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**GEF TRUST FUND GRANT NUMBER TF052278-LT**

# **Global Environment Facility Trust Fund Grant Agreement**

**(Vilnius Heat Demand Management Project)**

**between**

**VILNIUS CITY MUNICIPALITY**

**and**

**INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT**

**acting as an Implementing Agency of the Global Environment Facility**

**Dated July 15, 2003**

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## **GEF TRUST FUND GRANT NUMBER TF052278-LT**

### **GLOBAL ENVIRONMENT FACILITY TRUST FUND GRANT AGREEMENT**

AGREEMENT, dated July 15, 2003, between the INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank), acting as an implementing agency of the Global Environment Facility (GEF) in respect of grant funds provided to the GEF Trust Fund by certain members of the Bank as participants of the GEF and the Vilnius City Municipality (“VCM”), (the Recipient), a municipality duly established and operating under the laws of the Republic of Lithuania and further defined in paragraph (b) of Section 1.02 of this Agreement.

WHEREAS (A) the Bank, pursuant to Resolution No. 91-5 of March 14, 1991, of the Executive Directors of the Bank, established the GEF to assist in the protection of the global environment and promote thereby environmentally sound and sustainable economic development;

(B) following the restructuring of the GEF, such arrangements continued in place on the basis set forth in Resolution No. 94-2 of May 24, 1994, of the Executive Directors of the Bank which, inter alia, established the GEF Trust Fund and appointed the Bank as trustee of the GEF Trust Fund (Resolution No. 94-2);

(C) the second replenishment of the GEF Trust Fund was approved on the basis set forth in Resolution No. 98-2 of July 14, 1998, of the Executive Directors of the Bank (Resolution No. 98-2);

(D) the Recipient, having satisfied itself as to the feasibility and priority of the project described in Schedule 2 to this Agreement (the Project), has requested assistance from the resources of the GEF Trust Fund for funding Parts B, C and D of the Project, and said request having been approved in accordance with the provisions of the Instrument for the Establishment of the Restructured Global Environment Facility approved under Resolution 94-2, and to be funded from contributions to the GEF Trust Fund under Resolution No. 98-2, which may include funds carried over from the first replenishment of the GEF Trust Fund under Resolution No. 94-2;

(E) Part A of the Project will be carried out by Vilniaus Energija (VE), as set forth in an agreement of even date herewith between the Bank acting as an implementing agency of the GEF and VE hereinafter referred to as the “Vilniaus Energija GEF Grant Agreement”;

(F) the Bank has relied on the representations and warranties by the Recipient that the Project has been designed and will be implemented in accordance with

the provisions of the United Nations Framework Convention on Climate Change (UNFCCC) dated May 9, 1992 and ratified by the Republic of Lithuania on March 24, 1995.

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to extend the GEF Trust Fund Grant to the Recipient upon the terms and conditions set forth in this Agreement;

NOW THEREFORE, the parties hereto hereby agree as follows:

## **ARTICLE I**

### **General Conditions; Definitions**

Section 1.01 (a) The following provisions of the General Conditions Applicable to Loan and Guarantee Agreements for Currency Pools of the Bank, dated January 1, 1985, as amended through October 6, 1999, with the modifications set forth in paragraph (b) of this Section (the General Conditions) constitute an integral part of this Agreement:

- (i) Article I;
- (ii) Sections 2.01 (1), (2), (3), (4), (6), (8), (9), (10), (11), (15), (18) and (20), 2.02 and 2.03;
- (iii) Section 3.01;
- (iv) Section 4.01 and the first sentence of Section 4.09;
- (v) Article V;
- (vi) Sections 6.01, 6.02 (a), (c), (d), (e), (f), (i), (k), (m), (n), (o), and (p), 6.03, 6.04 and 6.06;
- (vii) Section 8.01 (b);
- (viii) Sections 9.01 (a) and (c), 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09;

