

**EUROPEAN COOPERATING STATE AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA
AND
THE EUROPEAN SPACE AGENCY**

the Government of the Republic of Lithuania,

and

The European Space Agency, hereinafter referred to as "the Agency", established by the Convention opened for signature in Paris on 30 May 1975, hereinafter referred to as "the Convention",

hereinafter referred to as the "Parties",

CONVINCED of the benefits of sustaining and enhancing the level of international cooperation in space activities for exclusively peaceful purposes,

HAVING REGARD to the results of the cooperation achieved under the Agreement between the Government of the Republic of Lithuania and the Agency signed on 7 October 2010 and which entered into force on 19 December 2011,

HAVING REGARD to the Resolution on the implementation of measures concerning the European Cooperating States (ECS) adopted by the Agency Council on 21 March 2001 (ESA/C/CL/Res. 2 (Final)), by which the Agency introduced a new cooperative approach designed for European non-Member States with a view to their possible accession to the Convention,

CONSIDERING the wish expressed by the Government of the Republic of Lithuania to implement the European space policy and to strengthen its cooperation with the Agency within the frame of this new ECS cooperative approach,

CONSIDERING that the Republic of Lithuania together with the other EU Member States not members of the Agency has been invited in May 2011 by the Agency's Council to attend the Agency's Council and its subordinate bodies meetings for those matters of common interest between the Agency and the European Union;

HAVING REGARD to Articles II and XIV.1 of the Convention,

Have agreed as follows:

Article 1

1.1 Through the present Agreement, the Government of the Republic of Lithuania and the Agency agree to cooperate in space activities, in accordance with the terms herein. For the purpose of such cooperation, upon entry into force of this Agreement, the Government of the Republic of Lithuania shall become a European Cooperating State, (hereinafter referred to as "ECS"). The Government of the Republic of Lithuania hereby acknowledges and accepts that the Agency establishes cooperation agreements with other non-Member States similar to the present Agreement, thus also qualifying such other States as ECS.

1.2 The Government of the Republic of Lithuania agrees that, at all levels of its cooperation with the Agency as an ECS, it will act in conformity with the purposes for which the Agency was created as defined in the Convention, in particular the exploration and utilisation of space for exclusively peaceful purposes.

Article 2

2.1 The Government of the Republic of Lithuania shall be associated with implementation of the Agency's jointly selected programmes and activities, exclusive of the Agency's basic technology research programme, through its financial contribution to the Plan for European Cooperating States (hereinafter referred to as "PECS"), the content of which shall be mutually agreed with the Agency, subject to the other provisions of the Agreement.

2.2 The Government of the Republic of Lithuania shall also receive Announcements of Opportunity for Agency scientific missions allowing it to propose the procurement of instruments to be integrated in these Agency missions at Principal Investigator (PI) or Co-Investigator (CI) level.

Article 3

3.1 Subject to the terms of Article 7 and the prior requirements and obligations of the Agency, the Government of the Republic of Lithuania shall have access on a cost-reimbursable basis to the Agency's facilities and services for its national space projects covered by the present Agreement. The methods used in calculating costs shall be those applied to the Agency's Member States when utilising Agency facilities and services for their own national space projects. In return, the Government of the Republic of Lithuania shall make its facilities and services available to the Agency and its Member States on equitable terms.

3.2 In developing its national space potential and in planning national space missions, the Government of the Republic of Lithuania shall make primary reference to the use of European space transportation systems, and of facilities, products and services belonging to, or developed or operated under the auspices of, the Agency or its Member States. The Government of the Republic of Lithuania shall, further, support the Agency's efforts to promote the use of European

transportation systems, facilities, products and services by those international bodies to which it belongs that employ systems or services with a space-based component.

Article 4

4.1 For the purposes of this Agreement "Intellectual Property" has the meaning stated in Article 2 of the Convention establishing the World Intellectual Property Organisation, done in Stockholm, 14 July 1967.

4.2 The Parties shall, in compliance with the applicable rules and procedures, ensure adequate and effective protection of Intellectual Property as may arise from the work done under the Agreement and of any pre-existing rights that may come into play in the course of such cooperation.

4.3 The specific provisions concerning the rights of access, dissemination and use of technical information and data as well as intellectual property developed under the present Agreement, shall follow the Agency's rules and procedures.

