

PROJECT PREPARATION FACILITY AGREEMENT

THE LITHUANIAN-SWISS COOPERATION PROGRAMME

AGREEMENT

BETWEEN

**THE MINISTRY OF FINANCE OF THE REPUBLIC OF LITHUANIA
AS THE NATIONAL COORDINATION UNIT (NCU)**

AND

THE STATE SECRETARIAT FOR ECONOMIC AFFAIRS (SECO)

ON

**THE GRANT FOR THE
PROJECT PREPARATION FACILITY**

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The State Secretariat for Economic Affairs (hereinafter referred to as "Switzerland") and the Ministry of Finance of the Republic of Lithuania (hereinafter referred to as "Lithuania"),

Hereinafter collectively referred to as the "Contracting Parties",

Having regard to the friendly relations between the two countries,

Desirous of strengthening these relations and the fruitful co-operation between the two countries,

Intending to promote further the social and economic development in Lithuania,

Referring to the Framework Agreement between the Swiss Federal Council and the Government of the Republic of Lithuania concerning the implementation of the Lithuanian-Swiss Cooperation Programme to reduce economic and social disparities within the enlarged European Union, concluded on 20 December 2007,

Considering the establishment of a Project Preparation Facility, in the favour of Lithuania in the context of the Lithuanian-Swiss Cooperation Programme,

have agreed as follows:

Article 1 Definitions

In this agreement, unless the context otherwise requires, the following terms shall have the following meaning:

- "Framework Agreement" means the Agreement between the Swiss Federal Council and the Government of the Republic of Lithuania concerning the implementation of the Lithuanian-Swiss Cooperation Programme to reduce the economic and social disparities within the enlarged European Union, concluded on 20 December 2007;
- "Contribution" means the non-reimbursable financial contribution granted by Switzerland under the Framework Agreement;
- "Project Preparation Facility Agreement" means the Agreement between the State Secretariat for Economic Affairs (SECO) and the Ministry of Finance of the Republic of Lithuania acting as the National Coordination Unit (NCU) which lays down the rights and obligations of the Contracting Parties regarding the set-up, management and implementation of the Project Preparation Facility;
- "National Coordination Unit" (NCU) means the Ministry of Finance of the Republic of Lithuania acting in charge of the coordination of the Lithuanian-Swiss Cooperation Programme;
- "Executing Agency" means any public authority, any public or private corporation as well as any organisation recognized by the Contracting Parties and mandated to implement a specific project financed under this Project Preparation Facility Agreement;

- "Grant" means the non-reimbursable financial contribution granted by Switzerland under this Project Preparation Facility Agreement;
- "Project Outline" means the project proposal submitted to Switzerland in view of the general appraisal of a project to be implemented in the framework of the Lithuanian-Swiss Cooperation Programme;
- "Final Project Proposal" means the project proposal submitted to Switzerland in view of the final approval of a project to be implemented in the framework of the Lithuanian-Swiss Cooperation Programme;
- "Applicant" means any Executing Agency that has submitted a request for financial support for the elaboration of the documentation of a Final Project Proposal under the Project Preparation Facility;

Article 2

Objective and Scope of the Project Preparation Facility

2.1 The objective of the Project Preparation Facility (hereinafter referred to as "the PPF") is to ensure the efficient preparation of Final Project Proposals as defined in Annex 2, chapter 2.4 of the Framework Agreement, by contributing to the costs incurred through their elaboration.

2.2 The PPF shall be used for the elaboration of the documentation for the Final Project Proposals resulting from Project Outlines approved by Switzerland.

2.3 The PPF shall be set up and implemented by the NCU according to the Framework Agreement, its Annexes and this Project Preparation Facility Agreement.

Article 3

Amount and Utilization

3.1 Switzerland shall provide a Grant of maximum CHF 500'000.00 (five hundred thousand Swiss Francs) to Lithuania to be used exclusively to finance the eligible costs as defined in Article 3.2 below.

3.2 The following costs incurred by the Executing Agency for the preparation of the Final Project Proposal are eligible for financing:

- a) Procurement of services for preparing studies, e.g. feasibility studies, environmental impact assessments, and/or any other document deemed appropriate to complement the Final Project Proposal in order to allow a thorough appraisal of the project.
- b) Translation costs into English of the documents cited under a).

3.3 Not eligible are:

- a) All kinds of mandates that lie within the function and field of competence of the Executing Agency.
- b) All kind of costs and taxes associated with these costs, required for the elaboration of the Final Project Proposal, which are not directly linked with services described in Article 3.2 of this Project Preparation Facility Agreement.
- c) Costs and taxes incurred before the date of signing of this Agreement, as well as costs and taxes incurred after 14th April 2012.
- d) VAT, which is recoverable, by whatever means, shall not be considered eligible even if it is not actually recovered by the Executing Agency.