- (ix) the second sentence of Section 10.01 and Sections 10.03 and 10.4;
  - (x) Article XI; and
  - (xi) Sections 12.01 (c), 12.03 and 12.04.
- (b) The General Conditions shall be modified as follows:
- (i) the term “Bank”, wherever used in the General Conditions, other than in Sections 2.01 (8) and 6.02 (f) thereof and the last use of such term in Section 5.01 thereof, means the Bank acting as an implementing agency of the GEF, except that in Section 6.02, the term “Bank” shall also include the Bank acting in its own capacity;
  - (ii) the term “Borrower”, wherever used in the General Conditions, means the Recipient;
  - (iii) the term “Loan Agreement”, wherever used in the General Conditions, means this Agreement;
  - (iv) the term “Loan” and “loan”, wherever used in the General Conditions, means the GEF Trust Fund Grant;
  - (v) the term “Loan Account”, wherever used in the General Conditions, means the GEF Trust Fund Grant Account;
  - (vi) a new subparagraph (q) is added to Section 6.02 of the General Conditions, as follows: “an extraordinary situation shall have arisen in which any further disbursement under the GEF Trust Fund Grant would exceed the resources available for disbursement from the GEF.”
  - (vii) Section 10.04 is modified to read as follows:

"Any dispute arising out of or relating to this Agreement which is not settled by agreement of the parties shall be finally settled by arbitration in accordance with the UNCITRAL Arbitration Rules in force on the date of this Agreement. The place of

arbitration shall be Washington, D.C. In the event of a conflict between the UNCITRAL Arbitration Rules and the terms of this Agreement, the terms of this Agreement shall govern."

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions and in the Recitals to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Demand Side Management Measures" and "DSM Measures" mean the supply and installation services as well as repair works, including window refurbishment and replacement, thermal insulation of walls and roofs, and other measures to reduce energy losses in the buildings of the Vilnius City under Part B of the Project;

(b) "Energy Conservation Program Commercial Fund Manager" and "ECP Fund Manager" mean the entity hired by VCM under Terms of Reference satisfactory to the Bank, to administer the ECP Commercial Fund;

(c) "Energy Conservation Program Commercial Fund" and "ECP Commercial Fund" mean the Fund set up under Part B of the Project;

(d) "Energy Conservation Program Management Board" and "ECP Management Board" mean a supervisory body established by the Vilnius City Municipality and consisting of at least one representative (chairman) from the Vilnius City Municipality, one representative from VE, and one independent representative from a reputable private sector company active in the provision of energy efficiency services in Vilnius;

(e) "Energy Conservation Program Manual" and "ECP Manual" mean a manual, satisfactory to the Bank, to be adopted and maintained by the Recipient pursuant to the provisions of paragraph 2 of Schedule 4 to this Agreement, as such manual may be revised from time to time with the prior approval of the Bank;

(f) "Energy Conservation Project" and "EC Project" mean an EC Proposal acceptable to the Bank, proposed by the Purchaser, evaluated and supported by the ECP Commercial Fund Manager and approved by the ECP Management Board;

(g) "Energy Conservation Proposal" and "EC Proposal" mean a proposal made by a Purchaser, under Part B of the Project to buy DSM Measures from the ECP Commercial Fund Manager;

(h) “Environmental Management Plan” means the plan, satisfactory to the Bank, prepared and adopted by the Recipient in accordance with the ECP Manual, describing the environmental issues, mitigation, monitoring and institutional measures to be applied in the implementation of the Project;

(i) “Euro” or “€” means the lawful currency of the member States of the European Union that have adopted the single currency in accordance with the Treaty Establishing the European Community, as amended by the Treaty on European Union;

(j) “GEF Eligible Categories” means categories (1), (2), (3) and (4) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(k) “GEF Eligible Expenditures” means the expenditures for works and services referred to in Section 2.02 of this Agreement;

(l) “GEF Special Account” means the account referred to in Section 2.02 (b) of this Agreement.

