

AGREEMENT

between

THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

and

[name of the implementing agency]

FOR THE IMPLEMENTATION OF THE

[name of the Project]

This Implementing Partner Agreement, (hereinafter referred to as the “Agreement”) is made between the Organization for Security and Co-operation in Europe, (hereinafter referred to as the “OSCE”), represented by the OSCE Office in Baku, and *[name of the implementing agency]*, (hereinafter referred to as *[“...”]*), jointly referred to as the “Parties”;

Whereas, the OSCE has been entrusted with the administrative and financial monitoring of the *[name of the Project]* (hereinafter referred to as the “Project”);

Whereas, *[name of the implementing agency]* has been selected and is ready to co-operate with the OSCE in compliance with the organization's regulatory framework in order to implement the Project;

NOW, THEREFORE, for and in consideration of the representations, warranties and mutual agreement of the Parties set forth in this Agreement, the Parties have agreed as follows:

Article 1: Project

The Project subject to this Agreement is described in its *[Annex/es]*, which *[form/s]* an integral part of the Agreement.

Article 2: Duration of the Project

The duration of the Project shall be *[e.g. 12/ months]* and the implementation of the Project shall commence on the day of countersignature of this Agreement.

Article 3: General Obligations of “...” *[name of the implementing agency]*

1. *[name of the implementing agency]* shall be responsible for the implementation of the Project in accordance with this Agreement and its *[Annex/es]*.
2. *[name of the implementing agency]* shall undertake the tasks referred to in the *[Annex/es]* of the Agreement.

3. *[name of the implementing agency]* shall be responsible and accountable towards the OSCE for the proper management of the funds allocated to the Project, which shall be exclusively used for its implementation.
4. *[name of the implementing agency]* shall provide all the facilities necessary for the OSCE to monitor the Project and shall inform the OSCE about all major events, reports and studies related to it during the course of implementation of the Project.

Article 4: Staff Requirements

1. *[name of the implementing agency]* shall employ the staff necessary for the implementation of the Project and shall enter into contracts with them directly as their employer. *[name of the implementing agency]* shall ensure that all relevant national labour laws are observed.
2. The staff shall work under the supervision and responsibility of *[name of the implementing agency]*, which shall be fully accountable for all acts and services performed by its staff. In no case shall the OSCE be responsible for the staff employed by *[name of the implementing agency]* to implement the Project.
3. Staff employed by *[name of the implementing agency]* for the implementation of the Project shall be selected in consultation with the OSCE and by open competition. *[name of the implementing agency]* shall ensure that its staff meet the highest standards of qualification and technical and professional competence necessary for the implementation of the Project. *[name of the implementing agency]* shall ensure that its staff is free from any conflicts of interest relative to the Project activities.

Article 5: General Obligations of the OSCE

The OSCE shall:

1. transmit the funds allocated to the *[name of the implementing agency]* for the purpose of implementing the Project, in accordance with Article 6 of the Agreement;
2. monitor the adequate implementation of the Project by the *[name of the implementing agency]* and the proper management of the funds allocated; and
3. perform the tasks referred to in the Annexes of the Agreement.

Article 6: Budget and Payments

1. The budget of the Project shall be specified in its *[Annex/es]*, which *[form/s]* an integral part of the Agreement. *[name of the implementing agency]* shall assume financial responsibility for the execution of this budget.
2. The OSCE shall finance the Project for an amount not exceeding AZN *[amount]* which shall be paid in *[eg. two (2)]* instalments:
 - (a) A first instalment of AZN *[amount]* equivalent to 40 % of the budget of the Project shall be paid within *[e.g. fifteen (15)]* calendar days upon signature of this Agreement;

- (b) A second instalment of AZN *[amount]* equivalent to 40 % of the budget of the Project shall be payable within *[fifteen (15)]* days only upon submission of the interim financial report, as approved by the Programme Manager, on the usage of the first instalment; and
 - (c) The final balance of the Project's budget shall be paid within thirty (30) calendar days upon approval by the OSCE Project Manager of the Final Narrative Report and the Final Financial Report submitted by *[name of the implementing agency]*. The Final Narrative Report and Final Financial Report, including the financial audit statement, shall be submitted by *[name of the implementing agency]*, no later than 15 days prior to the end of the Project as specified in Article 2 above.
3. Notwithstanding the foregoing, this Agreement does not create any obligation whatsoever for the OSCE to pay the second or subsequent instalments in the event that the OSCE budget has not been approved or has not been approved in good time to ensure the uninterrupted implementation of the Project. It also does not oblige the OSCE to sign any further agreements or make any further contributions or commitments.
4. The payments shall be transferred to the following bank account:
- [bank details of the implementing agency]*.
- [name of the implementing agency]* shall acknowledge receipt of each payment within seven (7) calendar days of receipt.
5. The OSCE may withhold or cancel any or all payments if *[name of the implementing agency]* fails to use the contribution exclusively for the Project, in accordance with the provisions of this Agreement and its *[Annex/es]*.
6. The OSCE shall not be liable for any additional expenses, fees or any other financial costs incurred by *[name of the implementing agency]* which exceed the amount budgeted and agreed upon by the OSCE in this Agreement and its *[Annex/es]*.
7. No consideration, offer, gift or payment, or benefit of any kind, which constitutes an illegal or inappropriate practice, shall be made to anyone, either directly or indirectly, as an inducement or reward for the award or execution of this Project. Any such practice shall constitute grounds for terminating this Agreement or taking any other corrective action as required.