4.4 The Parties shall strive, within the framework of the legislation or regulations applicable to each of them, to facilitate exchanges of scientific and technical information, data and goods, of mutual interest concerning space science, technology and applications necessary for the implementation of the present Agreement.

Article 5

5.1 The Government of the Republic of Lithuania and the Agency shall exchange information concerning:

a) the content and planning of their current and future space programmes;

b) matters of scientific and technical interest arising out of their space activities. In particular, the Government of the Republic of Lithuania shall receive reports published and made available by the Agency, as well as information relating to the progress of Agency programmes.

5.2 Provision of any Agency information shall in all cases be subject to the observance by the Government of the Republic of Lithuania of any proprietary rights to the information, while the Government of the Republic of Lithuania further undertakes not to disseminate information that is proprietary subject to non-disclosure Agreements signed with the Agency or is not otherwise generally available beyond the territories of the Republic of Lithuania and the Agency's Member States, whether directly or through intermediaries operating within or outside those territories.

5.3 The Government of the Republic of Lithuania shall not be required to communicate any information obtained outside the Agency if such information is classified under the legal acts of the Republic of Lithuania or if it considers that such communication would be inconsistent with the interests of its own agreements with third parties, or the conditions under which such information was obtained.

5.4 The Government of the Republic of Lithuania and the Agency shall, as appropriate, exchange experts concerned with work within the competence of the Agency, in conformity with the laws and regulations relating to the entry into, stay in or departure from the Republic of Lithuania.

5.5 The Government of the Republic of Lithuania shall have access to the Agency's young graduate and fellowship programmes, subject to conditions to be mutually agreed.

5.6 The Government of the Republic of Lithuania and the Agency shall also consult together when they are represented at international organisations, conferences and meetings relating to space activities, for the purpose of exchanging views on matters of mutual concern and shall seek to harmonise as appropriate their positions on matters which are likely to have a bearing on implementation of their common space programmes and activities.

Article 6

6.1 For matters relevant to the implementation of this Agreement and the coordination with other ECS, a dedicated committee referred to as the "PECS Committee" shall be established by the ECS and shall be operated in accordance with the terms of the attached Appendices to the present Agreement.

6.2 For matters relating to the PECS and for matters of common interest between the Agency and the European Union, the Government of the Republic of Lithuania shall be entitled to attend meetings of the Agency's Council and/or its subsidiary bodies as an observer through one representative, who may be accompanied by advisers. The Government of the Republic of Lithuania shall receive draft agendas and relevant documents available to Member States to enable it to participate in meetings of Council and/or its subsidiary bodies as an observer.

6.3 The Government of the Republic of Lithuania shall be invited to attend meetings of the Agency's Council held at Ministerial level as an observer through one representative who may be accompanied by advisers. The Republic of Lithuania shall receive the draft agenda and relevant documents available to Member States to enable it to participate in such meetings.

Article 7

The Government of the Republic of Lithuania shall participate in and, in conformity with the Agency's financial regulations and instructions, contribute financially to the PECS, in particular through its subscription of the "PECS Charter", in accordance with the terms of the Appendices to the present Agreement.

Article 8

8.1 With respect to the geographical distribution of contracts relating to the PECS in which the Government of the Republic of Lithuania participates, the Agency shall implement the applicable industrial policy rules referred to in Appendix I to the present Agreement.

8.2 Special yearly reviews shall be held between the Government of the Republic of Lithuania and the Agency in order to discuss the convergence and complementarities of industries of the Republic of Lithuania with the space industries of the Agency's Member States.

Article 9

For the execution of the Agency's official activities undertaken within the frame of the present Agreement, the Government of the Republic of Lithuania shall grant the following privileges and immunities:

9.1 The Agency shall have, in the territory of the Republic of Lithuania, legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property, and to be a party to legal proceedings.

9.2 The Agency shall have immunity from jurisdiction and execution except:

- a) where the Agency has expressly waived such immunity in a particular case;
- b) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, or operated on behalf of the Agency, or in respect of a motor traffic offence involving such a vehicle;
- c) in respect of an enforcement of an arbitration award made under Article 12 below.