(m) “Litas” means the lawful currency of the Republic of Lithuania;

(n) “Municipality” means the Vilnius City Municipality in the Republic of Lithuania;

(o) “Purchaser” means a homeowner or a homeowners’ representative appointed in accordance with the laws of Lithuania, who applies to the Recipient or its ECP Commercial Fund Manager for the purchase of DMS Measures;

(p) “Sales Contract” means the agreement referred to in paragraph 4 of Schedule 4 to this Agreement, to be entered into between the ECP Commercial Fund Manager and a Purchaser;

(q) “Vilniaus Energija” and “VE” means UAB Vilniaus Energija, a private limited company engaged in heating and energy efficiency services, duly established and operating in the Republic of Lithuania pursuant to the registration dated January 25, 2002, carried out in accordance with the provisions of the Law on registration of enterprises of the Republic of Lithuania, or any successor thereto.

## **ARTICLE II**

### **The GEF Trust Fund Grant**

Section 2.01. The Bank agrees to make available to the Recipient, on the terms and conditions set forth or referred to in this Agreement, the GEF Trust Fund Grant in an amount equivalent to four million Dollars (\$4,000,000).

Section 2.02. (a) The amount of the GEF Trust Fund Grant may be withdrawn from the GEF Trust Fund Grant Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for carrying out of Parts B, C and D of the Project and to be financed out of the proceeds of the GEF Trust Fund Grant.

(b) The Recipient may, for the purposes of Parts B, C and D of the Project, open and maintain in Euros a special account in a commercial bank on terms and conditions satisfactory to the Bank, including appropriate protection against set-off, seizure and attachment. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 5 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2008, or such later date as the Bank shall establish. The Bank shall promptly notify the Recipient of such later date.

## **ARTICLE III**

### **Execution of the Project**

Section 3.01. (a) The Recipient declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and, to this end, shall carry out Parts B, C and D of the Project with due diligence and efficiency and in conformity with appropriate administrative, engineering, environmental, financial and district heating management practices and with due regard to ecological and environmental factors as set forth, *inter alia*, in the United Nations Framework Convention on Climate Change and the Kyoto Protocol to said Convention, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Recipient and the Bank shall otherwise agree, the Recipient shall carry out Parts B, C and D of the Project in accordance with the Implementation Program set forth in Schedule 4 to the this Agreement.

Section 3.02. Except as the Bank shall otherwise agree, procurement of goods, works and consultants' services required for Parts B, C and D of the Project and to be financed out of the proceeds of the GEF Trust Fund Grant shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.03. For the purposes of Section 9.07 of the General Conditions and without limitation thereto, the Recipient shall:

(a) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Recipient and the Bank, a plan for the future operation of the Project; and

(b) afford the Bank a reasonable opportunity to exchange views with the Recipient on said plan.

#### **ARTICLE IV**

##### **Financial Conditions**

Section 4.01. (a) The Recipient shall and shall cause the Fund Manager to maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with accounting standards acceptable to the Bank, consistently applied, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to the Project.

(b) The Recipient shall and shall cause its Fund Manager to:

(i) have the records and accounts for the Project, GEF Special Account and ECP Commercial Fund for each fiscal year audited, in accordance with auditing standards acceptable to the Bank, consistently applied, by independent auditors acceptable to the Bank;

(ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year, (A) certified copies of the financial statements referred to in paragraph (a) of this Section, for such year as so audited, and (B) an opinion on such statements and report of such audit, by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and



- (iii) furnish to the Bank such other information concerning such records, accounts and financial statements, and the audit thereof, and concerning said auditors, as the Bank may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the GEF Grant Account were made on the basis of statements of expenditure, the Recipient shall and shall cause the Fund Manager to:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and separate accounts reflecting such expenditures;
- (ii) retain, until at least one (1) year after the Bank has received the audit report for the Fiscal Year in which the last withdrawal from the Grant Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Bank's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

Section 4.02. (a) Without limitation upon the Recipient's progress reporting obligations set out in paragraph 1(b) of Schedule 4 to this Agreement, the Recipient shall and shall cause the Fund Manager to prepare and furnish to the Bank a financial monitoring report (FMR), in form and substance satisfactory to the Bank, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the GEF Trust Fund Grant and explains variances between the actual and planned uses of such funds;
- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and

explains variances between the actual and planned Project implementation; and

- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Bank not later than forty-five (45) days after the end of the first quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first quarter, thereafter, each FMR shall be furnished to the Bank not later than 45 days after each subsequent calendar quarter, and shall cover such quarter.