Article 7: Reporting

1. In addition to the interim reports and financial statements required under Article 6.2 above, *[name of the implementing agency]* shall provide the OSCE Project manager with a final financial and narrative report no later than *[e.g. thirty (30)]* calendar days following the completion of the Project. The final financial report must be supported by an independent audit statement.
2. The narrative report shall provide:
- (a) A brief reiteration of the Project objectives;
 - (b) A summary of the activities undertaken;
 - (c) Information on the achievement of the objectives;
 - (d) An evaluation of the Project, including any problems or successes encountered;
 - (e) The impact expected.

3. The final financial statement shall provide information on the financial status, including income, expenditures and unspent balance.
4. The reports shall be submitted in English.
5. *[name of the implementing agency]* shall keep accurate and up-to-date financial and accounting records and documents in respect of all expenditures incurred concerning the Project funded by the OSCE. For each disbursement, proper supporting documentation shall be maintained, including original invoices, bills and receipts pertinent to the transaction. Upon completion of the Project or termination of the Agreement, *[name of the implementing agency]* shall maintain the records for a period of at least seven (7) years. *[name of the implementing agency]* shall make available relevant financial information including statements of accounts concerning this contribution. The OSCE shall have unrestricted access to all documents related to the Project at any time.
6. The use of the funds for the Project's activities shall be subject to internal and/or external audits. The external audit shall be performed by a public accounting firm, the cost of which shall be included in the budget.

Article 8: Equipment and other Goods

1. To the extent authorized in the budget, *[name of the implementing partner]* may directly procure goods not exceeding an aggregate total of 250 AZN and which are not considered "attractive assets" according to OSCE terminology (such as mobile phones, GPS units and handheld radios; reference: PFAI7, Article 2.2.2.2). Otherwise the OSCE shall purchase any equipment and other goods necessary for the implementation of the Project in accordance with the OSCE procurement rules.
2. Equipment and other goods furnished or financed by the OSCE for the implementation of the Project shall remain the property of the OSCE and shall be returned to the OSCE upon completion of the Project or upon termination of this Agreement.
3. *[name of the implementing agency]* shall ensure that the equipment and other goods furnished or financed by the OSCE is exclusively utilised for the implementation of the Project.
4. *[name of the implementing agency]* shall be responsible for the proper custody, maintenance and care of the equipment and other goods, and shall obtain appropriate insurance for its protection during the implementation of the Project.
5. *[name of the implementing agency]* shall maintain complete and accurate records of the equipment and other goods which shall be made available to the OSCE upon request.

Article 9: Liability

1. *[name of the implementing agency]* shall indemnify, hold and save harmless and defend at its own expense, the OSCE, its officials and persons performing services for the OSCE, from and against all suits, claims, demands and liability of any nature and kind, arising out of or in connection with the Project.
2. *[name of the implementing agency]* and the staff placed under its supervision for the implementation of the Project shall avoid any action, which may adversely reflect on the image and status of the OSCE.

Article 10: Intellectual Property Rights

1. All rights, title and interest, including without limitation, all copyrights and patents, in and to any material produced and invention developed by *[name of the implementing partner]* in the performance of its services under this Agreement, shall be vested exclusively in the OSCE. Any use of these materials shall require prior approval of the OSCE.
2. *[name of the implementing partner]* may use the name and logo of the OSCE only in direct connection with the Project, and subject to prior consent of the OSCE Office in Baku.
3. The OSCE funding of Project activities shall be acknowledged in any printed material prepared in connection with the Project. Where appropriate, *[name of the implementing partner]* shall acknowledge the OSCE in publications, speeches and press releases or in any similar media.

Article 11: Communication

All communications relating to the implementation of the Project shall be addressed as follows:

For the OSCE:

- Project manager
- Address
- Telephone
- Telefax
- E-mail

For *[name of the implementing agency]*:

- Project manager
- Address
- Telephone
- Telefax
- E-mail

Article 12: Agreement and Annex/es

The *[Annex/es]* shall form an integral part of the Agreement. Where there are discrepancies or conflicts between or among this Agreement and its *[Annex/es]*, the Agreement shall prevail.

Article 13: Settlement of Disputes

Any dispute, controversy or claim arising out of or in relation to this Agreement shall be settled through negotiations between the Parties. If the Parties fail to settle the dispute amicably within sixty (60) days of commencement of the negotiations, the dispute shall be settled through arbitration. Arbitration shall be performed in accordance with the UNCITRAL arbitration rules. One (1) sole arbitrator shall be appointed who shall have full powers to make final and binding decisions. The appointing authority shall be the International Chamber of Commerce. The place of arbitration shall be Vienna and the language used in the arbitration proceedings shall be English.

