

MINISTRY  
OF REGIONAL DEVELOPMENT

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DEPARTMENT  
OF AID PROGRAMMES  
AND TECHNICAL ASSISTANCE

Warsaw, 29 January 2013

DPT-VI-630-27-BJ/12

Nu 11550/13

**Ms Stine Andresen**  
**Director**  
**Financial Mechanism Office**

Dear Ms. Andresen

Please find enclosed one copy of the Programme Agreement for programme **PL04** "Saving energy and promoting renewable energy source" within EEA Financial Mechanism 2009-2014, signed by the Polish representative – Undersecretary of State, Ms. Iwona Wendel.

Best regards,

DYREKTOR DEPARTAMENTU

Encl.

*(Signature)*  
Małgorzata Wierzbicka

EEA Financial Mechanism 2009-2014

PROGRAMME AGREEMENT

between

The Financial Mechanism Committee  
established by Iceland, Liechtenstein and Norway

and

The Ministry of Regional Development,  
hereinafter referred to as the “National Focal Point”,  
representing the Republic of Poland,  
hereinafter referred to as the “Beneficiary State”

together hereinafter referred to as the “Parties”

for the financing of the Programme “Saving energy and promoting renewable energy source”

hereinafter referred to as the “Programme”

## Chapter 1 Scope, Legal Framework, and Definitions

### Article 1.1 Scope

This programme agreement between the Financial Mechanism Committee (hereinafter referred to as the FMC) and the National Focal Point lays down the rights and obligations of the Parties regarding the implementation of the Programme and the financial contribution from the EEA Financial Mechanism 2009-2014 to the Programme.

### Article 1.2 Legal Framework

1. This programme agreement shall be read in conjunction with the following documents which, together with this programme agreement, constitute the legal framework of the EEA Financial Mechanism 2009-2014:

(a) Protocol 38b to the EEA Agreement on the EEA Financial Mechanism 2009-2014;

(b) the Regulation on the implementation of the EEA Financial Mechanism 2009-2014 (hereinafter referred to as the "Regulation") issued by the Donor States in accordance with Article 8(8) of Protocol 38b;

(c) the Memorandum of Understanding on the Implementation of the EEA Financial Mechanism 2009-2014 (hereinafter referred to as the "MoU"), entered into between the Donor States and the Beneficiary State; and

(d) any guidelines adopted by the FMC in accordance with the Regulation.

2. In case of an inconsistency between this programme agreement and the Regulation, the Regulation shall prevail.

3. The legal framework is binding for the Parties. An act or omission by a Party to this programme agreement that is incompatible with the legal framework constitutes a breach of this programme agreement by that Party.

### Article 1.3 Definitions

Terms used and institutions and documents referred to in this programme agreement shall be understood in accordance with the Regulation, in particular Article 1.5 thereof, and the legal framework referred to in Article 1.2 of this programme agreement.

### Article 1.4 Annexes and hierarchy of documents

1. The programme decision, including the financial plan (Annex I), and the operational rules (Annex II) form an integral part of this programme agreement. Any reference to this programme agreement includes a reference to its annexes unless otherwise stated or clear from the context.

2. The provisions of the annexes shall be interpreted in a manner consistent with this programme agreement. Should the meaning of any provision of the said annexes, so interpreted, remain inconsistent with this programme agreement, the provisions of the former shall prevail, provided that these provisions are compatible with the Regulation.

3. Commitments, statements and guarantees, explicit as well as implicit, made in the programme proposal are binding for the National Focal Point and the Programme Operator unless otherwise explicitly stipulated in the annexes to this programme agreement.

## Chapter 2 The Programme

### Article 2.1 Co-operation

1. The Parties shall take all appropriate and necessary measures to ensure fulfilment of the obligations and objectives arising out of this programme agreement.

2. The Parties agree to provide all information necessary for the good functioning of this programme agreement and to apply the highest degree of transparency, accountability and cost efficiency as well as the principles of good governance, sustainable development, gender equality and equal opportunities.

3. The Parties shall promptly inform each other of any circumstances that interfere or threaten to interfere with the successful implementation of the Programme.

4. In executing this programme agreement the Parties declare to counteract corrupt practices. Further, they declare not to accept, either directly or indirectly, any kind of offer, gift, payments or benefits which would or could be construed as illegal or corrupt practice. The Parties shall immediately inform each other of any indication of corruption or misuse of resources related to this programme agreement.

