***Sample form\****

***{Full name of the customer is indicated}***

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|  | | **APPROVED** | |
|  | | **Protocol of decision-making by an authorized person** | |
|  | | **from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | |
|  | | **Authorized person** | |
|  | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | |
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| **TENDER DOCUMENTATION**  **OPEN BIDS** |

**(with specifics, in accordance with the resolution of the Cabinet of Ministers of Ukraine dated 12.10.2022 No. 1178**

**(with changes and additions))**

**by subject of procurement:**

technical supervision of construction work at the site:

***{indicate the full name of the procurement subject from the main procedure for the procurement of works}***

**(71247000-1**– Supervision of construction works**)**

***(defined by indicating the code of the Unified Procurement Dictionary,***

***in accordance with the Procedure for determining the subject of procurement, approved by order of the Ministry of Economy of 15.04.2020 No. 708)***

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**m. \_\_\_\_\_\_\_\_\_\_\_\_– 202\_\_\_ year**

*\*\* used as exemplary tender documentation for the procurement of works for sub-projects and facilities within the framework of the UKRAINE RECOVERY PROGRAMME III, ratified by the Law of Ukraine* [*No. 3905-IX dated 20.08.2024*](https://zakon.rada.gov.ua/laws/show/3905-20#n2)*(URP III) (tranche A).*

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| **Item No.** | **Section I General Provisions** | |
| **1** | **Terms used in the tender documentation** | Tender documentation has been developed in accordance with the requirements  The Law of Ukraine "On Public Procurement" (hereinafter referred to as the Law) and the Peculiarities of public procurement of goods, works and services for customers provided for by the Law of Ukraine "On Public Procurement" for the period of the legal regime of martial law in Ukraine and within 90 days from the date of its termination or cancellation, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 12.10.2022 No. 1178 (hereinafter referred to as the Peculiarities).  The terms used in this documentation have the meaning given in the Law and the Features.  **The tender documentation, in accordance with Part 3 of Article 22 of the Law and Paragraph 10, Clause 3 of the Features, also reflects certain additional mandatory conditions, the establishment of which is provided for by the Finance Contract (hereinafter referred to as the Finance Contract)** between Ukraine and the European Investment Bank regarding the implementation of:  **The Ukraine Recovery Programme III (hereinafter referred to as the URP III (tranche A), ratified by the Law of Ukraine** [**No. 3905-IX dated 20.08.2024**](https://zakon.rada.gov.ua/laws/show/3905-20#n2)**), and which are described in the Programme Implementation Guidelines approved by the EIB as being in line with the EIB Procurement Guidelines.**  **Such additional mandatory conditions may differ from the norms of the Law and the Features, but are subject to application for this tender.** |
| **2** | **Information about the bidding customer** |  |
| 2.1 | Full name | *{Full name of the contracting authority}* |
| 2.2 | Location | *{Location of the bidding customer}* |
| 2.3 | An official of the customer authorized to communicate with the participants | *{Name, position, address, contact information}* |
| **3** | **Procurement procedure** | **open bidding with features** |
| **4** | **Information about the subject of procurement** |  |
| 4.1 | Name of the procurement item | **Procurement of works for technical supervision of construction work at the site:**  ***{full name of the procurement item}*** |
| 4.2 | Description of the separate part(s) of the procurement subject (lot) for which tenders may be submitted | The requirements of this tender documentation do not provide for the establishment of individual parts of the procurement object (lots). |
| 4.3 | Place and scope of work | Facility Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  The scope of work is defined in Annex 3 "Technical Terms of Reference" to the tender documentation. |
| 4.4 | Work completion date | By \_\_\_.\_\_\_\_.20\_\_\_, as set out in detail in Annex 3 "Terms of Reference". |
| **5** | **Non-discrimination of participants** | **Participants (residents and non-residents)** all forms of ownership and organizational and legal forms participate in procurement procedures on equal terms  In accordance with paragraph two of subparagraph 4 of clause 6¹ of Section X "Final and Transitional Provisions" of the Law in conjunction with Article 6 of the Law, the features regarding the localization of production and their consideration during the evaluation of proposals, provided for by the Law of Ukraine No. 1977-ИХ of December 16, 2021, do NOT apply to procurement within the framework of URP III (tranche A). |
| **6** | **Information about the currency in which the tender price must be calculated and stated** | The currency of the tender offer is the national currency of Ukraine - hryvnia. |
| **7** | **Information on the language(s) in which tenders must be drawn up** | The language of the tender offer is Ukrainian ([paragraph 8 part two,](https://zakon.rada.gov.ua/laws/show/922-19) Article 21 of the Law).  During procurement procedures, all documents prepared by the customer are presented in Ukrainian, and at the customer's decision, all documents may simultaneously have an authentic translation into another language.  The text in Ukrainian is decisive.  Standard characteristics, requirements, abbreviations and terminology related to the goods, works or services being procured, provided for by existing international or national standards, norms and rules, shall be set out in the language of their generally accepted application.  All information is placed in the electronic procurement system in Ukrainian, except in cases where the use of Ukrainian letters and symbols leads to their distortion (in particular, but not exclusively, Internet addresses, e-mail addresses, trademarks (trademarks for goods and services), generally accepted international terms). The tender offer and all documents stipulated by the requirements of the tender documentation and its annexes shall be drawn up in Ukrainian. Documents or copies of documents (which are stipulated by the requirements of the tender documentation and its annexes) provided by the Participant as part of the tender offer, set out in other languages, must be provided together with their authentic translation into Ukrainian.  Exclusion:  1. The customer is not obliged to consider documents that are not provided for by the requirements of the tender documentation and its annexes and that the participant additionally provides at its own discretion, including if such documents are provided in a foreign language without translation.  2. In the event that a participant provides several documents in different languages ​​in support of one requirement, and provided that at least one of the documents provided meets the established requirement, including language requirements, the customer shall not consider the other document(s) that the participant provided additionally in support of this requirement, even if the other document is provided in a foreign language without translation. |
| **8** | **The expected cost of the subject of procurement and information on the acceptance or rejection of a tender offer for consideration, the price of which is higher than the expected cost of the subject of procurement, determined by the customer in the announcement of open tenders** | The expected cost of the procurement item is: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_UAH. \_\_ kopecks ( {expected cost in UAH. \_\_ kopecks }. |
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| **Section II Procedure for making changes and providing clarifications to tender documentation** | | |
| **1** | **Procedure for providing clarifications regarding tender documentation** | An individual/legal entity has the right, no later than three days before the deadline for submitting a tender proposal, to contact the customer through the electronic procurement system for clarifications regarding the tender documentation and/or the announcement of open tenders and/or to contact the customer with a request to eliminate a violation during the tender (hereinafter referred to as the appeal). All appeals are automatically published in the electronic procurement system without identifying the person who addressed the customer. The customer must respond to the appeal and publish it in the electronic procurement system within three days of their publication.  In the event of a customer's untimely response to the request, the electronic procurement system automatically stops the open bidding.  To resume open bidding, the customer must post a response in the electronic procurement system while simultaneously extending the deadline for submitting tenders for at least four days. |
| **2** | **Making changes to the tender documentation** | The customer has the right, on its own initiative or in the event of elimination of violations of the requirements of the legislation in the field of public procurement set out in the conclusion of the state financial control body in accordance with Article 8 of the Law, or based on the results of appeals, or on the basis of the decision of the appeal body, to make changes to the tender documentation and/or the announcement of open tenders. In the event of making changes to the tender documentation and/or the announcement of open tenders, the deadline for submitting tender offers is extended by the customer in the electronic procurement system, namely in the announcement of open tenders in such a way that from the moment of making changes to the tender documentation and/or the announcement of open tenders until the end of the deadline for submitting tender offers there are at least four days left.  Changes made by the customer to the tender documentation and/or the announcement of open tenders shall be placed and displayed in the electronic procurement system in a new version of the said documentation and/or announcement in addition to their previous version. The customer shall publish a list of the changes made in a separate document together with the changes to the tender documentation and/or the announcement of open tenders. Changes to the tender documentation and/or the announcement of open tenders in machine-readable format shall be placed in the electronic procurement system within one day from the date of the decision to make them. |