## **ARTICLE V**

### **Remedies of the Bank**

Section 5.01. Pursuant to Section 6.02(p) of the General Conditions, the following additional events are specified, namely that the law establishing the Municipality shall have been amended, suspended, abrogated, repealed or waived so as to affect, materially and adversely, the ability of the Recipient to perform any of its obligations under this Agreement.

## **ARTICLE VI**

### **Effectiveness, Termination**

Section 6.01. The following events are specified as conditions to the effectiveness of the GEF Grant Agreement within the meaning of Section 12.01(c) of the General Conditions:

(a) The Vilnius Energija GEF Grant Agreement has been executed and delivered and all conditions precedent to its effectiveness have been fulfilled.

(b) The Recipient shall have established the Energy Conservation Program Management Board, with composition and terms of reference acceptable to the Bank.

Section 6.02. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

Section 6.03. This Agreement shall continue in effect until the GEF Trust Fund Grant has been fully disbursed and the parties to this Agreement have fulfilled all their obligations hereunder.

**ARTICLE VII**

**Representative of the Recipient; Addresses**

Section 7.01. The Mayor of Vilnius City Municipality is designated as representative of the Recipient for the purposes of Section 11.03 of the General Conditions.

Section 7.02 The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Recipient:

Vilnius City Municipality  
Gedimino Avenue, 9  
LT-2600 Vilnius  
Republic of Lithuania

Facsimile:  
370-5-212 6123

For the Bank:

International Bank for  
Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:	Telex:	Facsimile:
INTBAFRAD	248423 (MCI) or	(202) 477-6391
Washington, D.C.	64145 (MCI)	

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Vilnius, Republic of Lithuania, as of the day and year first above written.

VILNIUS CITY MUNICIPALITY

By: /s/ Arturas Zuokas

Authorized Representative

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT  
as an implementing agency of the Global Environment Facility

By: /s/ Mantas Nocius

Authorized Representative

**SCHEDULE 1**

**Withdrawal of the Proceeds of the GEF Trust Fund Grant**

1. The table below sets forth the Categories of items to be financed out of the proceeds of the GEF Trust Fund Grant, the allocation of the amounts of the GEF Trust Fund Grant to each Category and the percentage of expenditures for items so to be financed in each Category:

	<u>Category</u>	<u>Amount of the GEF Trust Fund Grant Allocated (Expressed in US Dollars)</u>	<u>% of Expenditures to be Financed</u>
(1)	Works for DSM Measures		80%
(b) Phase II	(a) Phase I 1,500,000	1,500,000	
(2)	Commercial Fund Management Services	500,000	82%
(3)	Consultants' Services including Audits	400,000	82%
(4)	Incremental Operating Costs	100,000	82%
	TOTAL	<u>4,000,000</u>	

2. For the purposes of this Schedule, the term:

(a) "Incremental Operating Costs" means the reasonable cost and expenses incurred by the Recipient, in respect of the implementation of Parts B, C and D of the Project for contractual staff, office equipment and supplies, office rent, telecommunication, bank charges for the special account, transportation, advertising, marketing, representation, public relations and other public outreach efforts; and

(b) "Works for DSM Measures" means the repair works, supply and installation of equipment associated with window refurbishment and replacement,

thermal insulation of walls and roofs, and other measures for reducing energy losses in the buildings of Vilnius City.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) expenditures prior to the date of this Agreement, except that withdrawals, in an aggregate amount not exceeding the equivalent of \$100,000 may be made on account of payments made for expenditures before that date but after May 1, 2003;

