the activity for which financing is requested, in the case of newly incorporated enterprises;

I hereby declare on my own responsibility that in the last 3 years <sup>\*7)</sup>, the enterprise:

- has not benefited of *de minimis* aid and other State aid;
- has benefited of the following *de minimis* aid and State aid:

| No. | Name of the investment project | Location of performance of the investment (county) | Year of award of the aid | Provider of the aid | Legislative act | Aid amount -EUR*8)- |
|-----|--------------------------------|--|--------------------------|---------------------|-----------------|---------------------|
|     |                                |  |                          |                     |                 |                     |

-----

*\*7) 3 years shall be: the current tax year and 2 previous years.*

*\*8) The equivalent in EUR shall be taken from the judicial act or shall be determined at the exchange rate valid on the date of award of the aid in accordance with the judicial act.*

I also declare on my own responsibility that the enterprise:

has not benefited and will not benefit of State aid for the same single investment Project from other providers of aid;

has benefited or will benefit of State aid for the same single investment project from other providers of aid:

| No. | Name of the investment project | Location of performance of the investment (county) | Year of award of the aid | Provider of the aid | Legislative act | Aid amount -EUR*9)- |
|-----|--------------------------------|--|--------------------------|---------------------|-----------------|---------------------|
|     |                                |  |                          |                     |                 |                     |

-----

*\*9) The equivalent in EUR shall be taken from the judicial act or shall be determined at the exchange rate valid on the date of award of the aid in accordance with the judicial act.*

Name: .....

Position: .....

Signature<sup>\*10)</sup>: .....

Signing date: .....

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*\*10) The request will be signed by the person authorized to legally represent the enterprise.*

*ANNEX no. 2 to the procedure*

| <b>Compliance requirements</b>  |  |
|---|--|
| The request for financing agreement   | <ul style="list-style-type: none"> <li>- has all the rubrics filled in with the requested data, observes the form in annex no. 1 and is dated and signed in the original counterpart by the person authorized to legally represent the enterprise;</li> <li>- contains information correlated with the information from the ascertaining certificate, the financial statements, the investment plan, the identity document of the authorized person or the Power of attorney, if applicable.</li> </ul>  |
| The ascertaining certificate  | <ul style="list-style-type: none"> <li>- is attached in the original counterpart, is updated with valid data on the date of registration of the request for financing agreement and contains all the information necessary in accordance with the provisions of art. 3 letter a) in the Procedure on the award of State aid.</li> </ul>  |
| Financial statements corresponding to the last concluded financial year           | <ul style="list-style-type: none"> <li>- they are submitted and approved in accordance with the legal provisions in force, as applicable, and are attached in copies.</li> </ul>   |
| Investment plan   | <ul style="list-style-type: none"> <li>- includes all the information necessary in accordance with the definition and instructions from the Applicant's Guide, is dated and signed in the original counterpart by the person authorized to legally represent the enterprise;</li> <li>- contains information correlated with the information from the request for financing agreement.</li> </ul>  |
| Business plan   | <ul style="list-style-type: none"> <li>- comprises all the information necessary in accordance with the definition and instructions from the Applicant's Guide, is dated and signed in the original counterpart by the person authorized to legally represent the enterprise;</li> <li>- presents the financial projections for the period of implementation of the investment and 5 years as of completion thereof (profit and loss account, balance sheet and cash flow) in accordance with the legal provisions in force and with the models presented in the Applicant's Guide;</li> <li>- contains information correlated with the information from the request for financing agreement.</li> </ul> |
| The supporting documents for substantiation of the business plan                  | <ul style="list-style-type: none"> <li>- are attached in copies</li> </ul>   |
| Power of attorney signed by the legal representative of the requesting enterprise | <ul style="list-style-type: none"> <li>- if another person than the legal representative signs the application for financing, it is attached in the original counterpart.</li> </ul>   |
| Identity document of the person authorized to legally represent the enterprise    | <ul style="list-style-type: none"> <li>- shall be attached in copy</li> </ul>  |
| List  | <ul style="list-style-type: none"> <li>- mentions the name of every document and the page where it is filed.</li> </ul>  |