9.3 Within the scope of its official activities, the Agency, its property and income shall be exempt from direct taxes in the Republic of Lithuania. The Agency shall also be exempted from indirect taxes when purchases or services of substantial value, strictly necessary for the exercise of the official activities of the Agency within the frame of the present Agreement, are made or used, by the Agency, in accordance with the rules and procedures applicable to these exemptions.

9.4 Goods imported or exported by the Agency and strictly necessary for the exercise of its official activities shall be exempt from all import and export duties and taxes and from all import or export prohibitions and restrictions in accordance with the rules and procedures applicable to these exemptions. Any such imported or exported goods may not be sold, lent or transferred with or without payment in the territory of the Republic of Lithuania according to conditions defined by the Government of the Republic of Lithuania. The Government of the Republic of Lithuania and the Agency shall define the procedures to be applied to the export or import of assets used in connection with their cooperation. The Agency shall cooperate with the authorities of the Republic of Lithuania in order to ensure that the goods imported or exported by the Agency are being used for its official activities undertaken within the frame of the present Agreement.

9.5 The Agency may receive and hold in the Republic of Lithuania any kind of funds, currency, cash or securities; it may dispose of them freely in the

Republic of Lithuania for any official purpose of the Agency and hold accounts in any currency.

9.6 Staff members of the Agency shall be exempt from taxes on their salaries, emoluments, benefits and pensions received in respect of current or previous service with the Agency.

9.7 The circulation of publications and other information material sent by or to the Agency shall not be restricted in any way.

Article 10

The Government of the Republic of Lithuania shall notify the Agency's Director General of the name of the authority appointed to represent it for the implementation of the present Agreement, as well as the names of its representative and advisers attending any meetings in accordance with Article 6 of this Agreement.

Article 11

The Parties shall each be solely liable for the conduct of their own activities in the execution of the present Agreement. In particular, they shall each have a right of recourse against the other in respect of damage of any kind to persons or property caused by the other and shall hold each other harmless against any claims made by a third party in respect of damage caused by their own activity.

Article 12

12.1 Any dispute arising out of the application or interpretation of this Agreement which cannot be settled amicably between the parties shall, at the request of either party, be submitted to an arbitration tribunal.

12.2 The arbitration tribunal shall consist of three members, one arbitrator appointed by the Government of the Republic of Lithuania, one designated by the Agency and a third arbitrator, who shall be elected by the first two arbitrators and who shall be the Chairman. If, within a period of six months from the date of the request for arbitration, either party has not named its choice, the arbitrator shall, at the request of either party, be appointed by the President of the International Court of Justice. The same procedure shall apply if, within six months of the designation or appointment of the first two arbitrators, the third has not been elected.

12.3 The arbitration Tribunal shall establish its own procedure; its decision shall be final and binding.

Article 13

The Appendices to the present Agreement shall form an integral part of the present Agreement.

Article 14

14.1 The present Agreement, after signature by the Parties and its approval in accordance with the legal order of the Republic of Lithuania, shall enter into force upon subscription by the Government of the Republic of Lithuania of the PECS Charter referred to in Article 7 and detailed in Appendix I, except for the rules contained in Appendix II A and B which shall be applicable upon signature. This

subscription of the PECS Charter shall be made at the latest one year after the signature of the present Agreement unless the Parties have agreed another time limit. In the event the said subscription has not occurred within the above time limit, the present Agreement shall be null and void.

14.2 Upon its entry into force, the present Agreement shall replace the cooperation agreement between the Government of the Republic of Lithuania and the Agency referred to in the preamble, it being understood that its provisions shall nevertheless continue to apply to the extent necessary to secure the implementation of any contracts that have been concluded within the framework of that agreement and which are still effective on the date on which that agreement ceases to have effect.

Article 15

15.1 Unless previously terminated in accordance with the provisions of paragraph 3 below, the present Agreement shall terminate five years after the date of its entry into force. One year before the expiry of this Agreement, the Parties shall review the results of its implementation on the basis of the outcome of the yearly reviews referred to in Article 8 and shall examine ways and means of continuing or further developing such cooperation. The Parties shall in particular examine the possibility of the Government of the Republic of Lithuania being granted the status of Associate Member or Member State of the Agency.

15.2 In the event of the continuation of the present cooperation, the present Agreement may be extended by mutual agreement in writing.