Article 14: Privileges and Immunities

Nothing in or relating to this Agreement shall be deemed a waiver, of any of the privileges and immunities enjoyed by the OSCE and its staff.

Article 15: Suspension

1. The implementation period of the Project is set forth in Article 2 of the Agreement. *[name of the implementing agency]* must inform the OSCE without delay of any circumstances likely to hamper or delay the implementation of the Project. *[name of the implementing agency]* may

request an extension of the Project's implementation period no later than one month before it ends. The request must be accompanied by all supporting evidence needed for its appraisal.

2. *[name of the implementing agency]* may suspend implementation of all or part of the Project if circumstances (mainly *Force Majeure*) make continuation too difficult or dangerous. *[name of the implementing agency]* must inform the OSCE without delay and provide all the necessary details. Each Party may terminate the Agreement in accordance with Article 16 of the Agreement. If the Agreement is not terminated, *[name of the implementing agency]* shall endeavour to minimize the time of its suspension and shall resume implementation once circumstances allow, after obtaining the prior written approval of the OSCE.
3. The implementation of the Project shall be extended by a period equivalent to the length of suspension, without prejudice to any amendment to the Agreement that may be necessary to adapt the Project to the new implementing conditions.
4. *Force Majeure* shall mean any unforeseeable exceptional situation or event beyond the control of the Parties which prevents either of them from fulfilling any of their contractual obligations, is not attributable to error or negligence on their part (or the part of their contractors, agents or employees) and proves insurmountable in spite of all reasonable efforts. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as *Force Majeure*. A Party shall not be held in breach of its obligations if it is prevented from fulfilling them by *Force Majeure*. Without prejudice to any termination provisions herein, the Party faced with the *Force Majeure* shall inform the other Party without delay, stating the nature, probable duration and foreseeable effects of the problem, and take any measure to minimize possible damage.

Article 16: Termination

1. If a Party believes that the Agreement can no longer be executed effectively or appropriately, it shall consult the other party. Failing consensus on a solution, either Party may terminate the Agreement by serving two (2) months written notice, without being requested to pay compensation.
2. The OSCE may terminate the Agreement with immediate effect, without paying compensation of any kind, where the *[name of the implementing agency]*:
 - (a) fails, without justification, to fulfil any of the obligations incumbent on it and, after being give notice by letter to comply with those obligations, still fails to do so or to furnish a satisfactory explanation within thirty (30) days of sending the letter;
 - (b) is bankrupt or being wound up, is having its affairs administered by the courts, has entered into arrangements with creditors, has suspended business activities, is the subject of proceedings concerning those matters or is in any analogous situation arising from a similar procedure provided for in national legislation;
 - (c) has been convicted of an offence concerning professional conduct by a judgement with has the force of *res judicata* or is guilty of grave professional misconduct proven by any justified means;
 - (d) engages in any act of fraud or corruption or is involved in a criminal organization or any other illegal activity detrimental to the OSCE's financial interests: this provision also applies to the partners, contractors and agents of *[name of the implementing agency]*;

- (e) changes legal personality, unless an addendum recording that fact is drawn up; or
 - (f) makes false or incomplete statements to obtain the finance provided for in the Agreement or provides reports that are manipulated.
3. Additionally, in the event of a change in the mandate of the OSCE that would affect the interest of the OSCE for the implementation of the Project, or in the event of budgetary constraints, the OSCE may terminate the Agreement upon providing fifteen (15) days written notice to the *[name of the implementing agency]*.
 4. In event of termination other than under point 2 of this Article, *[name of the implementing agency]* shall be entitled to payment of the Agreement amount only for the part of the Project carried out, excluding costs connected with current commitments that would be implemented after termination. For this purpose the *[name of the implementing agency]* shall introduce a payment request and a Final Report.
 5. In the event of wrongful termination of the Agreement by the *[name of the implementing agency]* under point 1 of this Article and in the cases specified in sub points (d), (e) and (f) of point 2 of this Article, the OSCE may request full or partial repayment of sums already paid from the Agreement amount in proportion to the failings in question and after allowing the *[name of the implementing agency]* to submit its arguments and observations.
 6. Prior to, or instead of, terminating the Agreement as provided for in this Article, the OSCE may suspend payments as a precautionary measure without prior notice.
 7. This Agreement shall be terminated automatically if it has not given rise to any payment by the OSCE within six (6) months of its signature.

Article 17: Amendment

Any modifications of this Agreement and its Annex shall be subject to the written approval of both Parties.

Done in *[place]* in two originals in the English language.

For *[name of the implementing agency]*

For the OSCE

 Name of the designated
 representative
 Signature and official seal

 Name and title of the designated
 representative of the OSCE
 Signature and official seal

 Date of Signature

 Date of Signature