| **Section III Instructions for preparing a tender proposal** | | |
| **1** | **Content and method of submitting a tender offer** | The tender offer shall be submitted in accordance with the procedure specified in Article 26 of the Law, except for the provisions of parts one, four, six and seven of Article 26 of the Law.  The tender offer is submitted electronically through the electronic procurement system by filling out electronic forms with separate fields, which indicate information about the price, other evaluation criteria (if established by the customer), information from the participant in the procurement procedure on its compliance with the qualification criteria, the presence/absence of the grounds established in paragraph 47 of the Features and in the tender documentation; as well as uploading the necessary documents required under the terms of this tender documentation.  **The tender offer must consist of:**  1. Documents confirming the authority of the official or representative of the participant in the procurement procedure to sign the tender offer documents - if the participant is a legal entity, the participant provides a document confirming its authority (order on the appointment of the head of the enterprise to the position or the protocol of the decision of the owners or shareholders on the appointment of the head or an extract from the protocol of the founders on the appointment of the director, president, chairman of the board, etc. or a power of attorney from the participant's head certifying the authority of the authorized person to sign the tender offer and/or the procurement agreement, or other);  - if the participant is an individual, the participant shall provide a copy of the passport (pages 1-2 and pages 3-6, if there are entries, a page indicating the place of residence, for a passport of a citizen of Ukraine, issued in the form of a booklet, or two sides for a passport of a citizen of Ukraine in the form of a card containing a contactless electronic medium), and if the tender offer and/or the procurement agreement will be signed by a person who was authorized by the individual participant, it is necessary to additionally provide a notarized power of attorney certifying the authority of the authorized person to sign the tender offer and/or the procurement agreement, as well as a copy of the passport (pages 1-2 and pages 3-6, if there are entries, a page indicating the place of residence, for a passport of a citizen of Ukraine, issued in the form of a booklet, or two sides for a passport of a citizen of Ukraine in the form of a card containing a contactless electronic medium) of such authorized person.  2. The latest version of the Charter or other constituent document. In the event that the Participant operates on the basis of a model charter, it is necessary to provide a decision on the creation of the Participant. (for legal entities).  3. Extract from the register of VAT payers or extract from the register of single tax payers (in case of failure to submit at least one of the documents specified in this paragraph, the participant must provide an explanation with reference to the norms of current legislation, which contain justification for the reasons for failure to submit the specified documents, in particular in connection with the availability of free access to open data of the State Tax Service).  4. Documents specified in clause 5 of section III of the tender documentation (except for documents provided for in subclauses 5.5.1.-5.5.4. of clause 5 of section III of the tender documentation, which will be provided by the winning participant).  5. A completed tender proposal (price), drawn up in accordance with Appendix 1, certified by the signature of the Participant's authorized person and seal\*.  6. Information and scanned documents on the compliance of the proposed offer with the technical requirements set out in paragraph 6 of Section III and Annex 3 to this tender documentation.  7. Signed by an authorized representative of the participant of the Pact on Consent on Professional Integrity in Ukrainian and English (Appendix 7).  **8. Other documents (taking into account the first paragraph of part three of Article 22 of the Law):**  **-**copies of qualification certificates;  - in case of involving a third-party business entity (subcontractor), the Participant shall provide a certificate, in the form according to Appendix 4, with a list of subcontractors that will be involved in the performance of work/provision of services with the mandatory provision of copies of valid qualification certificates and/or copies of valid licenses of employees of such subcontractors (for work/services according to the Customer's requirements in this documentation);  - other documents required by the content of the tender documentation, in particular a certificate, in any form, about the person authorized to sign the procurement contract in the event of the winning bidder, with the mandatory provision of a copy of the document certifying the person authorized to sign the procurement contract as part of their bid;  -- if the tender offer is submitted by an association of participants -- a document on the creation of such an association.  Each participant has the right to submit only one tender proposal.  The customer shall not accept for consideration a tender offer whose price is higher than the expected cost of the procurement object, determined by the customer in the announcement of open tenders.  Since the customer did not indicate the acceptance for consideration of a tender offer, the price of which is higher than the expected cost of the procurement object, determined by the customer in the announcement of open bidding, and/or did not indicate an acceptable percentage of the excess, or the percentage of the excess is greater than that specified by the customer in the tender documentation, the customer rejects such a tender offer in accordance with paragraph five, subparagraph 2, clause 44 of the Features.  The Customer does not require the mandatory inclusion of documents/extracts/certificates in the Participant's tender offer if such information is public, published in the form of open data in accordance with the Law of Ukraine "On Access to Public Information" and/or contained in open unified state registers, access to which is free.  However, taking into account that according to the Resolution of the Cabinet of Ministers of Ukraine dated March 12, 2022 No. 263, which applies to the termination or cancellation of martial law, information, information-communication and electronic communication systems, public electronic registers may both suspend, restrict their work, and open, resume during the period of martial law, in the event of suspension and/or restriction of access to the relevant open unified state registers in the period from the date of publication of the procurement announcement and until the deadline for submission of tender proposals by participants, the failure of the Participant to submit the relevant document(s)/extracts/certificates as part of the Participant's tender proposal will be considered a discrepancy in the information and/or documents of the Participant's tender proposal.  In this case, the Participant in the procurement procedure shall correct the inconsistencies in the information and/or documents submitted by it in its tender offer, identified by the customer after the opening of tender offers, by uploading the revised or new documents into the electronic procurement system through the electronic procurement system, within 24 hours from the moment the customer places a notice in the electronic procurement system with a request to eliminate such inconsistencies.  **The documents included in the tender proposal (uploaded upon submission) must be scanned and arranged sequentially one after the other, so that the content of a single document is not interrupted.**  All documents included in the tender offer, if possible, are provided in one file, in PDF format (Portable Document Format), and if impossible - also files in the format with the extension ".jpeg.", ".doc.", which provide the possibility of familiarizing yourself with the content of such a document. Scanned copies of documents must be legible and readable.  The document(s) provided as part of the tender offer must be open to public access, i.e. not contain passwords.  The tender proposal must be posted on the electronic platform before the deadline for submitting tender proposals.  If the content of this tender documentation requires the provision of a copy of a document, the copy of such document must be certified by the signature of an authorized person and the seal\* of the participant before scanning.  If the tender documentation requires the submission of a multi-page document, the participant shall submit such document in full as part of the tender proposal, except in cases where the documentation requires the submission of specific pages of such a document.  **\****The requirement to affix a seal does not apply to participants who carry out activities without a seal in accordance with current legislation.*  In accordance with Part Three of Article 12 of the Law, when using the electronic procurement system for the purpose of submitting tender offers and their evaluation, documents and data are created and submitted taking into account the requirements of the laws of Ukraine "On Electronic Documents and Electronic Document Management" and "On Electronic Trust Services". Participants in the procurement procedure submit tender offers in the form of an electronic document or scanned copies through the electronic procurement system. The participant's tender offer must meet a number of requirements:  1) documents must be clear and legible for reading;  2) the tender proposal of the participant must be signed with a qualified electronic signature (QES) or an advanced electronic signature (AES), namely:  - QES or AES of the official (official) of the participant in the procurement procedure, which must contain the EDRPOU code of this particular legal entity-participant,  or  - QES or AES of an individual - a representative of a participant in the procurement procedure under a power of attorney, order or other document authorizing him/her (with the mandatory provision of a copy of such document as part of the participant's tender offer).  3) if the tender proposal contains both scanned and electronic documents, it is necessary to impose a QES/AES on the tender proposal as a whole and on each electronic document separately.  