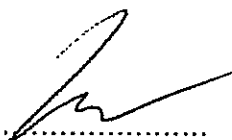
15.3 Either party may denounce the Agreement by giving written notice not less than one year before the intended date of termination which shall correspond to the end of the calendar year.

15.4 Termination of this Agreement shall not affect the validity of those rights and obligations of either Party which are meant to survive termination of the Agreement or its interpretation such as, but not limited to, arbitration, confidentiality, liability, intellectual property rights, nor of contracts entered into in pursuance of this Agreement. After the termination of the present Agreement, the Government of the Republic of Lithuania shall in particular remain bound by its financial obligations corresponding to its share of the total costs of a given approved activity to which it has committed under the PECS.

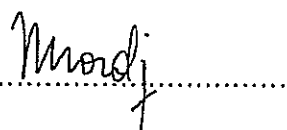
15.5 The Government of the Republic of Lithuania and the Agency may amend the provisions of this Agreement by mutual agreement. Amendments, except for those made exclusively to the appendices, shall take effect on the date of notification that both parties have met the necessary internal conditions for the amendments to enter into force. Amendments made exclusively to the Appendices shall be made in accordance with the terms of these appendices.

Done at*Paris*..... on ...*7 October 2014*...

in two originals in the Lithuanian and English languages, both texts being equally authentic. The Agency will provide translations in the French and German languages. In the event of any dispute or divergence of interpretation in relation to this Agreement the text in the English language shall prevail.

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**For the Government of the Republic
of Lithuania**

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For the European Space Agency

Appendix I

Plan for European Cooperating States (PECS): Objectives, Rules and Procedures

I. Objectives

I.1 Overall objectives of the PECS

The overall objective of the PECS is to associate the Government of the Republic of Lithuania with Agency programmes and activities and to prepare in the most efficient manner for possible future accession to the Convention.

I.2 Specific objectives of the PECS

- a) Develop cooperation between scientific and applications user communities in the Republic of Lithuania and Agency Member States.
- b) Create and strengthen the respective industrial expertise and capacity of the Republic of Lithuania with a view to allowing a fair and equitable industrial participation in future Agency programmes after accession.
- c) Provide indirect access to the Agency's programmes and activities and access to joint Agency/EU programmes, in accordance with the terms and conditions of the applicable legal instruments.
- d) Foster the Government of the Republic of Lithuania's understanding of the Agency's organisation and functioning of European space products, standards and procedures.

e) Ensure coherence between the space activities of Member States and the Government of the Republic of Lithuania e.g. by avoiding unnecessary duplication.

I.3 Areas and categories of activities to be covered by the PECS

I.3.1 The PECS will cover four main categories of activities, as defined in I.3.2 below, in the following five areas:

- a) Space science, in particular space astronomy and astrophysics, solar system exploration and solar-terrestrial physics;
- b) Earth observation research and applications, in particular environmental monitoring, meteorology, aeronomy and geodesy;
- c) Telecommunications, in particular service demonstrations and satellite navigation;
- d) Microgravity research, in particular space biology and medicine, and materials processing;
- e) Ground segment engineering and utilisation.

I.3.2 The categories of activities covered by the PECS are the following:

- a) Technology and equipment relating to the Agency's optional programmes which are not on the critical path for execution of the Agency's programmes ("non-critical path technology");
- b) Scientific projects and/or experiments;
- c) Data exploitation;
- d) Support to Small and Medium Enterprises (SMEs).

I.3.3 The detailed activities to be covered by the PECS shall be defined in a rolling five-year plan to be renewed, at the end of the fourth year of each five-year period in the light of the negotiations concerning renewal of the Agreement between the Government of the Republic of Lithuania and the Agency, for a new five-year period starting at the end of the fifth year. The five-year draft plan shall

be approved within the framework of the PECS Committee and may be updated every year in accordance with the procedures set out below.

II. Rules and procedures

II.1 Implementation of the PECS

II.1.1 The Agency shall execute the PECS in conformity with its rules and procedures, unless otherwise provided for in the present objectives, rules and procedures.

II.1.2 A dedicated Committee, hereinafter referred to as "the PECS Committee", shall be set up to monitor and control implementation of the PECS. The PECS Committee's terms of reference and rules of procedure are described in Appendix II below.

