

D R A F T (JAN 2019)

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA
AND
THE GOVERNMENT OF THE KINGDOM OF DENMARK
CONCERNING THE MUTUAL PROTECTION
OF CLASSIFIED INFORMATION
GENERATED OR EXCHANGED IN THE COURSE OF
MILITARY CO-OPERATION**

The Government of the Republic of Lithuania and the Government of the Kingdom of Denmark (hereinafter referred to as “the Parties”);

Aiming to tighten their military co-operation;

Realizing that good co-operation may require exchange or generation of classified Information; and

Desiring to establish a set of rules regulating the mutual protection of Classified Information exchanged or generated in the course of military co-operation, including co-operation on military industrial security;

Have agreed as follows:

ARTICLE 1 OBJECTIVE AND SCOPE

1. The objective of this Agreement is to establish rules to ensure the protection of Classified Information exchanged or generated in the course of military co-operation between the Parties, including co-operation on military industrial security.
2. This Agreement shall not affect the obligations of the Parties under any other bilateral or multilateral treaty, including any agreements governing exchange and mutual protection of Classified Information. If any other agreement concluded between the Parties contains stricter regulations on the exchange or protection of Classified Information, these regulations shall apply.

ARTICLE 2 DEFINITIONS

For the purpose of this Agreement:

- 1) “Breach of Security” means a deliberate or random act or an omission contrary to the national laws and regulations in force in the state of either Party, the results of which may lead to actual or presumed unauthorized disclosure of Classified Information, including its loss, destruction, damage, misappropriation or misuse;
- 2) “Classified Information” means any information of whatever form or nature that was generated and /or transmitted in the course of military co-operation, which under the national laws and regulations in force in the state of either Party requires protection against Breach of Security and which has been duly assigned a classification marking;
- 3) “Classified Contract” means pre-contractual negotiations, a contract or a subcontract that involves or requires access to Classified Information;

- 4) “Competent Security Authority” means an authority which, in accordance with the national laws and regulations in force in the state of either Party, is responsible for designated fields of the protection of Classified Information;
- 5) “Contractor” means a natural or legal person possessing the legal capacity to conclude Classified Contracts in accordance with the national laws and regulations in force in the state of either Party;
- 6) “Facility Security Clearance” means a positive determination following a vetting procedure to ascertain the eligibility of a Contractor to have access to and handle Classified Information in accordance with the national laws and regulations in force in the state of either Party;
- 7) “National Security Authority” means the national authority which, in accordance with the national laws and regulations in force in the state of either Party, is responsible for the protection of Classified Information under this Agreement and the implementation of this Agreement;
- 8) “Need-to-Know” means a principle by which access to Classified Information may be granted to an individual only in connection with his official duties and for the performance of a specific task.
- 9) “Originating Party” means the ministry of defence of either Party or its subordinates, which under the national laws and regulations in force in the State of either Party generates and releases Classified Information;
- 10) “Personnel Security Clearance” means a positive determination following a vetting procedure to ascertain the eligibility of a person to have access to and handle Classified Information in accordance with the national laws and regulations in force in the state of either Party;
- 11) “Recipient Party” means the ministry of defence of either Party or its subordinates, including Contractors, which under the national laws and regulations in force in the state of either Party, receives Classified Information from the Originating Party;
- 12) “Third Party” means any other entity than Originating Party and Recipient Party.

ARTICLE 3

NATIONAL SECURITY AUTHORITIES

1. The National Security Authorities of the Parties are:

For the Republic of Lithuania:

The Commission for Secrets Protection Co-ordination of the Republic of Lithuania

For the Kingdom of Denmark:
The Danish Defence Intelligence Service

2. The National Security Authorities shall inform each other of their official contact details and any subsequent changes thereof.
3. The National Security Authorities shall provide each other with official contact details of any additional Competent Security Authorities responsible for the designated fields of protection of Classified Information under this Agreement.
4. In order to maintain comparable standards of security, the National Security Authorities shall, on request, inform each other of their national laws and regulations concerning the protection of Classified Information and the relevant practices. The National Security Authorities shall inform each other of any substantive changes to their national laws and regulations concerning the implementation of this Agreement.
5. On request, the National Security Authorities shall, in accordance with the national laws and regulations, hold consultations and mutually assist in Personnel Security Clearance procedures and Facility Security Clearance procedures.
6. The Parties shall recognize the Personnel Security Clearances and Facility Security Clearances issued by the other Party in accordance with the national laws and regulations. Article 4 of this Agreement shall apply correspondingly.
7. The National Security Authorities shall promptly notify each other of any alteration with regard to Personnel Security Clearances and Facility Security Clearances, especially upon their revocation.
8. The National Security Authorities may conclude implementing arrangements in relation to this Agreement.