### Article 2.2 Main responsibilities of the Parties

1. The National Focal Point is responsible and accountable for the overall management of the EEA Financial Mechanism 2009-2014 in the Beneficiary State and for the full and correct implementation of this programme agreement. In particular, the National Focal Point undertakes to:

(a) comply with its obligations stipulated in the Regulation and this programme agreement;

(b) ensure that the Certifying Authority, the Audit Authority, the Monitoring Committee and the Programme Operator properly perform the tasks assigned to them in the Regulation, this programme agreement and the programme implementation agreement;

(c) take all necessary steps to ensure that the Programme Operator is fully committed and able to implement and manage the Programme;

(d) take the necessary measures to remedy irregularities in the implementation of the Programme and ensure that the Programme Operator takes appropriate measures to remedy irregularities in Projects within the Programme, including measures to recover misspent funds;

(e) make all the necessary and appropriate arrangements in order to strengthen or change the way the Programme is managed.

2. The FMC shall, subject to the rules stipulated in the legal framework referred to in Article 1.2 of this programme agreement, make available to the Beneficiary State a financial contribution (hereinafter referred to as "the programme grant") to be used exclusively to finance the eligible cost of the Programme.

#### Article 2.3

##### Objective and outcomes of the Programme

1. The programme decision sets out the objective, outcome(s), outputs, indicators and targets for the Programme.

2. The National Focal Point shall ensure that the Programme Operator implements and completes the Programme in accordance with the objective, outcome(s), outputs, indicators and targets set for the Programme.

#### Article 2.4

##### Programme grant

1. The maximum amount of the programme grant, the programme grant rate, and the estimated eligible cost of the Programme shall be as specified in the programme decision.

2. In case the Programme is also supported by the Norwegian Financial Mechanism, this programme agreement shall be interpreted in conjunction with the agreement regulating that support.

3. The financial plan shall:

(a) contain a breakdown between the Programme's budget headings using the description put forward in the template for the programme proposal;

(b) indicate the agreed advance payment, if any.

4. The management cost of the Programme Operator shall not exceed the amount specified in the programme decision.

#### Article 2.5

##### Special conditions and programme specific rules

1. The programme decision shall list any conditions set by the FMC with reference to paragraph 3 of Article 5.3 of the Regulation. The National Focal Point shall ensure compliance with these conditions and, in a timely manner, take the necessary steps to ensure their fulfilment.

2. The National Focal Point shall ensure compliance with any other programme specific rules laid down in the operational rules.

#### Article 2.6

##### Programme implementation agreement

1. With reference to Article 5.8 of the Regulation and without prejudice to paragraph 2 thereof, the National Focal Point shall, before any payment is made to the Programme, sign a programme implementation agreement with the Programme Operator. The National Focal Point shall notify the FMC of such signing.

2. The signed programme implementation agreement shall be identical to the draft programme implementation agreement confirmed by the FMC in accordance with paragraph 5 of Article 5.8 of the Regulation with regard to the content required according to paragraph 3 thereof. The National Focal Point shall inform the FMC of any deviation from that confirmed draft which may be subject to a new confirmation according to paragraph 5 of Article 5.8 of the Regulation prior to any payment to the Programme.

#### Article 2.7

##### Reporting

The National Focal Point shall ensure that the Programme Operator provides financial reports, annual programme reports and a final programme report in accordance with Chapter 8 and Articles 5.11 and 5.12 of the Regulation as well as statistical reporting in accordance with the Programme Operator's Manual (Annex 9 to the Regulation).

#### Article 2.8

##### External monitoring

The external monitoring and audit referred to in Articles 10.1, 10.2, 10.3 and 10.4 of the Regulation shall not in any way relieve the National Focal Point or the Programme Operator of its obligations under the programme agreement regarding monitoring of the Programme and/or its projects, financial control and audit.

#### Article 2.9

##### Modification of the Programme

1. Unless otherwise explicitly stipulated in this programme agreement, any modification of the Programme is subject to prior approval by the FMC.

2. Modifications that do not affect the objective, outcomes, outputs, indicators or targets of the Programme are permitted without FMC's prior approval provided that they are limited to the following:

(a) cumulative transfers between budget headings related to outcomes of an amount less than 10% of total eligible expenditure of the Programme or €1,000,000, whichever is higher, and

(b) changes of internal practices of the Programme Operator that are not stipulated in the programme agreement.

3. Programme specific exceptions from paragraphs 1 and 2, if any, are set in the operational rules.

4. Expenditures incurred in breach of this article are not eligible.

5. Should there be a doubt as to whether the proposed modifications require approval by the FMC, the National Focal Point shall consult the FMC before such modifications take effect.

6. Requests for modifications shall be submitted and assessed in accordance with Article 5.9 of the Regulation.

#### Article 2.10 Communication

1. All communication to the FMC regarding this programme agreement shall take place in English and be directed to the Financial Mechanism Office (hereinafter referred to as the FMO), which represents the FMC towards the National Focal Point and the Programme Operator in relation to the implementation of the Programme.

2. To the extent that original documents are not available in the English language, the documents shall be accompanied by full and accurate translations into English.

3. The National Focal Point shall bear the responsibility for the accuracy of the translation that it provides and the possible consequences that might arise from any inaccurate translations.