(b) payments made for expenditures under Category 1(a) or 1(b) until: (i) the Recipient has hired an ECP Fund Manager under Terms of Reference satisfactory to the Bank; (ii) the Bank has conducted an assessment of the capacity of the ECP Fund Manager and found it satisfactory; and (iii) the Recipient has submitted an ECP Manual satisfactory to the Bank; and

(c) payments made for expenditures under Category 1(b), until the Bank shall have notified the Recipient of its receipt of a satisfactory mid-term review report prepared in accordance with the provisions of paragraph 8(b) of Schedule 4 to this Agreement and including information on commitment of funds from sources other than the GEF:

(i) in amount not less than \$1,500,000 equivalent for contribution towards expenditures incurred under Category 1(a) of the Project; and

(ii) in amount not less than \$1,500,000 for contributions towards expenditures that will be incurred under Category 1(b).

4. (a) Subject to paragraph 4(b) below, the Bank may require withdrawals from the GEF Trust Fund Grant Account to be made on the basis of statements of expenditure for expenditures for: (a) works under contracts costing less than \$100,000 equivalent each; (b) consultants' firms under contracts costing less than \$100,000 equivalent each; (c) individual consultants under contracts costing less than \$50,000 equivalent each; and (d) all Incremental Operating Costs, all under such terms and conditions as the Bank shall specify by notice to the Recipient.

(b) Withdrawals from the GEF Trust Fund Grant Account shall not be made on the basis of statements of expenditure for expenditures under contracts that are covered by the provisions of Section I, Part D.2 and Section II, Part D.2, both of Schedule 3 to this Agreement.

If the Bank shall have determined at any time that any payment made from the GEF Trust Fund Grant Account was used for any expenditure not consistent with the provisions of this Agreement, and/or without the consent of the Bank, the Recipient shall or shall cause the Fund Manager, promptly upon notice from the Bank, refund to the Bank for deposit into the GEF Trust Fund Grant Account, an amount equal to the amount so used or the portion thereof as specified by the Bank.

## SCHEDULE 2

### Description of the Project

The objectives of the Project are to reduce the emissions of greenhouse gases from the Vilnius District Heating System through reducing the barriers to, and implementing, financially sustainable energy efficiency investments in the residential buildings of the Vilnius City.

The Project consists of the following parts, subject to such modifications thereof as the Recipient and the Bank may agree upon from time to time to achieve such objectives:

#### Part A            Apartment-Level Demand-Side Management

Supply and installation of equipment, including thermostatically-controlled radiator valves, electronic heat cost allocators and remote readers for hot water meters.

#### Part B.            Energy Conservation Program Commercial Fund

1. Provision of financing through the Energy Conservation Commercial Fund for the supply and installation of equipment outlined in selected proposals on a commercially sustainable basis, to promote energy efficiency improvements in the residential sector in Vilnius.
2. Provision of financing for the services of a Manager responsible for the overall administration of the Energy Conservation Commercial Fund.

#### Part C            Monitoring and Evaluation

1. Monitoring and evaluating the Project through development and application of a monitoring protocol; and
2. Disseminating project information to the public, existing national and international networks of experts and agencies engaged in energy efficiency projects.



Part D            Project Management

Provision of technical assistance, including audit services, for managing Project implementation.

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The Project is expected to be completed by December 31, 2007.

### **SCHEDULE 3**

#### **Procurement**

##### Section I. Procurement of Works

###### Part A: General

Works shall be procured in accordance with the provisions of Section I of the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the Bank in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines) and the following provisions of Section I of this Schedule.

###### Part B: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, works shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

###### Part C: Other Procurement Procedures

###### National Competitive Bidding

Works estimated to cost less than \$2,000,000 equivalent per contract, may be procured under contracts awarded in accordance with the provisions of paragraph 3.3 and 3.4 of the Guidelines and the following provisions:

(a) On an annual basis, the Recipient, or the ECP Commercial Fund Manager acting on behalf of the Recipient, shall advertise nationally requests for bids for works required for the implementation of Part B of the Project.