*ANNEX no. 3 to the procedure*

| <b>Requirements proving the economic efficiency and viability of the investment</b>   |   |
|---|---|
| <b>Observance of the definition of initial investment</b>   |   |
| Presentation of the investment and proving the classification of the investment in the category of initial investment, respectively in the category of initial investment in favor of a new economic activity, in the case of large enterprises which perform investments in the Bucharest region   |   |
| <b>Justification of the need to perform the investment</b>  |   |
| Presentation of the relevant market of products/services realized as a result of the implementation of the investment with regard to demand, offer and price, as well as geographical area where they are traded  |   |
| Quantification and justification of the production capacity and of the degree of use thereof corresponding to the existing activity (in the case of operating enterprises), that corresponding to the investment, as well as substantiation of the need to increase the existing production capacity through the implementation of the investment |   |
| Analysis and substantiation of the financial projections for the period of implementation of the investment and 5 years as of the date of completion thereof  |   |
| Substantiation of the turnover through presentation of supporting documents revealing that there is an assurance of sale of the products/services obtained as a result of the investment being made   |   |
| Proving the stimulative effect of the State aid through presentation and substantiation of one of the situations provided under art. 13 para. (2) letter b) in this decision  |   |
| <b>Calculation and explanation of the quantitative indicators</b>   |   |
| Quantitative indicators   | Calculation and substantiation of the classification within the limits of the indicators throughout the period of implementation of the investment and for 5 years after completion thereof, based on the financial projections made in accordance with the legal provisions in force and the instructions from the Applicant's Guide |
| General solvency rate<br>$R_{sg} = \text{total assets}/\text{total debt}$   | $R_{sg} > 1.66$   |
| Turnover profitability<br>$R_{ca} = 100 \times (\text{net profit}/\text{turnover})$   | $R_{ca} \geq 2.5\%$   |
| Net result trend<br>$T_m = 100 \times (\text{the net result corresponding to the current period} - \text{Net result corresponding to the similar period of the previous year})/\text{Net result corresponding to the similar period of the previous year in absolute value}$  | $T_m \geq 0\%$  |
| Current liquidity rate<br>$R_{LC} = (\text{Current assets}/\text{Current debt})$  | $(R_{LC}) \geq 1,00$  |
| Indebtedness degree indicator*)<br>$I_{gi} = (\text{Borrowed capital}/\text{Committed capital}) \times 100$   | $(R_{ig}) \leq 60\%$  |
| Economic profitability rate<br>$R_e = (\text{Gross profit}/\text{Total assets}) \times 100$   | Higher than the inflation rate  |
| Financial profitability rate<br>$R_f = (\text{Net profit}/\text{own capitals of the enterprise}) \times 100$  | Higher than the average interest rate on the market   |
| <b>Proving and substantiating the qualitative indicators</b>  |   |
| Ensuring the necessary financial resources for performing the investment in accordance with the provisions of art. 1 letter kk) in the Procedure on the award of State aid and the instructions from the Applicant's Guide  |   |
| Position on the market and experience in the field for which financing is requested, in accordance with the instructions from the Applicant's Guide   |   |
| Impact of the award of the State aid on the competitive environment, in accordance with the instructions from the Applicant's Guide   |   |

|  |
|--|
| Contribution of the enterprise to economic growth and regional development, in accordance with the provisions of art. 1 letter h) in the Procedure on the award of State aid and the instructions from the Applicant's Guide   |
| Involvement of the enterprise in different social projects with positive impact on the community from the region where the investment is made, in accordance with the instructions from the Applicant's Guide  |
| The multiplier effect of the performance of the investment quantifiable in the economy through the engagement of other related investments and the development of the local providers of products and services from the region, in accordance with the instructions from the Applicant's Guide |
| Judicial status of the location of performance of the investment, respectively proving a right in rem over the location where the investment is to be made, in accordance with the instructions from the Applicant's Guide   |