ARTICLE 4

CLASSIFICATION LEVELS AND MARKINGS

1. The Parties agree that the following classification levels are equivalent and correspond to the classification levels specified in the laws and regulations in force in the respective state:

In the Republic of Lithuania	In the Kingdom of Denmark	Equivalent in the English language
VISIŠKAI SLAPTAI	YDERST HEMMELIGT	TOP SECRET

SLAPTAI	HEMMELIGT	SECRET
KONFIDENCIALIAI	FORTROLIGT	CONFIDENTIAL
RIBOTO NAUDOJIMO	TIL TJENESTEBRUG	RESTRICTED

2. The Originating Party may supplement the classification marking with further handling instructions, which detail the use of the released Classified Information.

ARTICLE 5 ACCESS TO CLASSIFIED INFORMATION

Access to Classified Information under this Agreement shall be limited to individuals, who have a Need-to-Know and who are duly authorized in accordance with the national laws and regulations in force in the territory of the State of the Recipient Party to have access to Classified Information.

ARTICLE 6 SECURITY PRINCIPLES

1. The Recipient Party shall:

- a) ensure that the received Classified Information is marked with a classification marking corresponding to the classification level specified by the Originating Party in accordance with Article 4 of this Agreement;
- b) afford the same degree of protection to Classified Information as afforded to its own Classified Information of an equivalent classification level;
- c) ensure that Classified Information is not declassified or its classification level changed without the prior written consent of the Originating Party;
- d) ensure that Classified Information is not released to a Third Party without the prior written consent of the Originating Party; and
- e) use Classified Information only for the purpose for which it has been released.

2. The Originating Party shall inform the Recipient Party without undue delay of any subsequent change to the classification levels.

3. Nothing in this Agreement will be taken as an authority for, or govern the release, use, exchange or disclosure of information in which intellectual property rights exist, until the specific written authorisation of the owner of these rights has first been obtained, whether the owner is one of the Participants or a Third Party.

ARTICLE 7

CLASSIFIED CONTRACTS

1. Classified Contracts shall be concluded and implemented in accordance with the laws and regulations in force in the states of each Party. On request, the National Security Authorities shall confirm that a proposed Contractor holds an appropriate Facility Security Clearance. If the proposed Contractor does not hold an appropriate Facility Security Clearance, the National Security Authority or any other Competent Security Authority may request that the Contractor be security cleared. Classified Contracts may only be concluded with a Contractor holding an appropriate Facility Security Clearance.

2. The National Security Authority may request that a security inspection be carried out at a facility located in the territory of the State of the other Party to ensure continued protection of Classified Information.

3. Classified Contracts shall contain a security annex on the security requirements pertaining to Classified Information. A copy of the security annex shall be forwarded to the National Security Authorities.

4. The National Security Authority of the Party of the State in whose territory the Classified Contract will be performed shall assume responsibility for prescribing and administering security measures for the Classified Contract under the same standards and requirements that govern the protection of its own Classified Contracts.

5. Upon written permission from the Originating Party a Contractor may appoint a subcontractor to fulfil parts of a Classified Contract. Subcontractors shall be subject to the same security requirements as the Contractor.

ARTICLE 8

TRANSMISSION OF CLASSIFIED INFORMATION

1. Classified Information shall be transmitted in accordance with national laws and regulations of the Originating Party. The normal route for Classified Information at the KONFIDENCIALIAI/FORTROLIGT/CONFIDENTIAL level or above will be through Government-to-Government channels, including diplomatic courier service and military courier, but other arrangements may be agreed by the National Security Authorities.

2. The Parties may transmit Classified Information electronically in accordance with security procedures approved by the National Security Authorities or other Competent Security Authorities.
3. The Recipient Party shall confirm in writing the receipt of Classified Information marked SLAPTAI/ HEMMELIGT/ SECRET or above. The Recipient Party shall confirm the receipt of other Classified Information upon the request of the Originating Party.
4. In connection with physical transmission of large volumes of Classified Information, the means of transmission, the route and the security measures shall be jointly determined on a case-by-case basis by the National Security Authorities.