(b) Based on the bids received, the Recipient, or the ECP Commercial Fund Manager acting on behalf of the Recipient, shall:

- (i) prepare a list of contractors consisting of responsive suppliers offering the first three lowest bids, provided that each bid does not exceed 15% of the lowest bid price; and

- (ii) with respect to said list of responsive contractors, finalize the terms and conditions and accepted prices for a period of not less than one year.

(c) The Recipient, or the ECP Commercial Fund Manager acting on behalf of the Recipient, shall contract with the lowest priced contractor from the said list, or the next lowest priced supplier, in accordance with the provisions of sub-paragraph (d) below, provided that no contract may exceed an amount equivalent to US\$2,000,000.

(d) The Recipient, or the ECP Commercial Fund Manager acting on behalf of the Recipient, shall contract with the next lowest priced contractor if the lowest priced contractor would be unable to meet the delivery schedule.

Part D: Review by the Bank of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of works shall be undertaken in accordance with such procurement plan as shall have been approved by the Bank, and with the provisions of said paragraph 1.

2. Prior Review

(a) With respect to all contracts to be procured in accordance with International Competitive Bidding under Part B of this Section, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

(b) With respect to the first three contracts in the first year and the first contract in the second and following years, to be procured in accordance with national competitive bidding procedures under Part C of this Section, the following procedures shall apply:

- (i) prior to the issuance of bid documents, the Recipient shall provide to the Bank draft bid documents for its review;
- (ii) prior to the selection of any contractor under national competitive bidding procedures in accordance with Parts C (a)

and (b) of this Section, the Recipient shall provide to the Bank a bid evaluation report for its review;

- (iii) prior to the execution of any contract procured under Parts C (c) and (d) of this Section, the Recipient shall provide to the Bank the draft contract; and
- (iv) the procedures set forth in paragraphs 2(f), 2(g) and 3 of Appendix 1 to the Guidelines shall apply.

### 3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

## Section II. Employment of Consultants

### Part A: General

Consultants' services shall be procured in accordance with the provisions of Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in January 1997 and revised in September 1997, January 1999 and May 2002 (the Consultant Guidelines), paragraph 1 of Appendix 1 thereto, Appendix 2 thereto and the following provisions of Section II of this Section.

### Part B: Quality- and Cost-based Selection

1. Except as otherwise provided in Part C of this Section, consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provisions shall apply to consultants' services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph. The short list of consultants for services for energy audit of buildings and investment planning, estimated to cost less than \$100,000 equivalent per contract, may comprise entirely national consultants in accordance with the provisions of paragraph 2.7 of the Consultant Guidelines.

Part C: Other Procedures for the Selection of Consultants

1. Least-cost Selection

Services under Part D, of the Project estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

2. Individual Consultants

Services of individual consultants for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines may be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.

Part D: Review by the Bank of the Selection of Consultants

1. Selection Planning

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under the Project shall be furnished to the Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Consultant Guidelines. Selection of all consultants' services shall be undertaken in accordance with such selection plan as shall have been approved by the Bank, and with the provisions of said paragraph 1.

2. Prior Review

(a) The procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply to the following:

- (i) each contract for the employment of consulting firms to be procured in accordance with the provisions of Part B.1 of this Section; and
- (ii) the first contract in each year to be procured in accordance with the provisions of Part C.1 of this Section.

(b) With respect to all consultants' contracts, the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Bank for its prior review and approval. The contract shall be awarded only after said approval shall have been given.

3. Post Review

With respect to each contract not governed by paragraph 1 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

## **SCHEDULE 4**

### **Implementation Program**

#### Management of the Project

1. The Recipient shall establish and maintain an Energy Conservation Program Management Board, established pursuant to the provisions of Section 6.01(b) of this Agreement, as a special Working Group, to be overall responsible for, inter alia, coordinating, supervising and monitoring the implementation of the Project.