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 \*) Borrowed capital = loans for terms longer than one year  
 Committed capital = borrowed capital + own capital

*ANNEX no. 4a to the procedure*

***Payment request of State aid***

We, the undersigned ....., having the identification details mentioned under point I, legally represented by Mr./Mrs....., acting in the capacity of....., identified with identity document series.....no....., issued by....., on....., domiciled in the locality of....., .... Street, building, entrance, apt....., district/county....., zip code....., hereby request payment of the State aid amounting to....., pursuant to the Financing Agreement no....., of....., and in accordance with the provisions of the State aid scheme whose objective is to stimulate investments with major impact on the economy, approved through Government Decision no. 807/2014, as subsequently amended and supplemented, observing the intensity of....., in accordance with the Financing Agreement.

**I. Enterprise identification details:**

Enterprise name: .....  
 Enterprise registration date: .....  
 Registration no. with the trade register office: .....  
 Tax identification code: .....  
 Address: .....  
 Phone: ..... Fax: ..... E-mail: .....  
 IBAN: ..... opened with Treasury: .....  
 I attach hereto the deduction form, in accordance with the model provided in annex no. 4b to the procedure.

**II. Declaration of honor**

I, the undersigned, ....., identified with identity card series.....no....., issued by.....on....., domiciled

in....., ..... Street, building....., entrance....., apt. ...., district/county....., acting as legal representative of the enterprise.....hereby declare on my own responsibility that all the information provided and registered in this request is correct and complete and that all copies of documents that accompany the request are compliant with the originals.

I understand that any omission or inaccuracy in presenting the information for the purpose of obtaining money advantages is punished in accordance with the law

I hereby declare on my own responsibility that the enterprise:

is not undergoing a procedure of forced execution, insolvency, bankruptcy, judicial reorganization, dissolution, operational closing, liquidation or temporary suspension of activity;

is not subject to decisions of recovery of State aid or, if such decisions have been issued, they have been enforced, in accordance with legal provisions in force;

it has not benefited and will not benefit of regional State aid for eligible costs of the type of salary costs within the same single investment project;

it has not made a relocation to the unit where the initial investment is to take place for which it requests aid in the last 2 years prior to the registration of the request for financing agreement and, at the time of registration of the request, it offers a commitment that it will not do this for a term of up to 2 years after finalization of the initial investment for which the aid is requested.

Name: .....

Position: .....

Signature \*1): .....

Date of signing: .....

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\*1) The request will be signed by the person authorized to legally represent the enterprise.

NOTE:

The payment request of the State aid is accompanied by the documents mentioned in the Payment Guide presented on the website of the Ministry of Public Finance.