Exceptions:  1) if the electronic documents of the tender offer were issued by another organization and the QES/AES of this organization has already been applied to them, the participant does not need to apply his QES/AES to them.  Please note: tender documents that are not provided in the form of an electronic document (without a QES/AES on the document) must contain the signature of an authorized person of the procurement participant (indicating the person's last name, initials and position), as well as the participant's seal (if used) on each page of such a document (except for documents issued by other enterprises / institutions / organizations).  The customer does not require participants to certify documents (materials and information) submitted as part of the tender offer with the seal and signature of an authorized person, if such documents (materials and information) are provided in the form of an electronic document through an electronic procurement system with an electronic signature based on a qualified electronic signature certificate, in accordance with the requirements of the Law of Ukraine "On Electronic Trust Services".  The customer verifies the participant's QES/AES on the website of the central certification authority at the link https://czo.gov.ua/verify. When verifying the QES/AES, the following must be displayed: the last name and initials of the person authorized to sign the tender offer (key owner), the EDRPOU code of the legal entity-participant (for a legal entity) or the ROCPP number (for an individual-participant.  In the absence of this information or in the event that the participant fails to impose the QES/AES in accordance with the terms of the tender documentation, the Customer, in accordance with clause 43 of the Features, places a notice requiring the elimination of inconsistencies in the electronic procurement system within a period that cannot be less than two working days before the end of the tender consideration period. |
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| **2** | **Providing a tender offer** | Not required (Comment for the customer is at the discretion of the customer. In the event that the customer decides to include a requirement for participants to provide tender security, the relevant sections of this documentation must be amended - the sample tender documentation for the purchase of works can be used as a sample). |
| **3** | **Conditions for the return or non-return of the tender security** | Bid security is not required. |
| **4** | **Period during which tender offers are valid** | Tender offers shall be considered valid for 90 (ninety) days from the deadline for submission of tender offers.  Before the expiration of the specified period, the customer has the right to require the participants in the procurement procedure to extend the validity period of the tender offers.  The participant in the procurement procedure has the right:   * reject such a request; * agree to the requirement and extend the validity period of the tender offer submitted by him.   If necessary, the participant in the procurement procedure has the right to extend the validity period of his tender offer on his own initiative, notifying the customer about this through the electronic procurement system. |
| **5** | **Qualification criteria for participants** in accordance with Article 16 of the Law and the grounds established by Article 17 of the Law  *(paragraph 47 of the Features – during their application)* | The participant must provide documents as part of the tender proposal confirming compliance with the qualification criteria and the absence of grounds for refusal to participate in the procurement procedure, including:  **5.1. Availability of employees of appropriate qualifications who have the necessary knowledge and experience at the participant in the procurement procedure (*This criterion is applied at your own discretion.*** ***ammonic-- if it is used, it should be specified what type (what specialization and qualification) of employees are needed, taking into account the nature and scope of work)*:**  5.1.1. Certificate in the form of Appendix 6 to this documentation, which contains information about the availability of employees of appropriate qualifications who have the necessary knowledge and experience, indicating the position, total work experience (years), education and specialty/qualification of employees.  To confirm the information about the presence of employees at the Participant who will be involved by the Participant during the performance of the contract, it is necessary to provide, as part of the tender offer, copies of work books (a page with the employee's data and a page (pages) indicating the relevant place of employment) and/or copies of orders on appointment to a position, and/or copies of orders on part-time work, and/or copies of information on employment from the register of insured persons of the State Register of Compulsory State Social Insurance issued by the Pension Fund of Ukraine in respect of such employees and/or copies of civil law agreements, or other documents confirming the existence of legal relations between the Participant and the relevant employees specified in the Certificate in the form of Appendix 5 to this documentation.  5.1.2. Documents confirming the Participant's competence, knowledge, and experience with materials and technologies for finishing, facade works, and engineering communications. Such documents may include training certificates from material manufacturers, certificates of completion of seminars, etc.  The Participant must be able to supervise the work in all specializations (general construction, engineering networks, finishing works, etc.) performed by the Contractor for this facility.  5.1.3. The participant must have a valid qualification certificate issued in accordance with the legislation by an authorized body in the specialization "Technical supervision of the construction of buildings and structures" for objects with impact classes not lower than SS- (***The customer notes* class of consequences, corresponds to the class of consequences of the object of technical supervision of this procurement)*,***who provides, as part of the proposal, the personal seal of the technical supervision engineer (the participant provides a letter of guarantee on the use of the seal in his activities). The class of consequences is determined in accordance with the design and design expertise.  5.1.4. Requirements for the Participant's personnel:  ***[The Customer shall indicate one of the options below depending on the impact class of the facility specified in the Design Documentation]***   * ***[in case of consequence class CC1] –*** technical supervision engineer not lower than technical supervision engineer of the II category; * ***[in case of consequence class CC2] –***technical supervision engineer not lower than technical supervision engineer of the 1st category; * ***[in case of consequence class CC3] –***a technical supervision engineer not lower than a leading technical supervision engineer.   To confirm this, the participant shall provide a letter of guarantee as part of the offer, as well as all employees (specialists) who, according to the terms of the tender documentation, must be certified shall be provided with scanned copies of the originals of the relevant qualification certificates valid as of the deadline for submitting the proposal.  5.1.5. To confirm its compliance with this criterion, the participant may engage the capabilities of other business entities as subcontractors/co-performers. In such a case, the certificate of availability of employees in accordance with Appendix 5, in the context of subcontractors/co-performers, shall indicate information regarding all individuals in the engaged capabilities, indicating their full name, position, total length of service, education, as well as the legal basis for the participant's use of the labour of each individual employee, namely, the contract between the participant and the individual entrepreneur (if the work is performed personally by the entrepreneur) and/or the contract between the participant and his subcontractor (in all other cases).  To confirm the information specified in the certificate, the participant must provide:  - a copy of the contract between him and the individual entrepreneur and/or a copy of a letter of guarantee from the participant's subcontractor/co-executor, confirming the consent of such subcontractor/co-executor to act as a subcontractor/co-executor of this participant in the event of his victory in this tender, and also containing an exhaustive list of the subcontractor/co-executor's employees whom he intends to involve in the performance of the relevant contract in the event of the participant's victory in this tender.  *The compliance of the submitted proposal with this criterion is confirmed by providing, as part of the proposal, a properly completed certificate in accordance with Appendix 5 (and scanned copies of supporting documents regarding subclauses 5.1.1-5.1.5).*  **5.2. Availability of documented relevant experience in the implementation of similar contracts:**  5.2.1. Certificate of execution of similar contracts in accordance with Appendix 6 of this documentation.  5.2.2. Certified copies of supporting documents, namely: similar contracts with additional agreements (if any) and acts for the entire amount of the contract. In the event that the amount of the acts does not correspond to the specified value of the contract - provide an explanation.  **Relevant work experience:** at least 2 completed similar contracts (including subcontracts) within the last 7 years, taking into account that the class of consequences (liability) of the object under a similar contract must be no lower than the class of consequences of the object under the subject of the procurement.  Similar contracts are understood to be contracts comparable in terms of the composition and nature of the works (services), namely, technical supervision of the execution of construction works for new construction or reconstruction or restoration or major repairs of facilities (buildings).  *The compliance of the submitted proposal with this criterion is confirmed by providing, as part of the proposal, a properly completed certificate in accordance with Appendix 6 and scanned copies of the supporting documents specified in subparagraph 5.2.2.