ARTICLE 9

REPRODUCTION AND TRANSLATION OF CLASSIFIED INFORMATION

1. Reproductions and translations of Classified Information exchanged or generated under this Agreement shall be marked with the same classification marking as the original document and any additional handling instructions thereon and shall be handled with the same level of protection as the original document. The number of reproductions shall be limited to the minimum required for official purposes.
2. Any translation or reproduction of Classified Information shall be made by individuals, who are duly authorized in accordance with the national laws and regulations of the Recipient Party.
3. Translations of Classified Information released or generated under this Agreement shall bear a note in the language of translation indicating that they contain Classified Information provided by the Originating Party.
4. Classified Information released or generated under this Agreement marked VISIŠKAI SLAPTAI/YDERST HEMMELIGT/TOP SECRET shall be translated or reproduced only upon the prior written consent of the Originating Party.

ARTICLE 10

DESTRUCTION OF CLASSIFIED INFORMATION

Classified Information shall be destroyed when no longer necessary for the purposes of the transmission. The information shall be destroyed or modified insofar as to prevent its reconstruction in whole or in part.

ARTICLE 11 VISITS

1. Visits involving access to Classified Information marked KONFIDENCIALIAI/FORTROLIGT/CONFIDENTIAL or above shall be subject to the prior written consent of the National Security Authority or any other Competent Security Authority of the host party.
2. Visit requests shall be submitted at least twenty days before the visit. In urgent cases, the visit request may be submitted at a shorter notice, subject to prior co-ordination between the National Security Authorities or other Competent Security Authorities.
3. The visitor request shall include:
 - a) visitor's name, date and place of birth, citizenship and passport or ID-card number;
 - b) position of the visitor and specification of the legal entity represented;
 - c) visitor's level of Personnel Security Clearance and its validity;
 - d) date and duration of the visit; in case of recurring visits, the total period of time covered by the visits;
 - e) purpose of the visit, including the highest classification level of information to be involved;
 - f) name, address, phone number, e-mail address of the facility to be visited and its point of contact.
4. The National Security Authorities or other Competent Security Authorities may agree on a list of visitors entitled to recurring visits and on the further details of these visits.

ARTICLE 12 BREACH OF SECURITY

1. The National Security Authority of the Recipient Party shall without undue delay inform the National Security Authority of the Originating Party in writing of a Breach of Security.
2. The National Security Authority of the Party where the Breach of Security occurred shall investigate the incident according to the national laws and regulations in force in the state of either Party. The National Security Authority of the other Party shall, if required, co-operate in the investigation.
3. The National Security Authority of the Recipient Party shall always inform the National Security Authority of the Originating Party in writing about the circumstances of the Breach

of Security, the extent of the possible disclosure, the measures adopted for its mitigation and the outcome of the investigation.

ARTICLE 13 EXPENSES

Each Party shall bear its own expenses incurred in the course of the implementation of this Agreement.

ARTICLE 14 FINAL PROVISIONS

1. This Agreement shall not apply to the Faroe Islands and Greenland. The provisions of this Agreement may be extended to the Faroe Islands and Greenland as may be agreed between the Parties in an Exchange of Notes.

2. This Agreement is concluded for an indefinite period of time. The Parties shall notify each other in writing, through diplomatic channels, that the national legal requirements for the entry into force of this Agreement have been completed. The Agreement shall enter into force on the date of the receipt of the latter of these notifications.

3. This Agreement may be amended by mutual written consent of the Parties. Such amendments shall enter into force under the conditions laid down in Paragraph 2 of this Article.

4. Either Party may at any time terminate this Agreement in writing. In such a case, this Agreement shall expire six months after the receipt of the written termination notice.

5. In case of termination of this Agreement, all Classified Information exchanged under this Agreement shall continue to be protected in accordance with the provisions of this Agreement and, upon request, returned to the Originating Party.

6. Any dispute related to the interpretation or implementation of this Agreement shall be resolved by consultations and negotiations between the Parties.

In witness whereof the undersigned, being duly authorized to this effect, have signed this Agreement.

Done at on in two originals in the Lithuanian, Danish and English languages, each text being equally authentic. In case of divergent interpretations of the Lithuanian and Danish texts, the English text shall prevail.

For the Government of the Republic of Lithuania

For the Government of the Kingdom of Denmark