3.4 The financing by the PPF according to Article 3.2 of this Project Preparation Facility Agreement shall not exceed 85% of the total eligible actual costs for the preparation of a Final Project Proposal.

3.5 The Contracting Parties may decide before the end of the commitment period of the Contribution, if deemed appropriate, by mutual consent, either to allocate additional means to the PPF or to transfer the unutilized portion of the Grant for the financing of other expenses or projects within the Lithuanian-Swiss Cooperation Programme.

3.6 Any portion of the Grant not allocated at the end of the commitment period of the Contribution, shall not be available anymore for the Lithuanian-Swiss Cooperation Programme.

Article 4

Procedures for a PPF application and award

4.1 The procedure for a PPF application shall fully comply with the procedures of project financing requests defined in the Framework Agreement, Annex 2, Chapter 2.

4.2 The Applicant submitting a Project Outline to the NCU may join a request for financial support under the PPF for the preparation of a Final Project Proposal. For this purpose, the Applicant shall fill in a PPF application form provided by the NCU.

4.3 The Project Outline and the PPF application form accepted by the NCU shall be submitted to Switzerland for approval.

4.4 The provision of financial support under the PPF is conditional on the approval of the Project Outline by Switzerland. Switzerland may make recommendations or request amendments to the proposed preparatory activities, including the scope, content, methodology and budget, to be financed under the PPF. These recommendations or requests for amendments shall be taken into account by the Applicant.

4.5 Switzerland shall communicate the award of funding under the PPF to the NCU together with the approval of the Project Outline.

4.6 Upon receipt of the decision by Switzerland to award funding under the PPF, the NCU shall inform the Applicant accordingly and make the necessary contractual arrangements with the Applicant for the provision and use of the awarded funds. The contractual arrangements between the NCU and the Applicant shall fully comply with this Project Preparation Facility Agreement.

Article 5 Reimbursement Procedures

5.1 The reimbursement procedure defined in the Framework Agreement, Annex 2, Chapter 4, shall fully apply to the PPF. All disbursements under the PPF shall be pre-financed by Lithuanian financial resources. Reimbursements by Switzerland of eligible actual expenditures shall be conditional upon receipt and approval by Switzerland of the reports pursuant to Article 9 of this Project Preparation Facility Agreement.

5.2 The transfer of the respective amounts by the NCU shall be conditional upon receipt and approval by the Executing Agency of the quality and completeness of the studies and documents prepared with the financial support of the PPF.

5.3 Justified expenditures for the preparation of the Final Project Proposal and / or supporting documentation under the PPF shall be reimbursed by Switzerland even if the Final Project Proposal is rejected.

5.4 The Reimbursement Requests sent to Switzerland shall be in Swiss Francs, whereas the NCU shall convert the local currency into Swiss Francs at the daily exchange rate of the Bank of Lithuania prevailing at the date the corresponding payment was executed by the NCU.

5.5 The equivalent value in local currency of each reimbursement made by Switzerland in Swiss Francs pursuant to the approval of the Reimbursement Requests will be recorded by the NCU using the daily exchange rate of the Bank of Lithuania prevailing at the date the reimbursement was received on the account of the Ministry of Finance of the Republic of Lithuania.

5.6 All payments related to this Project Preparation Facility Agreement shall be transferred by Switzerland to Lithuania, Ministry of Finance of the Republic of Lithuania account n°(IBAN) LT65 1010 0000 0663 2403, Swift N° LIAB LT 2X and bank code 10100 at The Bank of Lithuania, Gedimino av. 6, Vilnius, LT-01103.

Article 6 Procurement

Procurement is to be made in accordance with the requirements provided in Annex 2 (cf. 3.3) of the Framework Agreement and in accordance with the Lithuanian law and regulations and in compliance with the EU directives.

Article 7

Responsibilities of the NCU

7.1 The NCU is responsible for the implementation, controlling and monitoring of the PPF. Furthermore, the NCU is responsible for reporting on the PPF according to Article 9. The NCU ensures that all activities undertaken under the PPF are compliant with this Project Preparation Facility Agreement as well as with the Framework Agreement and its Annexes.

7.2 The main tasks of the NCU include:

- Prepare and make available the application form for financial support under the PPF;
- Decide on relevance and appropriateness of the requests for financial support under the PPF;
- Transmit to Switzerland applications for financial support under the PPF together with the respective Project Outline;
- Conclude contracting arrangements with the Executing Agency for the use of funds from the PPF that fully comply with this Project Preparation Facility Agreement;
- Ensure the verification of the payment claims received from the Executing Agencies;
- Ensure the verification of and approve the completeness of the documents prepared with the financial support under the PPF before paying the eligible incurred expenditures;
- Ensure the payment of a maximum of 85% of the eligible incurred expenditures from the Swiss Contribution;
- Ensure the timely provision to the PPF of the co-financing of a minimum of 15% from Lithuanian financial resources;
- Report periodically to Switzerland;
- Ensure the efficient and correct use of the funds.