*  **5.3. Availability of financial capacity for the last 4 calendar years, confirmed by the provision of financial statements (depending on the organizational and legal form of the Participant):**  5.3.1. Copies of the Participant's balance sheets (form No. 1)  \*For small businesses – copies of the financial report of the Participant-small business entity (form No. 1-m).  5.3.2. For Bidders who are legal entities - copies of reports on the financial results of the Bidder (form No. 2).\*  For small businesses – copies of the financial reports of the Participant-small business entity (form No. 2-m).  5.3.3. Copies of cash flow statements.  *\*If the bidder is a legal entity or individual who, in accordance with the norms of current legislation, does not prepare the documents specified in this subparagraph, such a bidder shall submit copies of those documents that are financial reporting documents for it as part of the proposal.*  **The financial capacity of the procurement participant meets the criterion, provided that the average annual turnover (arithmetic mean of annual turnover) over the last 4 calendar years (total work experience of at least 4 years) is not less than 30% of the expected cost of the procurement object indicated by the Customer in the announcement of open tenders**  *Annual turnover (identical to the volume of annual income) refers to all income of the participant during the year: 1) for a legal entity participant: net income from the sale of products (goods, works, services) + Other operating income + Other income; 2) for a natural person-entrepreneur participant:* the amount of income for the reporting tax period (year).  **5.4. Documents confirming the absence of grounds for refusal to participate in the procurement procedure, which are provided when submitting a tender offer:**  5.4.1. Absence of grounds for refusal specified in Part 1 of Article 17 of the Law (subparagraphs 1-12 of Clause 47 of the Features - during their application).  The participant in the procurement procedure confirms the absence of the grounds specified in subparagraphs 1-12 of clause 47 of the Features (except for subparagraphs 1 and 7 of this clause) by independently declaring the absence of such grounds in the electronic procurement system when submitting a tender offer.  The customer does not require any documents from the participant in the procurement procedure when submitting a tender offer in the electronic procurement system, confirming the absence of the grounds specified in item 47 Features, except for the self-declaration of the absence of such grounds by the participant in the procurement procedure in accordance with [paragraph sixteen](https://zakon.rada.gov.ua/laws/show/1178-2022-%D0%BF#n630) point 47 Features.  In the event of submission of a tender offer by an association of participants, confirmation of the absence of grounds for refusal to participate in the procurement procedure, established by clause 47 of the Features, shall be submitted for each of the participants that are part of the association, separately.  The customer independently, based on the results of consideration of the tender offer of the procurement procedure participant, confirms in the electronic procurement system that the procurement procedure participant does not have the grounds specified in subparagraphs 1 and 7 of clause 47 of the Features.  In the event that the Customer, during the consideration of the Participant's tender proposal, discovers in its information on the absence of grounds specified in clause 47 of the Features, errors (inconsistencies) made when filling in the relevant electronic fields, the Participant shall provide a certificate in any form to eliminate such inconsistencies in the submitted information in accordance with clause 43 of the Features, since the electronic procurement system does not have a mechanism for correcting errors in electronic fields.  In the event that a participant in the procurement procedure intends to involve other business entities as subcontractors/co-performers in the amount of not less than 20 percent of the value of the procurement contract, the participant shall provide a certificate in the form in accordance with Appendix No. 4 to this tender documentation.    5.4.2. In accordance with paragraph one of part three of Article 22 of the Law, taking into account paragraph 10, point 3 of the Features and Finance Contract for procurement under URP III (tranche A), the participant will be refused participation in the tender and its offer will be rejected if the participant does NOT provide information in the offer about the absence of the following grounds, namely:  -- Certificates in any form stating that the official (official) of the participant in the procurement procedure who signed the tender offer and/or is authorized to sign the procurement contract, the individual who is the ultimate beneficial owner of the legal entity participating in the procurement procedure (including the individual who is the ultimate beneficial owner of the founder of such a legal entity, if the founder is another legal entity) - has NOT been convicted of high treason or collaboration activities under the laws of Ukraine and the conviction for such criminal offenses has not been removed from the individual or has not been extinguished in accordance with the procedure established by law.  -- Certificates in any form that the participant in the procurement procedure or the ultimate beneficial owner, member or participant (shareholder) of a legal entity - a participant in the procurement procedure is NOT a person to whom a sanction has been applied in the form of a ban on public procurement of goods, works and services in accordance with the Law of Ukraine "On Sanctions", except for the case when the assets of such a person have been transferred to the management of ARMA in accordance with the procedure established by law, and also that such a person has NOT been subject to current sanctions by any of the following organizations:  (a) The United Nations and any agency or person duly designated, authorized or empowered by the United Nations to impose, administer, implement and/or enforce sanctions;  (b) the European Union and any agency or person duly designated, authorised or empowered by the European Union to impose, administer, implement and/or enforce sanctions;  (c) The U.S. Treasury Department's Office of Foreign Assets Control (OFAC), the U.S. Department of State, and/or the United States Department of Commerce.  5.4.3. In accordance with paragraph one of part three of Article 22 of the Law, taking into account paragraph 10 of paragraph 3 of the Features and Finance Contract for procurement under URP III (tranche A), the participant will be refused participation in the tender and its offer will be rejected if the participant does NOT provide as part of its offer an Extract from the Unified State Register/Extract from the Unified State Register, which contains the information provided for in paragraph 9 of part two of Article 9 of the Law of Ukraine "On State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations", or other documents in accordance with current legislation confirming the specified information (except for cases where the participant is an individual entrepreneur or the participant is a non-resident).  **5.5. Documents that the winner of the procurement procedure must submit to the customer:**  5.5.1. Information certificate from the Unified State Register of Persons Who Have Committed Corruption or Corruption-Related Offenses, according to which no information will be found about corruption or corruption-related offenses of the head of the procurement procedure participant.  *The certificate is provided to prevent a situation caused by the lack of functionality to verify information on the web resource of the Unified State Register of Persons Who Have Committed Corruption or Corruption-Related Offenses that does not concern the requester.*  The winner can obtain the specified document via the following link on the Internet: <https://corruptinfo.nazk.gov.ua/>  Information on bringing to justice under the law for committing a corruption offense or an offense related to corruption of an individual who is the winner of the procurement procedure is additionally verified by the customer in the electronic procurement system independently, by reviewing the information that is automatically generated in the electronic procurement system as a result of the automatic exchange of information of the electronic procurement system with the Unified State Register of Persons Who Committed Corruption or Corruption-Related Offenses.  5.5.2. Certificate containing information that the manager of the procurement procedure participant, an individual who is a participant, has NOT been convicted of:  -- for a criminal offense committed for selfish motives (in particular, related to bribery, fraud and money laundering), the criminal record of which has not been expunged or expunged in accordance with the procedure established by law,  -- for high treason or collaboration activities under the laws of Ukraine and the conviction for such criminal offenses has not been removed from the individual or has not been extinguished in accordance with the procedure established by law.    5.5.3 Certificate containing information that the head of the procurement procedure participant, an individual who is a participant, has NOT been held liable under the law for committing an offense related to the use of child labour or any forms of human trafficking  5.5.4 A certificate in any form containing information that: a) no contracts have previously been concluded between the winner and the customer, b) or that the winner of the procurement procedure has fulfilled its obligations under the procurement contract previously concluded with the customer -- accordingly, there were no grounds that would lead to its early termination and the application of sanctions in the form of fines and/or compensation for damages, c) or a certificate with information that it has provided confirmation of taking measures to prove its reliability, despite the presence of a corresponding ground for refusal to participate in the procurement procedure.  The certificates specified in subparagraphs 5.5.2-5.5.3 are provided in the form of an Extract (full) from the information and analytical system "Recording of information on bringing a person to criminal liability and the presence of a criminal record". The extract is provided for the person(s) specified in this subparagraph and must be issued no more than 30 calendar days before the date of its submission to the Customer.  ***You can obtain a certificate of no criminal record online using the DIYA Portal service:***[*https://diia.gov.ua/services/vityag-pro-nesudimist*](https://diia.gov.ua/services/vityag-pro-nesudimist)*or on the official website of the Ministry of Internal Affairs at the link*[*https://vytiah.mvs.gov.ua/app/landing*](https://vytiah.mvs.gov.ua/app/landing) *.*  5.6. The winner of the auction, within a period not exceeding four days from the date of publication in the electronic procurement system of the notice of intention to conclude a contract, must provide the customer with the documents provided for in subparagraphs 5.5.1.-5.5.4. of paragraph 5 of Section III of the tender documentation.  Documents scanned in order in one file (in PDF (Portable Document Format) format) are provided by attaching the file to the electronic platform. Scanned copies of documents must be legible and readable.  Non-resident bidders, in order to fulfil the requirements for providing documents stipulated in paragraph 1 of Section III of the tender documentation, shall submit as part of their bid the documents stipulated by the legislation of the countries where they are registered. Such documents shall be submitted together with a duly certified translation.  Based on Part 15 of Article 29 of the Law (Clause 42 of the Features - during their application), the Customer has the right to request confirmation of the information provided by the participant/winner of the procedure, to state authorities, enterprises, institutions, organizations in accordance with their competence. .In the event of receiving reliable information about the non-compliance of a participant in the procurement procedure with the requirements of the qualification criteria, the existence of grounds specified [paragraph 47](https://zakon.rada.gov.ua/laws/show/1178-2022-%D0%BF#n615)these features, or the fact of indicating in the tender offer any inaccurate information that is significant when determining the results of open bidding, the customer rejects the tender offer of such a participant in the procurement procedure..  **\****The requirement to affix a seal does not apply to participants who carry out activities without a seal in accordance with current legislation.*  **5.7. Additional requirement for avoiding conflicts of interest**  At the request of the EIB and in order to avoid a conflict of interest, the contracting authority will refuse a participant from participating in the tender and reject its tender offer if it becomes known that such participant provided consulting services for the preparation and implementation of a sub-project.  In order to avoid a possible conflict of interest, tenders from bidders who are related parties within the meaning of paragraph 20 of Article 1 of the Law of Ukraine "On Public Procurement" will also not be considered and rejected, in particular in a situation where the customer exercises control over the bidder or the customer and the bidder are under common control. |
| **6** | **Information about the technical, qualitative and quantitative characteristics of the procurement item** | Participants in the procurement procedure must provide, as part of the tender offer, documentary confirmation of the compliance of the participant's tender offer with the technical, qualitative, quantitative and other requirements for the subject of the procurement established by the customer in Appendix 3 to this tender documentation.  **To confirm the compliance of the tender offer with the technical, qualitative, quantitative and other requirements of the customer, the participant must provide the following as part of the tender offer:**  - calculation of the cost of technical supervision of the subject of procurement, specified in the proposal form of Appendix 1, in accordance with the cost estimates of Ukraine "Guidelines for determining the cost of construction", approved by order of the Ministry of Community and Territorial Development of Ukraine dated November 1, 2021 No. 281 (with amendments and supplements).  - agreement to the relevant terms of this tender documentation, in particular agreement to the draft contract (Annex 2),specified in the proposal form in Appendix 1;  **-**a copy of all qualification documents for the right to engage in technical supervision of construction.  A tender offer that does not meet the Technical Requirements set out in Annex 3 will be rejected on the basis of paragraph 2, subparagraph 2, clause 44 of the Features, namely the tender offer does not meet the conditions of the technical specification and other requirements regarding the subject of procurement of the tender documentation, except for inconsistencies in information and/or documents, which may be eliminated by the participant in the procurement procedure in accordance with clause 43 of the Features.  The technical and qualitative characteristics of the procurement subject require the application of environmental protection measures. In confirmation of the application of environmental protection measures, the participant must provide a guarantee letter as part of the proposal according to the form in Appendix 3-A to this documentation. |
| **7** | **Subcontractor information** | The participant shall indicate in the tender proposal the full name and location of each business entity that the participant plans to engage as a subcontractor to perform the work in the amount of not less than 20 percent of the value of the procurement contract, as well as other subcontracting organizations that it plans to engage to perform the work. Information on subcontractors shall be provided in accordance with Annex 4 to this tender documentation. |
| **8** | **Amendment or withdrawal of a tender offer by a participant** | The participant has the right to make changes or withdraw its tender offer before the deadline for its submission. Such changes or a statement on the withdrawal of the tender offer shall be taken into account if they are received by the electronic procurement system before the deadline for the submission of tender offers. |
| **9** | **List of tender documentation annexes** | 1. Annex 1 – Tender (Price) Proposal Form.  2. Annex 2 -- Draft Agreement  3. Appendix 3 -- Terms of Reference for procurement by subject of procurement.  4. Appendix 3-A – Form of a letter of guarantee for the performance of work.  5. Appendix 4 – Certificate form containing information on the involvement of subcontractors in the performance of work.  6. Appendix 5 – Form of certificate on the presence of employees of the Participant with appropriate qualifications who have the necessary knowledge and experience (if this criterion is established).  7. Appendix 6 – Form of certificate confirming that the Bidder has documented experience in executing similar contracts.  8. Appendix 7 – PACT ON CONSENT ON PROFESSIONAL INTEGRITY (in Ukrainian and English).  9. Appendix 8 -- List of documents and/or information submitted by the procurement participant as part of the tender offer.  10. Annex 9 -- List of documents and/or information to be submitted by the winner of the procurement procedure. |
| **Section IV Submission and Opening of Tender Proposal** | | |
| **1** | **Deadline for submitting a tender proposal** | **Deadline for submission of tender proposals:**  *(****Comment for the Customer. The date and time specified in the announcement of the open bidding procedure are indicated. The deadlines for submitting tender offers in open bidding are specified in accordance with the current legislation applicable at the time of publication of the announcement of the open bidding procedure, but according to the requirements of clause 9 of the Manual "National Procurement Procedures" it must be NOT LESS than 15 calendar days from the date of publication of the announcement of the open bidding procedure in the case of tender procurement of technical supervision and consulting engineer services)***  The received tender offer is automatically entered into the register.  The electronic procurement system automatically generates and sends a notification to the participant about the receipt of his offer, indicating the date and time.  Tender offers received by the electronic procurement system after the deadline for submission are not accepted and are automatically returned to the participants who submitted them. |
| **2** | **Date and time of opening of tender offer** | The date and time of opening of tenders are determined in the electronic procurement system in accordance with the requirements of the legislation applicable at the time of the announcement of the tender. |
| **Section V Evaluation of tenders, their rejection and other information** | | |
| **1** | **List of criteria and tender evaluation methodology with indication of the specific weight of the criterion** | Open bidding is held ***(Customer Comment: ONE OF THE FOLLOWING OPTIONS SHOULD BE DETERMINED BY THE CUSTOMER AT HIS DISCRETION)***:   * ***FROM*** *using an electronic auction in accordance with clause 35 of the Features (during their application).*   ***\*Auction step:***  ***Minimum price reduction step size, %: % of the expected purchase price.***  ***The size of the minimum price reduction step, UAH: \_\_\_\_\_\_\_\_\_\_\_\_ UAH (\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hryvnias, \_\_\_ kopecks).***  *OR*   * WITHOUT the use of electronic auction according to clause 37 of the Features (during their application).   The tender offer is evaluated automatically by the electronic procurement system based on the criteria and evaluation methodology specified by the customer in the tender documentation, by determining the tender offer as the most economically advantageous. The electronic procurement system determines the tender offer with the lowest price as the most economically advantageous tender offer.  The Customer shall consider the tender proposal that has been determined to be the most economically advantageous in accordance with the Specifications (hereinafter referred to as the most economically advantageous tender proposal) for its compliance with the requirements of the tender documentation.  Based on the results of the consideration and evaluation of the tender offer, the customer determines the winner of the procurement procedure and makes a decision on the intention to conclude a procurement contract in accordance with the Law, taking into account the Features.  The customer has the right to request confirmation of the information provided by the participant in the procurement procedure from state authorities, enterprises, institutions, and organizations within their competence.  