4. The FMC shall ensure that the National Focal Point is informed about communication between the FMC and the Programme Operator that is relevant for the responsibilities of the National Focal Point under this programme agreement.

#### Article 2.11 Contact information

1. The contact information of the National Focal Point and the Programme Operator is as specified in the programme proposal.

2. The contact information for the FMC and the Financial Mechanism Office are:

Financial Mechanism Office

Att: Director

EFTA Secretariat

Rue Joseph II, 12-16

1000 Brussels

Telephone: +32 (0)2 286 1701

Telefax (general): +32 (0)2 211 1889

E-mail: fmo@efta.int

3. Changes of or corrections to the contact information referred to in this article shall be given in writing without undue delay by the Parties to this programme agreement.

#### Article 2.12 Representations and Warranties

1. This programme agreement and the awarding of the programme grant is based on information provided by,

through, or on behalf of the National Focal Point to the FMC in the programme proposal or other communication prior to the signing of this programme agreement.

2. The National Focal Point represents and warrants that the information provided by, through, or on behalf of the National Focal Point in the programme proposal, in connection with the programme proposal, the implementation or conclusion of this programme agreement are authentic, accurate and complete.

### Chapter 3 Projects

#### Article 3.1 Selection of projects

1. The National Focal Point shall ensure that the Programme Operator selects projects in accordance with Chapter 6 of the Regulation and the operational rules.

2. Eligibility of applicants is stipulated in Article 6.2 of the Regulation and, in accordance with paragraph 3 thereof, subject only to the limitations stipulated in the operational rules.

3. Pre-defined projects shall be outlined in the operational rules.

4. The National Focal Point shall take proactive steps to ensure that the Programme Operator complies fully with Article 6.6 of the Regulation.

#### Article 3.2 Project contract

1. For each approved project a project contract shall be concluded between the Programme Operator and the Project Promoter.

2. In cases where a project contract cannot, due to provisions in the national legislation, be made between the Programme Operator and the Project Promoter, the Beneficiary State may instead issue a legislative or administrative act of similar effect and content.

3. The content and form of the project contract shall comply with Article 6.7 of the Regulation.

4. The National Focal Point shall ensure that the obligations of the Project Promoter under the project contract are valid and enforceable under the applicable law of the Beneficiary State.

#### Article 3.3 Project partners and partnership agreements

1. A project may be implemented in a partnership between the Project Promoter and project partners as defined in paragraph 1(w) of Article 1.5 of the Regulation. If a project is implemented in such a partnership, the Project Promoter shall sign a partnership agreement with the project partners with the content and in the form stipulated in Article 6.8 of the Regulation.

2. The partnership agreement shall be in English if one of the parties to the agreement is an entity from the Donor States.

3. The eligibility of expenditures incurred by a project partner is subject to the same limitations as would apply if the expenditures were incurred by the Project Promoter.

4. The creation and implementation of the relationship between the Project Promoter and the project partner shall comply with the applicable national and European Union law on public procurement as well as Article 7.16 of the Regulation.

5. The National Focal Point shall ensure that the Programme Operator verifies that the partnership agreement complies with this article before the signing of the project contract.

#### Article 3.4 Reallocation of funds

1. Reallocation of unused or cancelled financial contributions to projects shall be made in compliance with Article 6.9 of the Regulation.

2. Project grants not reallocated shall be reimbursed to the FMC in accordance with Article 6.9 of the Regulation.

### Chapter 4 Finance

#### Article 4.1 Eligible expenditures

1. Subject to Article 7.6 of the Regulation, eligible expenditures of this Programme are:

(a) management costs of the Programme Operator in accordance with the detailed budget in the financial plan;

(b) payments to projects within this Programme in accordance with the Regulation, this programme agreement and the project contract;

(c) expenditure of funds for bilateral relations in accordance with Article 7.7 of the Regulation;

2. Expenditure related to the categories referred to in subparagraphs (d), (e) and (f) of Article 7.1 of the Regulation are eligible in accordance with Chapter 7 thereof if such expenditures are explicitly approved by the FMC in the programme decision. The implementation of the activities under these categories shall be in compliance with the operational rules.

3. Eligible expenditures of projects are those actually incurred by the Project Promoter or project partners, meet the criteria set in Article 7.2 of the Regulation and fall within the categories and fulfil the conditions of direct eligible expenditure set in Article 7.3 of the Regulation as well as indirect costs in accordance with Article 7.4 of the Regulation.

4. The first date of eligibility of expenditures in projects shall be set in the project contract in accordance with Article 7.14 of the Regulation. The first date of eligibility of any pre-defined projects shall be no earlier than the date

on which the National Focal Point notifies the FMC of a positive appraisal of the pre-defined projects by the Programme Operator in accordance with paragraph 3 of Article 5.5 of the Regulation.