#### Energy Conservation Program Manual

2. With respect to Part B of the Project, the Recipient shall:

(a) hire an ECP Commercial Fund Manager in accordance with the Bank's Guidelines for the Selection of Consultants outlined in Schedule 3 to this Agreement;

(b) adopt, and maintain in effect, a manual of operations (ECP Manual), consistent with the business plan developed by the selected ECP Commercial Fund Manager and acceptable to the Bank, which manual shall include: (i) eligibility criteria for Purchasers, EC Proposals and appraisal of EC Proposals; (ii) procedures for the approval of EC Proposals; (iii) terms and conditions for the sale of DSM Measures; and (iv) procedures for the sale and installation of DSM Measures under approved EC Proposals;

(c) thereafter, to carry out Part B of the Project in accordance with such manual as shall have been approved by the Bank and, inter alia, promote, review and facilitate the approval of EC Proposals, monitor and supervise approved EC Proposals, all in accordance with the criteria, conditions and procedures set out in the ECP Manual; and

(d) not to amend, delete, suspend, or waive any part of the ECP Manual, without the prior approval of the Bank.

#### ECP Commercial Fund Management Contract

3. For purposes of carrying out Part B (2) of the Project, the Recipient shall:

(a) enter into an agreement with an entity and on terms and conditions, acceptable to the Bank, whereby said entity shall act as an agent for the Recipient for purposes of, inter alia:

- (i) carrying out technical, financial, and economic appraisals of EC Proposals and presenting them to the ECP Management Board for approval;
- (ii) carrying out energy audits of buildings proposed for EC Projects;
- (iii) conducting procurement of goods, installation services and works necessary to implement the EC Projects on behalf of the Recipient;
- (iv) implementing EC Projects approved by the ECP Management Board in accordance with the provisions of the ECP Manual;
- (v) monitoring and supervising the implementation of EC Projects;
- (vi) executing a marketing program for ECP and its products; and
- (vii) operating the ECP Commercial Fund in a financially prudent and sustainable manner, realizing a sufficient return on the investments made in the EC Projects to enable the Fund's operation on an ongoing basis.

(b) not amend, delete, suspend, or waive any part of the ECP Commercial Fund Management Contract, without the prior approval of the Bank.

#### Sales Contracts

4. For purposes of carrying out Part B of the Project, the ECP Commercial Fund Manager shall:

(a) After an EC Proposal has been approved and prior to delivering and installing any DSM Measures to the Purchaser, enter into a Sales Contract with said Purchaser, on terms and conditions acceptable to the Bank, including those set out in the ECP Manual, which terms and conditions shall include the following:



- (i) The sale price shall be paid by the Purchaser in Litas over a period specified in the ECP Manual in an amount equal to: (A) the cost of the DSM Measures purchased; and (B) plus a service charge, to be determined in accordance with the provisions of the ECP Manual.
  - (ii) An initial payment shall be made by the Purchaser prior to installation of the DSM Measures in an amount to be determined in accordance with criteria outlined in the ECP Manual.
  - (iii) In implementing an approved EC Proposal, a Purchaser shall undertake to take, or cause to be taken, all actions necessary or appropriate to enable the Recipient to carry out abatement measures, if applicable, in accordance with provisions of the Environmental Management Plan set out in the ECP Manual.
  - (iv) The Purchaser, upon reasonable request by the Recipient or the Bank, shall cooperate in (A) enabling the Recipient or the Bank to inspect the DSM Measures purchased under its Sales Contract; and (B) furnishing all such information requested relating to the foregoing and to the benefits derived from the EC Project.
- (b) Exercise its rights in relation to each Sales Contract in such manner as to protect the interests of the Bank and the Recipient and achieve the objectives of the Project.
- (c) Not assign, amend, abrogate or waive any of its rights under a Sales Contract, or any provision thereof, without the prior approval of the Bank.

Use of Proceeds under Sales Contracts

5. The Recipient shall utilize all monies received from a Purchaser under a Sales Contract to finance additional EC Projects, in accordance with the provisions of the ECP Manual.