In the event of receiving reliable information about the non-compliance of the winner of the procurement procedure with the requirements of the qualification criteria, the grounds established by part one of Article 17 of the Law (paragraph 47 of the Features - during their application), or the fact of indicating in the tender offer any unreliable information that is significant when determining the results of open bidding, the customer rejects the tender offer of such a participant in the procurement procedure.  In the event of rejection of a tender offer in accordance with clause 5.1 of Section V of these tender documentation, which, according to the results of the evaluation, is determined to be the most economically advantageous, the customer shall consider the next tender offer in the list of tender offers, arranged according to the results of their evaluation, starting with the best one, which is considered to be the most economically advantageous in such a case, in the manner and within the time limits specified in these tender documentation. Tender evaluation criteria:– price including VAT\* (specific weight of the price criterion is 100%). Tender offers are evaluated taking into account the amount of value added tax\*  **\* Participants who are not VAT payers shall submit a tender offer excluding VAT.**  At the same time, the Participant, when filling out the form of the document "Tender Proposal (Price)" in accordance with Appendix 1 to the tender documentation, must indicate, in particular, the amount of VAT, if the Participant is a VAT payer.  The price offered by the participant must take into account all costs associated with the subject of the procurement (payment of taxes, mandatory payments, insurance, costs associated with obtaining necessary permits and licenses, etc., delivery terms), in accordance with the terms of this documentation. |

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| **2** | **Justification of an abnormally low tender offer** | The participant who submitted the most economically advantageous tender offer, which is abnormally low, must provide, within one working day from the date of determination of the most economically advantageous tender offer, justification in any form regarding the prices or cost of the relevant works of the tender offer.  The customer may reject an abnormally low tender if the participant has not provided proper justification for the price or value indicated therein, and rejects an abnormally low tender if such justification is not received within the period specified above.  The justification for an abnormally low tender offer may include information about:   1. achieving savings due to the applied technological process of producing goods, the procedure for providing services or construction technology; 2. favourable conditions under which a participant in the procurement procedure may supply goods, provide services or perform work, in particular a special price offer (discount) of a participant in the procurement procedure; 3. receipt by a participant in the procurement procedure of state aid in accordance with the legislation. |
| **3** | **Correction of inconsistencies in information and/or documents** | If, during the consideration of a tender offer of a procurement procedure participant, the customer discovers inconsistencies in the information and/or documents submitted by the procurement procedure participant in the tender offer and/or the submission of which was provided for by the tender documentation, it shall place a notice requiring the elimination of such inconsistencies in the electronic procurement system within a period that cannot be less than two working days before the end of the tender offer consideration period.  Inconsistency in the information and/or documents submitted by the participant in the procurement procedure as part of the tender offer and/or the submission of which is required by the tender documentation, is understood, among other things, to mean the absence of information and/or documents in the tender offer, the submission of which is required by the tender documentation (except in cases of the absence of tender offer security, if such security was required by the customer, and/or absence information (and/or documents) on the technical and qualitative characteristics of the procurement subject, proposed by the participant in the procedure in its tender offer). Inconsistencies in the information and/or documents provided by the participant in the procurement procedure to fulfil the requirements of the technical specification for the procurement subject are considered to be errors, the correction of which does not lead to a change in the procurement subject, proposed by the participant in the procurement procedure in its tender offer, the name of the product, brand, model, etc.  The participant in the procurement procedure shall correct inconsistencies in the information and/or documents submitted by him in his tender offer, identified by the customer after the opening of tender offers, by uploading clarified or new documents to the electronic procurement system through the electronic procurement system, within 24 hours from the moment the customer places a notice in the electronic procurement system with a request to eliminate such inconsistencies.  The customer may not place a notice regarding the same procurement participant more than once with a requirement to eliminate inconsistencies in the information and/or documents submitted by the procurement participant as part of the tender offer, except for cases related to the implementation of the decision of the appeal body. |
| **3.1** | **Formal errors** | Formal (minor) errors in the tender proposals of participants are allowed, which does not lead to rejection of such a proposal.  Formal (non-material) errors are considered errors related to the preparation of the tender proposal and do not affect the content of the proposal, namely technical errors and typos.  ***Description and examples of formal minor errors.***  In accordance with the order of the Ministry of Economy dated April 15, 2020 No. 710 "On Approval of the List of Formal Errors" and in accordance with paragraph 19 of part 2 of Article 22 of the Law, the tender documentation provides a description and examples of formal (minor) errors, the admission of which by participants will not lead to the rejection of their tender proposals in the following wording:  "Formal (non-material) errors are considered errors that are related to the preparation of the tender proposal and do not affect the content of the tender proposal, namely technical errors and typos.  *Description of formal errors:*  1. The information/document submitted by the procurement participant as part of the tender proposal contains an error(s) in the following areas:  — use of capital letters;  — use of punctuation marks and declension of words in a sentence;  — use of the word or speech expressions borrowed from another language;  — specifying a unique announcement number conducting a competitive procurement procedure, assigned by the electronic procurement system and/or a unique number of the notice of intention to conclude a procurement contract - an error in the numbers;  — applying the rules for transferring part of a word from line to line;  — writing words together and/or separately, and/or hyphenated;  — page/sheet numbering (including multiple pages/sheets having the same number, missing page/sheet numbers, no page/sheet numbering, page/sheet numbering not matching the list specified in the document).  2. An error made by a participant in the procurement procedure when completing the text of a document / entering information into individual fields of the electronic form of the tender offer (including computer proofreading, replacing a letter (letters) and / or number (digits), rearranging letters (digits), omitting letters (digits), repeating words, no space between words, rounding a number), which does not affect the price of the tender offer of the participant in the procurement procedure and does not lead to its distortion and / or does not concern the characteristics of the subject of the procurement, qualification criteria for the participant in the procurement procedure.  3. Incorrect name of the document(s) submitted by the participant in the procurement procedure as part of the tender offer, the content of which meets the requirements specified by the customer in the tender documentation.  4. A separate page(s) of the copy of the document(s) is not certified by the signature and/or seal of the procurement participant (if used).  5. The tender offer does not contain the document(s) to which the procurement participant refers in its tender offer, and the customer does not require the submission of such a document in the tender documentation.  6. Submission of a document(s) by a participant in the procurement procedure as part of a tender offer that does not contain the handwritten signature of the authorized person of the participant in the procurement procedure, if this document(s) is signed by his/her qualified electronic signature.  7. Submission of a document(s) by a participant in the procurement procedure as part of a tender offer that is drawn up in an arbitrary form and does not contain an original number.  8. Submission of a document by a participant in the procurement procedure as part of a tender offer, which is a scanned copy of the original document/electronic document.  9. Submission of a document by a participant in the procurement procedure as part of the tender offer, which is certified signed by an authorized person of the procurement procedure participant and additionally contains the signature (visa) of a person whose authority is not confirmed by the procurement procedure participant (for example, the translation of the document is authorised by a translator, etc.).  10. Submission of a document(s) by a participant in the procurement procedure as part of a tender offer that contains outdated information about the name of a street, city, name of a legal entity, etc., due to the fact that such name(s) were changed in accordance with the legislation after the relevant document(s) was(were) submitted.  11. Submission of a document(s) by a participant in the procurement procedure as part of a tender offer in which the position of the digit(s) in the amount is incorrect, while the amount indicated in writing is correct.  12. Submission of a document(s) by a participant in the procurement procedure as part of a tender offer in a format that differs from the format required by the customer in the tender documentation, while such a format of the document ensures the possibility of its review.  *Examples of formal errors:*  — “Information in any form” instead of “Information”, “Explanatory letter” instead of “Letter”, “certificate” instead of “guarantee letter”, “information” instead of “certificate”;  — “m.Kharkiv” instead of “m. Kharkiv”;  — “ock” instead of “ok”;  — “is not available” instead of “is not available”;  — “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_№\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_” instead of “14.08.2020 №320/13/14-01”  — the participant posted (uploaded) a document in the “JPG” format instead of a document in the “pdf” (PortableDocumentFormat) format. |