5. The maximum eligible costs of the categories referred to in paragraphs 1 and 2 are set in the programme decision. Programme specific rules on the eligibility of expenditure set in the programme decision or in the operational rules shall be complied with.

#### Article 4.2 Proof of expenditure

Costs incurred by Programme Operators, Project Promoters and project partners shall be supported by documentary evidence as required in Article 7.13 of the Regulation.

#### Article 4.3 Payments

1. Payments to the Programme shall be made when all relevant conditions for payments stipulated in this programme agreement and the Regulation have been fulfilled.

2. Payments to the Programme shall take the form of an advance payment, interim payments and payment of the final balance and shall be made in accordance with Articles 8.2, 8.3 and 8.4 of the Regulation.

3. Payments of the project grant to the Project Promoters may take the form of advance payments, interim payments and payments of the final balance. The level of advance payments and their off-set mechanism is set in the operational rules.

4. The National Focal Point shall ensure that payments are transferred in accordance with paragraph 2 of Article 8.1 of the Regulation.

5. Chapter 8 of the Regulation shall apply to all aspects related to payments, including currency exchange rules and handling of interests on bank accounts.

#### Article 4.4 Transparency and availability of documents

The National Focal Point shall ensure an audit trail for financial contributions from the EEA Financial Mechanism 2009-2014 to the Programme in accordance with Article 8.8 of the Regulation.

#### Article 4.5 Irregularities, suspension and reimbursements

The FMC has the right to make use of the remedies provided in the Regulation, in particular Chapter 12 thereof. The National Focal Point has a duty to take all necessary measures to ensure that the provisions in Chapter 11 and 12 of the Regulation regarding irregularities, suspension of payments, financial corrections and reimbursement are complied with.

## Chapter 5 Final provisions

### Article 5.1 Dispute settlement

1. The Parties waive their rights to bring any dispute related to the programme agreement before any national or international court, and agree to settle such a dispute in an amicable manner.
2. If a demand for reimbursement to the FMC is not complied with by the Beneficiary State, or a dispute related to a demand for reimbursement arises that cannot be solved in accordance with paragraph 1, the Parties may bring the dispute before Oslo Tingrett.

### Article 5.2 Termination

1. The FMC may, after consultation with the National Focal Point, terminate this programme agreement if:
  - (a) a general suspension decision according to Article 12.6 of the Regulation or a decision to suspend payments according to paragraph 1(h) of Article 12.1 of the Regulation has not been lifted within 6 months of such a decision;
  - (b) a suspension of payments according to Article 12.1 of the Regulation, other than under paragraph 1(h), has not been lifted within one year of such a decision;
  - (c) a request for reimbursement according to Article 12.2 of the Regulation has not been complied with within one year from such a decision;
  - (d) the Programme Operator becomes bankrupt, is deemed to be insolvent, or declares that it does not have the financial capacity to continue with the implementation of the Programme; or
  - (e) the Programme Operator has, in the opinion of the FMC, been engaged in corruption, fraud or similar activities or has not taken the appropriate measures to detect or prevent such activities or, if they have occurred, nullify their effects.
2. This programme agreement can be terminated by mutual agreement between the Parties.
3. Termination does not affect the right of the Parties to make use of the dispute settlement mechanism referred to in Article 5.1 or the right of the FMC to make use of the remedies provided in Chapter 12 of the Regulation.

### Article 5.3 Waiver of responsibility

1. Any appraisal of the Programme undertaken before or after its approval by the FMC, does not in any way diminish the responsibility of the National Focal Point and the Programme Operator to verify and confirm the correctness of the documents and information forming the basis of the programme agreement.
2. Nothing contained in the programme agreement shall be construed as imposing upon the FMC or the FMO any responsibility of any kind for the supervision, execution, completion, or operation of the Programme or its projects.
3. The FMC does not assume any risk or responsibility whatsoever for any damages, injuries, or other possible adverse effects caused by the Programme or its projects including, but not limited to inconsistencies in the planning of the Programme or its projects, other project(s) that might affect it or that it might affect, or public discontent. It is the full and sole responsibility of the National Focal Point and the Programme Operator to satisfactorily address such issues.
4. Neither the National Focal Point, the Programme Operator, entities involved in the implementation of projects, nor any other party shall have recourse to the FMC for further financial support or assistance to the Programme in whatsoever form over and above what has been provided for in the programme agreement.
5. Neither the European Free Trade Association, its Secretariat, including the FMO, its officials or employees, nor the FMC, its members or alternate members, nor the EFTA States, can be held liable for any damages or injuries of whatever nature sustained by the National Focal Point or the Beneficiary State, the Programme Operator, Project Promoters or any other third person, in connection, be it direct or indirect, with this programme agreement.
6. Nothing in this programme agreement shall be construed as a waiver of diplomatic immunities and privileges awarded to the European Free Trade Association, its assets, officials or employees.