II.1.3 National institutions under the jurisdiction of the Republic of Lithuania may, at the Agency's request and with the agreement of the Government of the Republic of Lithuania, provide technical support for one or more activities to be executed under the PECS; where appropriate, such support shall be covered by an exchange of letters between the institution concerned and the Agency, which shall be forwarded for information to all the other ECSs and to the Council of the Agency.

II.1.4 The Agency shall make its facilities and services available for activities performed under the PECS in accordance with the provisions of Article 3.1 of the present Agreement. In particular the Agency's Electronic Mail Invitation Tender System (EMITS) shall be made available to registered firms in the Republic of Lithuania on the following conditions:

- a) Read-only access for Agency programmes; and

b) Full access to activities included in the PECS, and access to joint Agency/EU programmes, in accordance with the terms and conditions of the applicable legal instruments.

II.2 Content of the PECS

Prior to the start of activities for a five-year period, the Agency shall draw up a five-year PECS, based on inputs received from the Government of the Republic of Lithuania and Member States in accordance with the following procedure:

II.2.1 The Agency shall consult with the Government of the Republic of Lithuania on its wishes regarding non-critical path technology.

II.2.2 Taking into account the provisions of Article 6 of the Agreement, the Agency shall thereafter establish a preliminary draft five-year PECS to be discussed in each Programme Board and Committee, and shall submit it for approval, by a two-thirds majority vote of the Member States or the participants concerned, to the following Agency Committees and Programme Boards with a view to its approval by the PECS Committee:

a) to the relevant Agency Programme Boards: with respect to contributions by the Government of the Republic of Lithuania in the development and/or the exploitation phase of systems and payloads or to the development of non-critical path technology, to be undertaken within the framework of Agency optional programmes;

b) to the Science Programme Committee (SPC): with respect to contributions by the Government of the Republic of Lithuania in the development and/or the exploitation phase or in the development of non-critical path technology, to be undertaken within the framework of Agency scientific projects.

c) to the Industrial Policy Committee (IPC): with respect to the inclusion in its PECS of the development of certain technologies listed in the Agency's Technology Master Plan to be undertaken by the Government of the Republic of Lithuania or the development by the latter of non-critical path technology in this field and of activities to be undertaken in support of SMEs.

In addition, if the PECS activity is included within the scope of the activities as defined in Annex A to a programme Declaration in force or in the process of being finalised, the corresponding Declaration or draft Declaration shall be amended or shall acknowledge this PECS contribution accordingly.

The IPC shall also examine and approve by a simple majority vote of all Member States the industrial policy aspects of the PECS before it is submitted to the PECS Committee for approval.

II.2.3 The Agency shall thereafter prepare a consolidated PECS on the basis of the elements approved by the relevant Committees and Programme Boards with a view to its examination and approval by the PECS Committee. The Government of the Republic of Lithuania shall at this stage inform the Agency and the PECS Committee of the activities it wishes to support, taking into account the convergence and complementarity of industries of the Republic of Lithuania with those of the Agency's Member States, and shall also give the Agency confirmation of its intended contribution to the funding of the activities concerned.

II.2.4 Prior to approval of the five-year PECS by the PECS Committee, any changes in the content of the proposed activities requested by the PECS Committee, with the exception of deleted activities, shall be forwarded for examination to the relevant Committees and Programme Boards. The relevant Committees and Programme Boards shall thereafter forward their approval of the proposed changes to the PECS Committee for its approval.

II.2.5 Once the PECS Committee has approved the five-year PECS, the Agency shall, on the basis of that PECS, prepare a specific

instrument, hereafter called the "PECS Charter" (referred to in Article 14.1), allowing the Government of the Republic of Lithuania to commit financially to the PECS. The PECS Charter shall include the references of the activities to be financed by the Government of the Republic of Lithuania as defined in the approved PECS and shall show the corresponding financial contribution to be subscribed by the Government of the Republic of Lithuania including its financial share of the internal costs of the Agency referred to in paragraph II.4, together with the corresponding indicative breakdown and schedule of payments. The PECS Charter shall be presented by the Agency to the Government of the Republic of Lithuania for subscription and shall thereafter be transmitted to the PECS Committee for information.