The NCU can delegate part of the tasks and responsibilities mentioned above to the public institution Central Project Management Agency.

7.3. The NCU will at all time clearly state that it is acting within the framework of the Lithuanian-Swiss Cooperation Programme to reduce economic and social disparities within the enlarged European Union. The general public in Lithuania will be informed adequately about the PPF and the support provided by Switzerland.

7.4. The NCU shall ensure efficient and prompt investigation of any suspected and actual cases of fraud and irregularity. The NCU shall immediately report to the Swiss authorities all suspected and actual cases of fraud and irregularity as well as all measures related thereto, taken by the competent national authorities.

Article 8

Monitoring and Review

The NCU shall ensure the establishment of a monitoring system that allows to assess periodically the status of achievement of the proposed objective of the Project Preparation Facility Agreement (cf. Article 2). Monitoring results and conclusions shall be part of the annual reporting as stipulated in Article 9.3 of this Project Preparation Facility Agreement.

Article 9 Reporting

9.1 Reports shall meet the requirements mentioned in Annex 2 (cf. 3.5) of the Framework Agreement.

9.2 The NCU shall submit to Switzerland Interim Reports on the PPF semi-annually not later than two months after the end of each calendar half-year from beginning of the PPF including the names of the Executing Agencies and detailed information regarding the services procured under the PPF (title, amount, scope and financial status). Reimbursements by Switzerland to the NCU shall be conditional on the receipt and approval of the respective Interim Report by Switzerland.

9.3 The NCU shall submit to Switzerland an Annual Project Report on the PPF not later than three months after the end of each calendar year. The first Annual Project Report on the PPF covering the **year 2009 is due not later than 31th March, 2010**. The content of the Annual Project Report will include information about task realization, the number, budget and duration of the activities funded under the PPF and a financial statement with respect to the PPF, i.e. summary data on financial progress for the reporting year as well as cumulative data to date and forecast for the forthcoming period.

9.4 The NCU shall submit to Switzerland a Project Completion Report on the PPF not later than six months after the final date of eligibility of costs for the PPF, meaning not later than 14th October 2012. The final reimbursement shall be conditional on the receipt and approval by Switzerland of the Project Completion Report on the PPF and the conclusions of the Final Financial Audit of the PPF (cf. Article 10.2 and 10.7).

9.5. The Project Completion Report, together with the last Interim Report on the PPF and the Final Financial Audit of the PPF, is the base for the final reimbursement. It documents and comments the achievement of outputs and outcomes as well as lessons learned and conclusions.

Article 10 Audit

10.1 The NCU brought evidence that the Project as well as the NCU itself respect the legal obligations, respective guidelines, procedures, and that they have set up an appropriate structure and internal control system.

10.2. Based on a risk assessment and possible additional Swiss requirements, an annual system audit planning has been established. In accordance with the annual planning of system audits agreed upon with Switzerland, the entitled audit organisations (e.g. control unit of the NCU) shall perform control and audits in accordance with the respective national law. In doing so, they shall verify the correct use of funds, make recommendations to strengthen the control system and report to Switzerland any actual or alleged fraud or irregularity.

10.3 At the completion of the PPF an external certified Audit Organisation will carry out a closing Final Financial Audit. A copy of the Audit Organisation's report and of the Auditor's Letter (the

Auditor's Letter shall respect the International Standards on Auditing (ISA)) shall be transmitted to Switzerland by the NCU together with the Project Completion Report on the PPF, at the latest 14th October 2012.

10.4 The Final Financial Audit costs shall be borne by the Lithuanian-Swiss Technical Assistance Fund.

10.5 The NCU will procure an external certified company of recognised professional reputation. The NCU shall immediately communicate to Switzerland the name of the selected Audit Organisation. Audit arrangements with the Audit Organisation shall be effective for the whole duration of the PPF unless it is terminated, amended or superseded with appropriate justifications.

10.6 The objective of the Final Financial Audit of the PPF is to enable the Audit Organisation to express an opinion according to International Standard for Auditing (ISA) 200 whether the Financial Statements are prepared, in all material respects, in accordance with an applicable financial reporting framework. Thus, the financial statements need to be prepared in accordance with the authoritative and comprehensive financial reporting framework which has been designed for use in financial reporting and which is identified in the financial statements. The Audit Organisation shall conduct the respective Audit in accordance with ISA 200. The Audit Organisation shall take into account additional requirements that may be suggested by Switzerland.

10.7 In addition to the Audit Organisation's report on the financial statements, the Audit Organisation is expected to provide the NCU with an Auditor's Letter concerning any material weaknesses in accounting.

10.8 The NCU shall comment the results and the proposed recommendations of the Final Financial Audit of the PPF to Switzerland.