### Article 5.4 Entry into force and duration

1. This programme agreement shall enter into force on the date of the last signature of the Parties.
2. This programme agreement shall remain in force until five years have elapsed after the date of the acceptance of the final programme report.

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This programme agreement is drawn up in two originals in the English language.

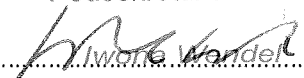
For the FMC

For the National Focal Point

Signed in Brussels on 16/11/2013

Signed in Narsart on 28/01/2013



Podsekretarz Stanu  


Anders Erdal  
FMC Chairman

Iwona Wendel  
Undersecretary of State, Ministry of Regional  
Development



## Annex I - Programme Decision

### 1. Expected Outcomes & Indicators for Outputs

Outcome	Output	Output indicator	Indicator value		Description
			Base -line	Target	
Improved energy efficiency in buildings	Increase in the number of public utility buildings with thermal modernization	Estimated number of buildings with thermal modernization [pieces]	0	250	Annexes to periodic applications for payment, final report (certificates of completion)
	Increase in the number of replaced/modernised heat sources	Estimated number of replaced/modernised heat sources [pieces]	0	50	Annexes to periodic applications for payment, final report (certificates of completion)
	Increase in the number of installed/modernised/replaced heat centres	Estimated number of installed/modernised/replaced heat centres [pieces]	0	50	Annexes to periodic applications for payment, final report (certificates of completion)
Increased awareness of and education in energy efficiency	Completion of the nation-wide campaign on energy saving in households	Inhabitants aware of the campaign on energy efficiency in households	0	5,000,000	Results of the survey
	Increase awareness among the public in relation to the energy savings in households	Number of awareness campaigns	0	1	Completion report of the campaign
Increased renewable energy production	Increased number of installed machines, equipment or installations using renewable energy	Number of installed machines, equipment or installations using renewable energy sources [pieces]	0	2,000	Annexes to periodic applications for payment, final report (certificates of completion)
	Increased power of installed machines, equipment or installations using renewable energy	Newly installed power in RES [MW]	0	15	Annexes to periodic applications for payment, final report (certificates of completion)

## 2. Conditions

### 2.1 General

- 1) Bilateral, output and outcome indicators shall be reported on in the annual programme report.
- 2) The National Focal Point shall ensure that any public support under this Programme complies with the procedural and substantive state aid rules applicable at the time when the public support is granted. The National Focal Point shall, by way of the programme implementation agreement, ensure that the Programme Operator maintains written records of all assessments concerning compliance with state aid rules, particularly decisions to award grants and set grant rates, and provides them to the FMC upon request. The approval of the Programme by the FMC does not imply a positive assessment of such compliance.
- 3) The framework agreement between the Ministry of Environment and the National Fund for Environmental Protection and Water Management shall be submitted to the FMO in English.
- 4) The selection criteria for the open call shall give priority to projects which reduce emissions and/or produce renewable energy in the most cost-efficient way.
- 5) A methodology on the calculation of the flat rate in accordance with Article 7.4.1(b) of the Regulation shall be submitted to the FMO before the deadline referred to in Article 6.3.4 of the Regulation.
- 6) No later than 31 March of every year, the National Focal Point shall provide the FMO with a statement of all co-financing provided by project promoters to their projects during the previous calendar year. The National Focal Point shall ensure that it obtains the necessary information in a timely manner from the Programme Operator by way of appropriate provisions in the Programme Implementation Agreement.
- 7) The National Focal Point shall ensure that the Programme Operator ensures that Project Promoters who have, in line with this Agreement, received an exception from the general rule in Article 7.3.1(c) of the Regulation with respect to any equipment (the excepted equipment):

- Keep the excepted equipment in their ownership for a period of at least five years following the completion of the project and continue to use that equipment for the benefit of the overall objectives of the project for the same period;
- Keep the excepted equipment properly insured against losses such as fire, theft and other normally insurable incidents both during project implementation and for at least 5 years following the completion of the project; and
- Set aside appropriate resources for the maintenance of the excepted equipment for at least 5 years following the completion of the project. The specific means for implementation of this obligation shall be specified in the project contract;

provided however that the Programme Operator may release any Project Promoter from the above obligations with respect to any specifically identified excepted equipment where the Programme Operator is satisfied that, having regard to all relevant circumstances, use of that equipment for the overall objectives of the project after the project completion would serve no economic purpose. The National Focal Point shall furthermore ensure that the programme Operator keeps a list of the excepted equipment for each project.