II.2.6 The five-year PECS may be revised and updated once every year during this five-year period to take into account new activities that are proposed by the Agency and in which the Government of the Republic of Lithuania or another ECS has expressed an interest. Approval of the yearly revision of the PECS shall be preceded by approval by the relevant Agency Committees and Programme Boards. If as the result of the above procedure new activities are added to the PECS, the PECS Charter shall be amended by the Agency accordingly and the Government of the Republic of Lithuania shall agree on its resulting increased contribution, if any, as reflected in the updated PECS Charter.

II.3 Industrial policy principles

II.3.1 The financial contribution of the Republic of Lithuania to the PECS shall be based on a guaranteed geographical return coefficient of 1. The geographical return shall be calculated according to the Resolution on the Regulation Concerning the Calculation of the Geographical Return Coefficients and the Publication of Corresponding Statistics and Forecasts (ESA/C/CXXXVIII/Res. 6 (Final)) or any other applicable decision, ruling,

resolution or other act made by the Agency's Council or in delegation there from.

II.3.2 When defining the content of the five-year work plan of the PECS and any revision thereof, the following industrial policy principles shall be applied:

- a) non-distortion of competition;
- b) complementarity with existing expertise in Member States;
- c) complementarity with the activities undertaken in the approved Agency's programmes;
- d) impact on the development of the use of services derived from European space assets;
- e) technological value for the Agency with emphasis on:
 - innovation potential
 - compatibility with the European Technological Master Plan and/or with the future programmatic needs of the Agency;
- f) impulse to European industrial networking;
- g) opening of new markets for competitive suppliers;
- h) involvement of SME

II.3.3 These criteria will also be used by the IPC when examining and reviewing the draft PECS.

II.4 Financial matters

II.4.1 The PECS shall be financed through contributions by the ECS made in accordance with the rules and procedures of the Agency, which will be formalised through subscription by the Government of the Republic of Lithuania of the PECS Charter in accordance with the procedures referred to in paragraph II.2. The Government of the Republic of

Lithuania will, for the management of the programme, cover the full Agency's internal costs pursuant to the terms of the Agency's Financial Regulations ESA/C/CCXXXIII/Res.1 (Final).

II.4.2 The minimum financial contribution required for the participation of any ECS in the PECS over a period of five years amounts to 5 MEURO at 2001 economic conditions.

II.4.3 Work may start as soon as one ECS has subscribed to the PECS Charter.

II.4.4 The Government of the Republic of Lithuania may subsequently increase its contribution to the PECS once a year as long as such increase does not entail any additional cost to other ECS.

II.4.5 In the case of contracts co-financed by either the selected firm or other sources the participation in Agency's internal costs shall be calculated on the basis of the overall contract value, unless otherwise agreed.

II.4.6 At the end of each five-year period covered by the PECS, the share of the Government of the Republic of Lithuania's contribution that has not been earmarked for the execution of the corresponding work shall be used to finance activities planned to be executed in the following five-year period covered by the PECS, unless otherwise required by the Government of the Republic of Lithuania.

II.4.7 In the event of termination of the present Agreement, any contribution of the Government of the Republic of Lithuania not committed under the PECS may be assigned by the Government of the Republic of Lithuania to other Agency programmes in which it participates if it becomes

a Member State or an associate Member, or may be otherwise disposed of as decided by the Government of the Republic of Lithuania.

II.5 Contractual Matters

II.5.1 The Agency shall conclude the contracts necessary for the execution of the PECS in accordance with its rules and procedures, in particular by applying the general clauses and conditions for the Agency's contracts and in particular all contracts shall be placed in EURO.

II.5.2 Contractual commitments entered into by the Agency shall be limited to the funding available. The Agency shall not issue an invitation to tender when the funding for the activities concerned is insufficient in relation to the cost estimates in the work plan.

II.5.3 Activities shall as a general rule be carried out through an open competition procedure in the ECS that have expressed an interest in the activities concerned.

II.5.4 In the case of co-funded activities the Agency shall retain full visibility over expenditure planned and actually incurred by the contractor as well as the origin of all funding for the purpose of the execution of the contract. Where appropriate this may include a right of audit by or on behalf of the Agency.

II.5.5 Any intellectual property rights stemming from the in-orbit flight of a payload included in the activities of the PECS shall be governed by the Agency's Rules.