10.9 Switzerland shall have the right to request additional external financial audits. The costs of such financial audits shall be borne by Switzerland.

Article 11 Right of Examination

Switzerland, as well as any third party appointed by it, shall have the right to conduct a comprehensive assessment or review of the activities implemented under the PPF, and shall be granted full access to all documents and information related to the PPF activities settled by this Project Preparation Facility Agreement, meaning during its implementation and ten years after its completion on 14th April 2012 (cf. Annex 2, chapter 5 of the Framework Agreement). The NCU shall, upon request, ensure that the representatives of Switzerland, as well as any third party appointed by it, are accompanied by the relevant personnel and are provided with the necessary assistance.

Article 12
Liability

Switzerland does not assume any risk or responsibility whatsoever for any damages, injuries, or other possible adverse effects caused by the activities under the PPF. It is the full and sole responsibility of the NCU to satisfactorily address such issues.

Article 13
Settlement of Disputes

Any dispute which may result from the application of this Project Preparation Facility Agreement shall be solved by diplomatic means.

Article 14
Common Concern

The Contracting Parties share a common concern in the fight against corruption, which jeopardizes good governance and the proper use of resources needed for development, and, in addition, endangers fair and open competition based on price and quality. They declare, therefore, their intention of combining their efforts to fight corruption and, in particular, declare that any offer, gift, payment, remuneration or benefit of any kind whatsoever, made to whomsoever, directly or indirectly, with a view to being awarded a mandate or contract within the framework of this Project Preparation Facility Agreement, or during its execution, will be construed as an illegal act or corrupt practice. Any act of this kind constitutes sufficient grounds to justify annulment of this Project Preparation Facility Agreement, the procurement or resulting award, or for taking any other corrective measure laid down by the applicable law.

Article 15
Irregularities Clause

15.1 In case of irregularities, regarding the execution of the Project Preparation Facility Agreement, Switzerland is entitled to:

- a) stop reimbursements immediately
- b) instruct the NCU to stop payments from the Swiss Contribution
- c) ask repayment of illegitimately paid reimbursements at any stage of the activities.

15.2 Irregularities are notably considered to be all actions or non-actions that are aimed at the illegitimate obtainment and/or usage of the Contribution - notably fraud, misappropriation, misrepresentation, breach of contractual duties, breach of duty of care and the like.

15.3 Switzerland shall immediately and in written form communicate the reasons for the respective instructions to the NCU and the other actors involved.

Article 16
Termination, Suspension

16.1 This Project Preparation Facility Agreement can be terminated at any time by one of the Contracting Parties upon a six-month prior written notice. The Contracting Parties shall decide by mutual agreement on any consequences of the termination.

16.2 If either Contracting Party considers that the aims of the Project Preparation Facility Agreement can no longer be achieved or that the other Contracting Party is not meeting its obligations, it shall have the right to suspend immediately the application of this Project Preparation Facility Agreement by giving the other Contracting Party a written notice on the grounds.

Article 17
Amendments

17.1 Any amendment to this Project Preparation Facility Agreement shall be made in writing with the mutual agreement of the Contracting Parties and according to their respective procedures.

17.2 Any increase of or reallocation from the PPF budget, any significant changes within the budget as well as any strategic changes or conceptual adjustments to the PPF shall be discussed with and approved by Switzerland.

Article 18
Language

All correspondence with Switzerland, including operational, financial, and audit reports as well as any other documents related to the PPF, shall be elaborated in English.

Article 19
Contact Information

19.1 For the Lithuanian Government:

Ministry of Finance of the Republic of Lithuania
International Financial Assistance
Co-ordination Division
J. Tumo-Vaizganto str. 8a/2
01512 Vilnius
Lithuania

19.2 For the Swiss Government:

State Secretariat for Economic Affairs (SECO)
Swiss Contribution WEKO
Effingerstrasse 1
3003 Bern
Switzerland

Embassy of Switzerland
Swiss Contribution Office
Elizabetes iela 2
1340 Riga
Latvia

19.3 All communication to Switzerland with regard to this Project Preparation Facility Agreement shall be directed to the Swiss Embassy in Riga, which generally represents Switzerland towards the NCU.

Article 20 Entry into Force, Duration

20.1 This Project Preparation Facility Agreement shall enter into force on the date of its signing by the Contracting Parties, shall be effective until 14th of April 2012 and shall remain in force until all obligations under it have been fulfilled.

Signed in two authentic copies in the English language.

**For Ministry of Finance of the
Republic of Lithuania**

**For the State Secretariat for
Economic Affairs (SECO)**

Rolandas Kriščiūnas

Beatrice Maser Mallor

**Undersecretary of the Ministry
of Finance**

**Ambassador and Delegate of
the Swiss Government for
Trade Agreements,
Head of Economic
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