- 8) The National Focal Point shall ensure that the Programme Operator achieves, through this Programme, a minimum CO<sub>2</sub> reduction and/or avoidance of 75,000 tonnes/year. The National Focal Point shall be exonerated from this obligation if it demonstrates to the FMC that the Programme Operator has used its best endeavours to fulfil its obligation.
- 9) A plan on the use of the fund for bilateral relations and the fund set-up shall be prepared in consultation with the Norwegian Water Resources and Energy Directorate (NVE) This plan shall be submitted to the FMC at the latest on 01.03.2013. The FMC will communicate its decision within 10 working days from the date of receipt.

### 2.2 Pre-eligibility

Not applicable.

### 2.3 Pre-payment:

Not applicable.

### 2.4 Pre-completion

Not applicable.

2.5 *Post-completion*

Not applicable.

3. **Eligibility of Costs**3.1 *Eligibility period*

Eligibility of costs (excluding prog. prep. costs): 21/12/2012 – 30/04/2017.

Eligibility of programme proposal preparation costs: 17/06/2011 – 20/12/2012.

3.2 *Grant rate and co-financing:*

Estimated total programme cost	<b>€93,190,735</b>
	€75,000,000
Estimated EEA FM contribution (% of total)	(80,48%)
	€18,190,735
Estimated National Contribution (% of total) <sup>1</sup>	(19,52%)

Programme estimated eligible expenditure	<b>€76,128,110</b>
Programme grant rate (%)	98,52 %
Maximum amount of programme grant	€75,000,000

3.3 *Programme eligible expenditure (€) and advance payment amount (€):*

<b>Budget heading</b>	<b>Contribution from EEA/N FM</b>	<b>Contribution from Programme Operator</b>	<b>Total eligible expenditure</b>	<b>Advance payment (EEA/N FM contribution)</b>
Programme Management	€4,855,000	€856,765	€5,711,765	€360,680
Improved energy efficiency in buildings	€55,905,250		€55,905,250	
Increased renewable energy production	€11,488,750		€11,488,750	
Increased awareness of and education in energy efficiency	€1,213,375		€1,213,375	
Fund for bilateral relations	€1,125,000	€198,529	€1,323,529	
Preparation of programme proposal	€37,625	€6,640	€44,265	€37,625
Reserve for exchange rate losses	€375,000	€66,176	€441,176	
<b>Total</b>	<b>€75,000,000</b>	<b>€1,128,110</b>	<b>€76,128,110</b>	<b>€398,305</b>

3.4 *Retention of management costs:*

Retention of management costs - percentage of the grant amount	10%
Retention of management costs – planned euro value	€485,500

3.5 *Small grant scheme:*

Not applicable.

<sup>1</sup> Including national contribution to the Programme and to Projects, based on Programme Proposal.

## **Annex II - Operational rules**

### **1. Eligibility**

#### *1.1 Eligible measures (sub-measures if any):*

The Programme Operator is the Ministry of Environment with support from the National Fund for Environmental Protection.

The programme is implemented through open call for proposals and one pre-defined project.

The programme will support projects to improve energy efficiency in buildings, increase renewable energy production (in connection with buildings) and to increase awareness of and education in energy efficiency. The objectives are to reduce emissions of greenhouse gases and air pollutants and increase the share of renewable energy in energy use.

Foreseen measures cover thermo-modernization, as well as installation, modernization or replacement of heat centres.

The programme will also support measures such as modernization or replacement of existing energy sources of up to 5 MW, including the possible replacement or rebuilding of obsolete local systems.

Educational and promotional activities will also be implemented.

Eligible RES measures will *inter alia* include

- high efficiency cogeneration/trigeneration, micro turbines and heat recuperation.

#### *1.2 Eligible applicants:*

Eligible applicants are public entities and private entities providing public service.

#### *1.3 Special rules on eligibility of costs:*

In general, costs are eligible in accordance with Chapter 7 of the Regulation with the following exception:

- by way of exception from Article 7.3.1(c) of the Regulation, the entire purchase price of equipment will be eligible if the equipment is an integral and necessary component for the implementation of measures that are essential for achieving the outcome of the project.

Indirect costs can be based on a flat rate of up to 20% of total direct eligible costs in accordance with Article 7.4.1(b) of the Regulation, further to be stipulated in each project contract. A detailed methodology for establishing the fair apportionment of costs according to the above shall be provided by the Programme Operator.

In-kind costs are not eligible in projects.

### **2. Financial parameters**

#### *2.1 Minimum and maximum grant amount per project:*

The minimum amount of grant assistance applied for in the open call is €170,000; the maximum amount is €3,000,000.

The grant assistance applied for in the pre-defined project is referred to under Section 6.

### *2.2 Project grant rate:*

Grants from the programme will not exceed 80% of total eligible project costs. The remaining costs of the project shall be provided or obtained by the Project Promoters.

Exact grant rates will be set for each project, taking into account any expected economic benefit generated by the project. Project cost (grant + co-financing) payback time shall normally not exceed 20 years.