II.6 Final provisions

II.6.1 The Government of the Republic of Lithuania shall in principle, depending on the objectives of the cooperation project, be the owner of the assets produced and funded by it under the PECS as well as of the facilities, software and equipment acquired for its execution, while taking into account the principles governing Agency contracts.

II.6.2 Amendments made to the present Appendix I shall require the Parties' written agreement.

Appendix II

Committee of the Plan for European Cooperating States (PECS Committee)

Terms of reference and rules of procedure

A. Terms of reference

The PECS Committee, acting in coordination with the Agency, shall monitor and control the execution of the PECS in accordance with the Objectives, Rules and Procedures set out in Appendix I to the present Agreement. To that end it shall:

1. examine and approve by a simple majority vote of the ECS, after receiving notification of agreement by the relevant subordinate bodies of the Agency Council, the draft five-year PECS referred to in paragraph II.2 of the PECS Objectives, Rules and Procedures and any amendment thereof;

The right to vote on the draft five-year PECS shall also be granted to any other potential ECS for which the relevant ECS Agreement has been signed but has not yet come into force.

2. decide, in conformity with Chapter V of the PECS Committee rules of procedures, on the language in which the meetings of the PECS Committee will be conducted, such decision to be taken by a simple majority vote of the ECS;

3. take note of any subscriptions or any increase in contributions made by the participants to the PECS as reflected in the PECS Charter;

4. Receive information concerning the technical support provided by a national institution under the jurisdiction of a European Cooperating State referred to in the PECS Objectives, Rules and Procedures.

5. Approve its terms of reference and its rules of procedure and any amendments thereof.

B. Rules of Procedure

Chapter I

Composition

1.1 The PECS Committee shall be exclusively composed of representatives of ECS.

1.2 One representative of each Member State of the Agency may attend meetings of the PECS Committee as observer. The Chairmen of the Administrative and Finance Committee (AFC), Industrial Policy Committee (IPC), International Relations Committee (IRC), Science Programme Committee (SPC) of the Agency as well as one representative of each EU Member States not Member of the Agency having concluded a cooperation Agreement with the Agency, are invited to attend ex officio and are granted observer status.

1.3 Each ECS may in principle be represented by no more than two delegates. Participation as delegate shall be subject to submission to the Chairman of credentials issued by the competent national authority.

1.4 Advisers may accompany the delegates. The names and professions of advisers shall be notified to the Director General of the Agency before they take part in the work of any meeting of the PECS Committee.

Chapter II

Chairmanship

2.1 The PECS Committee shall elect for one year from among the representatives of the ECS a Chairman and a Vice-chairman.

2.2 If the Chairman is unable to fulfil his or her functions the Vice-chairman shall take the Chair in his or her stead. The acting Chairman shall have the same powers and duties as the Chairman.

2.3 The Chairman shall conduct the PECS Committee's deliberations. He or she shall not have the capacity of delegate. In the exercise of his or her functions the Chairman shall remain under the authority of the PECS Committee.

2.4 The ECS of which a delegate exercises the functions of Chairman shall appoint a delegate in his or her stead for the duration of his or her functions as Chairman.

Chapter III

Meetings

3.1 The PECS Committee shall in principle meet on Agency premises, as a general rule not more than twice a year, immediately following a meeting of the IPC or AFC.

3.2 At the beginning of each meeting, the Chairman shall circulate a list of participants for signature.

3.3 Attendance of Representatives of Member States of the Agency and of those of EU Members States having concluded a co-operation Agreement with the Agency as well as Chairmen of the AFC, IPC, IRC, and SPC at meetings of the PECS Committee shall in no way imply a right to vote.

3.4 The PECS Committee shall at each meeting determine the date of its next meeting. When necessary the Chairman may alter the date fixed for a meeting.

3.5 The Chairman may convene extraordinary meetings of the PECS Committee, either on his or her own initiative or on a request from a majority of

ECS. He or she shall try to arrange such meetings in conjunction with meetings of the IPC or AFC.

3.6 The Director General of the Agency shall designate a member of the staff of the Agency to act as Secretary of the PECS Committee.