**DEDUCTION FORM**

Enterprise: \_\_\_\_\_

Date: \_\_\_\_\_

| Code/<br>Position in<br>the<br>investment<br>plan | Activity<br>(construction<br>s/<br>installations/<br>intangible<br>assets) | Cost type<br>(manufacturing<br>line) | Inventory<br>no. | Denomination                                       |  | Purchase invoice |             |                 |                               |                    |                      | Plata              |  |   |                                       | Exchange<br>rate used<br>for the<br>registration<br>in the<br>accounting<br>records | Value registered in the accounting<br>records |             |  |   | Intensity<br>in<br>accordance<br>with the<br>financing<br>agreement<br>% | Request<br>ed State<br>aid<br>-lei- |  |                             |                    |
|---|--|--------------------------------------|------------------|--|--|------------------|-------------|-----------------|-------------------------------|--------------------|----------------------|--------------------|--|---|---------------------------------------|---|---|-------------|--|---|--|-------------------------------------|--|-----------------------------|--------------------|
|   |  |                                      |                  | Denominati<br>on from<br>the<br>investment<br>plan | Denominat<br>ion from<br>the<br>accounting<br>statements | Supplier         | Invoice no. | Invoice<br>date | Value in Lei/foreign currency |                    |                      |                    | Document<br>type<br>(PO/DPE)<br>no. and date | Account<br>stateme<br>nt (no.,<br>paymen<br>t date) | Value paid in Lei/foreign<br>currency |   |   |             | Total<br>foreign<br>currenc<br>y<br>exclusiv<br>e of VAT | Total<br>lei<br>exclusiv<br>e of<br>VAT |  |                                     | of which eligible<br>for which financing<br>is requested |                             |                    |
|   |  |                                      |                  |  |  |                  |             |                 | Total                         |                    | Of which<br>eligible |                    |  |   | Total                                 |   | Of which<br>eligible                          |             |  |   |  |                                     | Foreign<br>currenc<br>y<br>exclusiv<br>e of VAT          | Lei<br>exclusiv<br>e of VAT |                    |
|   |  |                                      |                  |  |  |                  |             |                 | with<br>VAT                   | witho<br>ut<br>VAT | with<br>VAT          | witho<br>ut<br>VAT |  |   | with<br>VAT                           |   | witho<br>ut<br>VAT                            | with<br>VAT |  |   |  |                                     |  |                             | witho<br>ut<br>VAT |
| 1   | 2  | 3                                    | 4                | 5  | 6  | 7                | 8           | 9               | 10                            | 11                 | 12                   | 13                 | 14   | 15  | 16                                    | 17  | 18  | 19          | 20   | 21                                      | 22   | 23                                  | 24   | 25                          | 26                 |
|   |  |                                      |                  |  |  |                  |             |                 |                               |                    |                      |                    |  |   |                                       |   |   |             |  |   |  |                                     |  |                             |                    |
|   |  |                                      |                  |  |  |                  |             |                 |                               |                    |                      |                    |  |   |                                       |   |   |             |  |   |  |                                     |  |                             |                    |
|   |  |                                      |                  |  |  |                  |             |                 |                               |                    |                      |                    |  |   |                                       |   |   |             |  |   |  |                                     |  |                             |                    |
|   |  |                                      |                  |  |  |                  |             |                 |                               |                    |                      |                    |  |   |                                       |   |   |             |  |   |  |                                     |  |                             |                    |
|   |  |                                      |                  |  |  |                  |             |                 |                               |                    |                      |                    |  |   |                                       |   |   |             |  |   |  |                                     |  |                             |                    |
|   |  |                                      |                  |  |  |                  |             |                 |                               |                    |                      |                    |  |   |                                       |   |   |             |  |   |  |                                     |  |                             |                    |

|   |                                      |                                   |
|---|--------------------------------------|-----------------------------------|
| Value of eligible expenditures for which deduction is requested,<br>of which: | Foreign currency exclusive of<br>VAT | Lei exclusive of VAT<br>(col. 24) |
|---|--------------------------------------|-----------------------------------|

|  |                    |
|--|--------------------|
| Value of requested State aid,<br>of which: | -lei-<br>(col. 26) |
|--|--------------------|

|                                      |           |  |
|--------------------------------------|-----------|--|
|                                      | (col. 23) |  |
| Constructions, of which:             |           |  |
| - made                               |           |  |
| - lease                              |           |  |
| Technical installations and machines |           |  |
| Intangible assets                    |           |  |
| <b>TOTAL</b>                         |           |  |

|                                      |  |
|--------------------------------------|--|
|                                      |  |
| Constructions, of which:             |  |
| - made                               |  |
| - lease                              |  |
| Technical installations and machines |  |
| Intangible assets                    |  |
| <b>TOTAL</b>                         |  |

Name: .....

Position: .....

Signature<sup>\*)</sup> : .....

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\*) The deduction form will be signed by the person authorized to legally represent the enterprise