## **3. Selection of projects**

### *3.1 Selection procedures:*

The selection procedures will mainly follow the procedures provided for in Article 6.5 of the Regulation with the exception that, an additional appeals procedure after the review by the experts is added and the Selection Committee makes a final decision on which projects are supported, which is not subject to review by the Programme Operator.

The Programme Operator shall review the applications for compliance with administrative and eligibility criteria. If at this stage the Programme Operator detects any inconsistencies or obvious errors that can be remedied, the applicant shall be given a short deadline to do so. Applicants whose applications are rejected at this stage have the right to appeal that decision to the Programme Operator. In case of a negative decision of the Programme Operator, that decision can be appealed further to the National Focal Point. In case of a positive decision by the Programme Operator or the National Focal Point the decision will be subject to an appraisal, otherwise the application goes no further.

Each application which meets the administrative and eligibility criteria shall, in accordance with paragraphs 2, 3 and 5 of Article 6.5 of the Regulation, be reviewed by two experts of the National Fund for Environmental Protection and Water Management who are not involved in the implementation of the Programme. The experts who are appointed by the Programme Operator shall have the relevant expertise in the given field. The two experts will separately score the projects according to the selection criteria adopted by the Selection Committee and in accordance with paragraph 3 of Article 6.5 of the Regulation. In a situation where the difference in scores given to the application by each of the two experts will be greater than 30% of the higher score, the Programme Operator shall designate an additional third expert for the review. In that case the average score of the two closest scores shall be used for the ranking of the projects.

Applicants are informed of the results of this content-related review of the experts and have the right to appeal their decision to Programme Operator and subsequently to the National Focal Point.

The Programme Operator prepares the ranking list of proposals recommended for funding based on the scores awarded by experts and submits it to the Selection Committee. It shall at the same time provide the FMC with the ranked list in English. Projects submitted to the Committee after the content-related review will include justification along with recommendations for selected proposals. The Committee, after the analysis of the ranking list, may, in justified cases, modify the order of listed projects eligible for support. The justification for such modification should be included in the minutes from the Selection Committee meeting. If this modification results in a project's rejection, the affected applicant shall be informed in writing about the justification for the modification. Apart from the basic list of recommended projects, the Selection Committee may also indicate projects for a reserve list.

The Selection Committee submits the list of recommended projects to the Programme

Operator who informs the applicants of the results of the selection process and publishes the results on the Programme website.

*3.2 Open calls and availability of funds (including number of calls, duration of calls, and estimated size):*

There shall be one open call for applications which shall be launched in the second quarter of 2013 and make available at least EUR 67,394,000 of the EEA FM grant amount. The call shall be open at least for 2 months.

In case of savings, or an insufficient number of proposals or an insufficient substantive value submitted in the call, the Programme Operator can:

- Conduct a supplementary call or calls. The same rules provided above shall apply *mutatis mutandis* to that/those call/s
- Make use of applications included in the reserve projects list; or
- Reallocate funds in accordance with Article 6.9 of the Regulation. This option is only applicable in the final stages of the programme implementation period and only if conducting a supplementary call or making use of programmes on the reserve list is not feasible due to small savings amounts, lack of time or lack of interest on behalf of the applicants on the reserve list.

*3.3 Selection criteria:*

The open call and content related criteria will include, *inter alia*:

- Feasibility;
- Legitimacy;
- Economic efficiency;
- Innovation and planned ecological effect;
- Environmental impact and contribution to the achievement of aims, outcomes and outputs of the Programme

Priority shall be given to projects with the highest reduction of CO<sub>2</sub> emissions and/or the highest production of renewable energy in the most cost efficient way.

Detailed selection criteria will be developed by the Programme Operator and adopted by the Selection Committee at its first meeting and submitted subsequently to the FMO but no later than the deadline referred to in Article 6.3.4 of the Regulation.

#### **4. Payment flows, verification of payment claims, monitoring and reporting**

##### *4.1 Payment flows*

Payments towards the projects will be in the form of advance payments, interim payments in the form of reimbursements of incurred expenditures, and a final payment to be paid after the approval of a final report.

Projects operated by public sector entities, including territorial local governments, shall receive payments in the form of one advance payment and through interim payments, and a final payment. The advance payment shall be requested by the Project Promoter and cannot be higher than 40% of the total awarded grant amount. The advance shall be offset against incurred expenditure reported in the interim financial reports. The advance is deducted from the reimbursements of incurred expenditure until the total advance payment has been offset.

Projects operated by beneficiaries which are not public sector entities shall receive payments in the form of one advance payment and through interim payments, and a final payment. The advance payment shall be requested by the Project Promoters and cannot be higher than 10% of the total awarded grant amount. The advance shall be offset against incurred expenditure reported in the interim financial reports. The advance is deducted from the reimbursements of incurred expenditure until the total advance payment has been offset.