Rate of Disbursement

6. The Recipient shall maintain, on an annual basis, a ratio of the amount of the GEF Grant proceeds disbursed under Category 1 of Schedule 1 to this Agreement to an amount equal to the aggregate of sale prices of DSM Measures for which Sale Contracts have been signed by the ECP Commercial Fund Manager and the Purchasers, of not more than 1.2.

Environmental Management Plan

7. When installing and implementing DSM Measures that have been approved under an EC Proposal, the Recipient shall carry out abatement measures, if applicable, in a timely manner and keep adequate information on the carrying out of such measures in accordance with the Environmental Management Plan as set forth in the ECP Manual.

Monitoring and Reporting

8. The Recipient shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators acceptable to the Bank, the carrying out of Parts B, C, and D of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank, on or about June 1, 2006, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph 8(a) above, on the progress achieved in the carrying out of Parts B, C and D of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of Parts B, C and D of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Bank on June 30, 2006, or such later date as the Bank shall request, the report referred to in paragraph 8(b) above, and, thereafter, take all measures required to ensure the efficient completion of Parts B, C and D of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of said report and the Bank's views on the matter.

## **SCHEDULE 5**

### **Special Account**

1. For the purposes of this Schedule:
  - (a) the term “eligible Categories means Categories 1, 2, 3 and 4 set forth in the table in paragraph 1 of Schedule 1 to this Agreement in respect of the Project;
  - (b) the term “eligible expenditures” means expenditures in respect of the reasonable cost of goods, works and services required for the Project and to be financed out of the proceeds of the GEF Trust Fund Grant allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and
  - (c) the term “Authorized Allocation” means an amount equivalent to \$400,000 to be withdrawn from the GEF Trust Fund Grant Account and deposited into the Special Account pursuant to paragraph 3(a) of this Schedule, provided, however, that unless the Bank shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$200,000 until the aggregate amount of withdrawals from the GEF Trust Fund Grant Account plus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of \$1,000,000.
2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.
3. After the Bank has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:
  - (a) For withdrawals of the Authorized Allocation, the Recipient shall furnish to the Bank a request or requests for deposit into the Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Bank shall, on behalf of the Recipient, withdraw from the GEF Trust Fund Grant Account and deposit into the Special Account such amount or amounts as the Recipient shall have requested.
  - (b) (i) For replenishment of the Special Account, the Recipient shall furnish to the Bank requests for deposits into the Special Account at such intervals as the Bank shall specify.

- (ii) Prior to or at the time of each such request, the Recipient shall furnish to the Bank the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Bank shall, on behalf of the Recipient, withdraw from the GEF Trust Fund Grant Account and deposit into the Special Account such amount as the Recipient shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures. All such deposits shall be withdrawn by the Bank from the GEF Trust Fund Grant Account under the respective eligible Categories and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Recipient out of the Special Account, the Recipient shall, at such time as the Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Bank shall not be required to make further deposits into the Special Account:

(a) if, at any time, the Bank shall have determined that all further withdrawals should be made by the Recipient directly from the GEF Trust Fund Grant Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement;

(b) if the Recipient shall have failed to furnish to the Bank, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Bank pursuant to said Section in respect of the audit of the records and accounts for the Special Account;

(c) if, at any time, the Bank shall have notified the Recipient of its intention to suspend in whole or in part the right of the Recipient to make withdrawals from the GEF Trust Fund Grant Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the GEF Trust Fund Grant allocated to the eligible Categories minus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General

Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the GEF Trust Fund Grant Account of the remaining unwithdrawn amount of the GEF Trust Fund Grant allocated to the eligible Categories shall follow such procedures as the Bank shall specify by notice to the Recipient. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Bank, the Recipient shall, promptly upon notice from the Bank: (A) provide such additional evidence as the Bank may request; or (B) deposit into the Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Bank shall otherwise agree, no further deposit by the Bank into the Special Account shall be made until the Recipient has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Bank shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Recipient shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount.

(c) The Recipient may, upon notice to the Bank, refund to the Bank all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Bank made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the GEF Trust Fund Grant Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.