3.7 After consultation with the Chairman, the Secretary of the PECS Committee shall prepare a draft agenda, which shall be circulated to the ECS not later than a fortnight before each meeting.

3.8 The draft agenda shall be discussed and adopted by the PECS Committee after any necessary modifications, immediately after the opening of the meeting. Other items may be added to the draft agenda but a decision may be taken on them only if all ECS present agree.

3.9 The staff members of the Agency designated by the Director General of the Agency shall attend meetings of the PECS Committee.

3.10 Each ECS shall have one vote.

3.11 Except where otherwise provided for, decisions shall be taken by a simple majority of ECS represented and voting.

3.12 The present rules of procedure will be implemented with a view to facilitating the fulfilment of the objectives of the PECS and will become fully applicable when at least three ECS have joined the PECS Committee.

Chapter IV

Functions of the Chairman and conduct of business

4.1 The Chairman shall, subject to the provisions of these Rules, control the proceedings of the PECS Committee and maintain order during its meetings. He

or she shall declare the opening and closing of each meeting direct the discussions and, if necessary, sum them up, ensure observance of these Rules, accord or withdraw the right to speak, decide points of order, put proposals to the vote and announce decisions. He or she may propose adjournment or closure of the debate, or adjournment or suspension of a meeting. He or she shall ascertain before each vote that a quorum is present in accordance with paragraph 4.10 below.

4.2 No one shall take the floor without first having obtained the Chairman's authorisation. Subject to the provisions of paragraph 4.3, the Chairman shall call upon speakers in the order in which they have asked to speak. The Chairman may call to order a speaker whose remarks have no bearing on the subject at issue.

4.3 During the meeting, an ECS may move a point of order. The Chairman shall give an immediate ruling on this motion. Any ECS may appeal against the Chairman's ruling, in which case the appeal shall be debated and put to the vote. Unless the appeal is upheld by a majority of ECS present and voting, the Chairman's ruling shall stand. ECS speaking on a point of order may not deal with the substance of the point at issue.

4.4 Priority over all other propositions or motions shall be given, in the following order, to motions for:

- a) Suspending the sitting,
- b) Closing the sitting,
- c) Adjourning the question under discussion,
- d) Closure of the debate on the question under discussion.

4.5 Any proposal in its final form shall be put to the vote. It shall be submitted to the meeting in writing if an ECS so requests. In such case the Chairman shall not put the proposal to the meeting until ECS so desiring are in possession of the text of the proposal.

4.6 Whenever an amendment to a proposal is moved, the amendment shall be put to the vote first. If two or more amendments are moved the PECS Committee shall vote first on the one which the Chairman rules to be in substance farthest from the original proposal. Where adoption of one amendment necessarily implies rejection of another amendment, the latter shall not be put to the vote.

4.7 Any ECS may request that parts of an amendment be put to the vote separately. If this request meets with objection, the motion to split the amendment shall be put to the vote.

4.8 If an ECS so requests, the PECS Committee shall then vote on the final amended proposal.

4.9 Where two or more proposals are moved in respect of one and the same matter, these proposals shall, unless the PECS Committee decides otherwise, be put to the vote in the order in which they were moved. After each vote the PECS Committee may decide whether or not to vote on the next proposal.

4.10 Whenever the present rules become fully applicable pursuant the provisions of paragraph 3.12 above, the presence of representatives from a majority of ECS shall be necessary to constitute a quorum at any meeting of the PECS Committee.

Chapter V

Languages

The PECS Committee's meetings shall be conducted in one of the working languages of the Agency, to be chosen by the PECS Committee. All documents for the meetings shall be prepared in the corresponding language.

Chapter VI

Minutes

6.1 After each meeting of the PECS Committee draft minutes shall be prepared by the PECS Committee Secretary, giving the substance of the discussions and recording the conclusions reached.

6.2 The draft minutes shall be circulated as soon as possible after the end of the meeting.

6.3 Proposals for amendments to the draft minutes shall be sent by the ECS to the PECS Committee Secretary in writing within three weeks of the date of their communication.

6.4 At the beginning of each meeting the minutes of the previous meeting, after consideration of any amendment submitted, shall be approved by the PECS Committee.

Chapter VII

Amendments

The terms of reference of the PECS Committee and its rules of procedure may be amended by the PECS Committee and shall require the Agency's written consent.