Payments shall be transferred to the Project Promoter no later than three months from submission of an interim payment claim, provided that it is correct and complete, and no later than one month after its approval by the Programme Operator.

#### *4.2 Verification of payment claims*

Payments to projects are made on the basis of approved project interim/final reports.

Verification and approval of project interim reports will be based on information on incurred expenditure, financial status and projects progress contained in the interim reports, and on additional information to be submitted together with the reports.

In case of verification of expenditure incurred by a donor project partner, a report by an independent and certified auditor, certifying that the claimed costs are incurred in accordance with the Regulation, the national law and accounting practices of the project partner's country, shall be seen as sufficient proof of costs incurred. This rule only applies to donor project partners cf. Article 7.13.5 of the Regulation.

The procedure for verification of payment claims, periodicity of reporting periods, and deadlines for reporting will further be outlined in the description of the Programmes management and control systems according to article 4.8.2 of the Regulation.

National Fund for Environmental Protection and Water Management shall be responsible for verification and approval of financial documents. The Ministry of the Environment shall verify summary reports submitted by the National Fund and perform general supervision.

#### *4.3 Monitoring and reporting*

Project Promoters shall be required to report on project financial progress and outputs in interim reports, and at the end of the project in a final report. The frequency of interim reporting to the Programme Operator shall be based on an agreed timetable, but no less than three times a year.

For the pre-defined projects, on-the-spot monitoring will be performed at least once for each project during the implementation period.

For projects selected through an open call, on-the-spot monitoring will be conducted annually on a sample of projects selected randomly, and on the basis of a risk analysis. The analysis takes into account, among other things, the material and financial progress of a project, the time remaining to project completion, and the correctness of prepared reporting documentation.

As a rule, on-the-spot monitoring at the end of the realisation of the project is performed after the Beneficiary has submitted the last payment claim to the Programme Operator.

On-the-spot monitoring can also be conducted on an ad-hoc basis when considered necessary.

Information on Reporting and Monitoring will further be outlined in the description of the Programme's management and control systems according to article 4.8.2 of the regulation.

The National Fund for Environmental Protection and Water Management shall be responsible for monitoring and ensuring the punctual transfer of payment as well as recovering of undue payments. The Ministry of the Environment shall verify summary reports submitted by the National Fund and perform general supervision.

## **5. Additional mechanisms within the programme**

*5.1 Funds for bilateral relations*

Resources allocated to the Fund for Bilateral Relations at the programme level shall not be less than 1.5 % of the total eligible costs of the Programme.

The plan for the use of the fund for bilateral relations and the fund set-up shall be developed further, in cooperation with the Norwegian Water Resources and Energy Directorate (NVE), and submitted to the FMC for approval.

Funding will be set aside for activities that strengthen the cooperation between the Programme Operators and similar entities within the Beneficiary States and Donor States and exchange experiences and best practices related to the implementation of the Programme. This funding should also facilitate the participation of relevant stakeholders in events/seminars/activities (organized for example by Council of Europe, European Union Agency for Fundamental Rights and others) agreed with the Donors. Eligible costs are defined in Article 7.7 of the Regulation

*5.2 Complementary action*

Not applicable.

*5.3 Reserve for exchange rate losses*

Contracts between the Programme Operator and the Project Promoter will be defined in PLN.

The reserve for exchange rate losses will be used to cover the exchange rate losses of the PO only, resulting from the difference between the exchange rate used for the Programme budget planning and the exchange rates used for the actual expenditures (including the difference between the exchange rate used for awarding grants to projects and the exchange rate used for the settlement of project grants).

*5.4 Small Grant Schemes*

Not applicable.

**6. Pre-defined project**

One pre-defined project is implemented under the programme as foreseen in the MoU.

*Educational and promotional activities in the field of energy efficiency and use of renewable energy including the environmentally friendly houses*

*Project promoter:* Department of Environmental Information (DEI) within the Ministry of the Environment.

*Grant rate:* 85%

*EEA FM grant amount:* €1,213,375

*Total project cost:* €1,427,500

*Description:* The project consists of a nation-wide educational campaign on energy saving in households and proportion of efficient use of energy and renewable energy. The objective is to increase awareness and education of energy efficiency.

*Outcome:* Increased awareness of and education in energy efficiency.

**7. Modification of the Programme**

The rules on modifications of Programmes are in Article 5.9 of the Regulation and Article 2.9 of the Programme Agreement.

**8. Programme proposal version**

Any reference to the programme proposal in this programme agreement shall be interpreted as a reference to the version signed by the Programme Operator on 1 February 2012 and



shall include all subsequent correspondence and communication between the Donors, the Financial Mechanism Office, the National Focal Point and the Programme Operator.

**9. Miscellaneous**

Not applicable.