| **4** | **Other information** | Other conditions of the tender documentation:  1. The Participant shall bear all costs associated with the preparation and submission of its tender proposal, and the Customer shall not be responsible or liable for these costs, regardless of the nature of the conduct and results of the consideration of the tender proposal, except for cases provided for by the current legislation of Ukraine.  2. Participants are responsible for the content of their tender proposals and must comply with the norms of the current legislation of Ukraine.  3. If the participant or winner is not required to submit or, in accordance with the norms of current legislation (including in the case of submission of a tender offer by a non-resident participant / non-resident winner in accordance with the norms of the legislation of the country of registration), is not required to submit any of the documents specified in the provisions of the documentation or to affix an electronic signature, then he shall provide a letter of explanation in any form, in which he indicates the legislative grounds for not submitting the relevant documents or a copy(s) of the explanation(s) of state bodies or for not affixing an electronic signature.  4. Documents not provided for by law for participants - legal entities, individuals, including individual entrepreneurs, shall not be submitted by them as part of the tender offer.  5. The absence of documents not provided for by law for participants - legal entities, individuals, including individual entrepreneurs, in the tender offer cannot be a basis for its rejection by the customer.  6. The fact of submitting a tender offer by a participant - an individual or an individual entrepreneur who is a personal data subject is considered the unconditional consent of the personal data subject to the processing of his or her personal data in connection with participation in the procurement procedure, in accordance with paragraph 4 of Article 2 of the Law of Ukraine "On Personal Data Protection" dated 01.06.2010 No. 2297-VI.  In all other cases, the fact of submitting a tender offer by a participant - a legal entity that is a controller of personal data is considered confirmation of its right to process personal data, as well as granting such a right to the customer as a recipient of the specified personal data on behalf of the subject (controller). Thus, the responsibility for the unlawful transfer of personal data to the customer, as well as their processing, lies solely with the participant in the procurement procedure that submitted the tender offer.  7. Documents issued by state bodies must comply with the requirements of the regulatory acts in accordance with which such documents are issued.  8. The participant who submitted a tender proposal is deemed to agree with the draft procurement contract set out in Annex 2 to these tender documents and will comply with the terms of its tender proposal within the period set out in clause 4 of Section III to these tender documents.  9. If a requirement is set out in the tender documentation several times, the participant/winner may submit the required document or information once.  10. When submitting a tender offer, participants must take into account the following standards (the fact of submitting written confirmation of compliance with these standards is considered to be taken into account):  — Resolution of the Cabinet of Ministers of Ukraine "On ensuring the protection of national interests in future claims of the state of Ukraine in connection with military aggression of the Russian Federation" dated 03.03.2022 No. 187, since the customer cannot fulfil obligations, the creditors of which are the Russian Federation or persons associated with the aggressor country, as defined in subparagraph 1 of paragraph 1 of this Resolution;  — Resolution of the Cabinet of Ministers of Ukraine “On the Application of the Ban on the Import of Goods from the Russian Federation” dated 09.04.2022 No. 426, since this resolution prohibits the import into the customs territory of Ukraine of goods from the Russian Federation under the customs regime of import;  — Law of Ukraine “On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine” dated 15.04.2014 No. 1207-VII.  And also take into account that in Ukraine, customers are prohibited from carrying out public procurement of goods, works and services from citizens of the Russian Federation/Republic of Belarus/Islamic Republic of Iran (except for those residing in the territory of Ukraine on legal grounds); legal entities established and registered in accordance with the legislation of the Russian Federation/Republic of Belarus/Islamic Republic of Iran; legal entities established and registered in accordance with the legislation of Ukraine, the ultimate beneficial owner, member or participant (shareholder) of which has a share in the authorized capital of 10 percent or more (hereinafter referred to as assets), which is the Russian Federation/Republic of Belarus/Islamic Republic of Iran, a citizen of the Russian Federation/Republic of Belarus/Islamic Republic of Iran (except for those residing in the territory of Ukraine on legal grounds), or legal entities established and registered in accordance with the legislation of the Russian Federation/Republic of Belarus/Islamic Republic of Iran, except for cases when the assets are transferred to the management of ARMA in accordance with the procedure established by law and other crimes.  In the event of a participant's non-compliance with the above conditions of this subparagraph 10, the tender offer of such participant will be considered as not meeting the requirements established in the tender documentation in accordance with paragraph one of part three of Article 22 of the Law, and its tender offer will be subject to rejection on the basis of paragraph five of subparagraph 2 of clause 44 of the Features. |
| **5** | **Rejection of tender offers** | ***The customer rejects the tender offer*** with an indication of the reasoning in the electronic procurement system in the event that:  1) participant in the procurement procedure:  falls under the grounds established by clause 47 of the Features;  indicated in the tender offer inaccurate information that is essential for determining the results of the open tender, which was identified by the customer in accordance with the first paragraph of clause 42 of the Features;  did not provide tender security if such security was required by the customer;  did not correct the discrepancies in the information and/or documents submitted by the customer as part of its tender offer, identified by the customer after the opening of tender offers, and/or changed the subject of procurement (its name, brand, model, etc.) while correcting the discrepancies identified by the customer, within 24 hours from the moment the customer placed a notice in the electronic procurement system with a requirement to eliminate such discrepancies;  did not provide justification for the abnormally low price of the tender offer within the period specified in paragraph one of part fourteen of Article 29 of the Law/paragraph nine of clause 37 of the Features;  has defined as confidential information that cannot be defined as confidential in accordance with the requirements of clause 40 of the Features;  is a citizen of the Russian Federation/Republic of Belarus/Islamic Republic of Iran (except for those residing in the territory of Ukraine on legal grounds); a legal entity established and registered in accordance with the legislation of the Russian Federation/Republic of Belarus/Islamic Republic of Iran; a legal entity established and registered in accordance with the legislation of Ukraine, the ultimate beneficial owner, member or participant (shareholder) of which has a share in the authorized capital of 10 percent or more (hereinafter referred to as assets), which is the Russian Federation/Republic of Belarus/Islamic Republic of Iran, a citizen of the Russian Federation/Republic of Belarus/Islamic Republic of Iran (except for those residing in the territory of Ukraine on legal grounds), or a legal entity established and registered in accordance with the legislation of the Russian Federation/Republic of Belarus/Islamic Republic of Iran, except for cases when the assets are transferred to the management of ARMA in accordance with the procedure established by law and other crimes; or offers in the tender offer goods originating from the Russian Federation/Republic of Belarus/Islamic Republic of Iran (except for goods necessary for the repair and maintenance of goods purchased before the entry into force of the Resolution of the Cabinet of Ministers of Ukraine dated October 12, 2022 No. 1178 “On approval of the features of public procurement of goods, works and services for customers provided for by the Law of Ukraine “On Public Procurement”, for the period of the legal regime of martial law in Ukraine and within 90 days from the date of its termination or cancellation” (Official Gazette of Ukraine, 2022, No. 84, p. 5176);  2) tender offer:  does not meet the conditions of the technical specification and other requirements regarding the subject of procurement of the tender documentation, except for inconsistencies in information and/or documents, which can be eliminated by the participant in the procurement procedure in accordance with [point 4](https://zakon.rada.gov.ua/laws/show/1178-2022-%D0%BF#n131)3 Features;  is one whose validity period has expired;  is one whose price exceeds the expected value of the subject of procurement specified by the customer in the announcement of open tenders, if the customer did not indicate in the tender documentation the acceptance for consideration of a tender offer whose price is higher than the expected value of the subject of procurement specified by the customer in the announcement of open tenders, and/or did not indicate an acceptable percentage of excess or the percentage of excess is greater than that specified by the customer in the tender documentation;  does not meet the requirements established in the tender documentation in accordance with paragraph one of part three of Article 22 of the Law;  3) the winner of the procurement procedure:  refused to sign the procurement contract in accordance with the requirements of the tender documentation or to conclude the procurement contract;  did not provide, in the manner specified in the tender documentation, documents confirming the absence of the grounds specified in subparagraphs 3, 5, 6 and 12 of paragraph 47 of the Features;  failed to provide security for the performance of the procurement contract, if such security was required by the customer;  provided inaccurate information that is essential for determining the results of the procurement procedure, which was detected by the customer in accordance with the first paragraph of clause 42 of the Features.  ***The customer may reject the tender offer*** with an indication of the reasoning in the electronic procurement system in the event that:  1) the participant in the procurement procedure provided inadequate justification for the price or value of the relevant goods, works or services of the tender offer, which is abnormally low;  2) the procurement procedure participant has failed to fulfil its obligations under a previously concluded procurement contract with the same customer, which led to its early termination and the application of sanctions in the form of fines and/or compensation for losses within three years from the date of early termination of such contract. The specified procurement procedure participant may provide confirmation of taking measures to prove its reliability, despite the presence of a relevant ground for rejecting the tender offer. To this end, the procurement procedure participant (business entity) must prove that it has paid or undertaken to pay the relevant obligations and compensation for the losses incurred. If the customer considers such confirmation sufficient, the tender offer of such participant may not be rejected.  A participant in the procurement procedure, including an association of participants, in the electronic procurement system, when submitting a tender proposal, confirms the absence of the grounds provided for in subparagraph 2 of clause 45 of the Features in the form of a certificate drawn up by the participant in an arbitrary form, the content of which confirms the absence of a corresponding ground for rejecting the tender proposal.  Information on the rejection of a tender offer, including the grounds for such rejection (with reference to the relevant provisions of the Features (Law) and the terms of the tender documentation that such a tender offer and/or participant do not comply with, indicating what exactly such non-compliance consists of), within one day from the date of the decision, is published in the electronic procurement system and automatically sent to the participant in the procurement procedure / winner of the procurement procedure whose tender offer was rejected, through the electronic procurement system.  In the event that a participant in the procurement procedure whose tender offer is rejected considers the reasoning specified in the notification insufficient, such participant may apply to the customer with a request to provide additional information on the reasons for the non-compliance of his offer with the terms of the tender documentation, in particular the technical specification, and/or its non-compliance with the qualification criteria, and the customer is obliged to provide him with a response with such information no later than four days from the date of receipt of such an application through the electronic procurement system, but before the moment of publication of the procurement contract in the electronic procurement system in accordance with Article 10 of the Law. |
| **Section VI Results of Bidding and Conclusion of a Procurement Agreement** | | |
| **1** | **Cancellation by the contracting authority of the tender or recognition of it as not having taken place** | ***According to paragraph 50 of the Features***(during their validity and application) or Article 32 of the Law (after the cancellation (termination) of the Features) The Customer cancels open bidding in the event of:  1) there is no further need to purchase goods, works or services;  2) the impossibility of eliminating violations that arose due to identified violations of the requirements of the legislation in the field of public procurement, with a description of such violations;  3) reduction of expenditures for the procurement of goods, works or services;  4) when the procurement became impossible due to force majeure circumstances.  In the event of cancellation of open tenders, the customer shall, within one working day from the date of adoption of the relevant decision, indicate in the electronic procurement system the reasons for making such a decision.  ***According to paragraph 51 of the Features***(during their validity and application) or Article 32 of the Law (after the cancellation (termination) of the Features), open tenders are automatically cancelled by the electronic procurement system in the event of:  1) rejection of all tender offers (including if one tender offer was submitted and rejected by the customer) in accordance with the Specifications;  2) failure to submit any tender offer for participation in open tenders within the period established by the customer in accordance with the Specifications.  The electronic procurement system automatically publishes information on the cancellation of open tenders within one business day from the date of occurrence of the grounds for cancellation of open tenders specified in this paragraph.  Information about the cancellation of open bidding is automatically sent to all participants in the procurement procedure by the electronic procurement system on the day of its publication. |
| **2** | **Contract term** | The customer concludes a procurement contract with the participant who is recognized as the winner of the procurement procedure, during the validity period of his offer no later than 15 days from the date of the decision on the intention to conclude a procurement contract in accordance with the requirements of the tender documentation and the offer of the winning participant of the procurement procedure.  In order to ensure the right to appeal the customer's decisions to the appeal body, a procurement contract cannot be concluded earlier than 5 days from the date of publication in the electronic procurement system on the web portal of the Authorized Body of the notification of the intention to conclude a procurement contract.  In case of justified necessity, the period for concluding the contract may be extended up to 60 days.  In the event of a complaint being filed with the appeal body after the publication of the notice of intention to conclude a procurement contract in the electronic procurement system, the period for concluding a procurement contract is suspended. |
| **3** | **Draft procurement contract** | The procurement contract must comply with the draft contract specified in Annex 2 to the tender documentation.  The winner of the procurement procedure must provide information about the right to sign the procurement contract when concluding the procurement contract.  *In the event that the winner fails to provide information about the right to sign the procurement contract, the winner shall be deemed to have refused to sign the procurement contract in accordance with the requirements of the tender documentation or the conclusion of the procurement contract and shall be subject to rejection on the basis of paragraph 2, subparagraph 3, clause 44 of the Features.* |
| **4** | **Essential terms that must be included in the purchase contract** | The procurement contract is concluded in writing, in accordance with the norms of the Civil Code of Ukraine and the Commercial Code of Ukraine, taking into account the provisions of Article 41 of the Law, except for parts two to five, seven to nine of Article 41 of the Law, and the Features.  A purchase agreement concluded between residents of Ukraine must be drawn up exclusively in the Ukrainian language.  The terms of the procurement contract must not differ from the content of the tender offer based on the auction results (including the price per unit of goods) of the winner of the procurement procedure.  The essential terms of the purchase agreement are the subject matter (name, quantity, quality), price and term of the agreement. Other terms of the purchase agreement are not essential and may be changed in accordance with the provisions of the Commercial and Civil Codes.  The essential terms of the contract cannot be changed after its signing until the Parties have fulfilled their obligations in full, except for cases provided for by law (defined in clause 19 of the Features during their application or in part 5 of article 41 of the Law ((after the cancellation (termination) of the Features).  A purchase agreement is void in the event of:  1) when the customer concluded a procurement contract in violation of the requirements specified in clause 5 of the Features;  2) conclusion of a procurement contract in violation of the requirements of clause 18 of the Features;  3) conclusion of a procurement contract during the open tender appeal period in accordance with Article 18 of the Law and the Features;  4) conclusion of a contract in violation of the terms provided for in paragraphs three and four of clause 49 of the Features, except for cases of suspension of the terms in connection with the consideration of a complaint by the appeal body in accordance with Article 18 of the Law, taking into account the Features;  5) when the name of the procurement subject with the code according to the Unified Procurement Dictionary does not correspond to the goods, works or services actually purchased by the customer. |
| **5** | Additional material condition of procurement contracts under the Ukraine Recovery Program III (URP III (Tranche A) | **An additional essential condition of procurement contracts under the URP III (tranche A) is additional grounds for its termination.**in the event of any of the following circumstances occurring during the performance of the contract:  1) the executor of the contract and/or the ultimate beneficial owner of the executor-legal entity has become a person to whom a sanction has been applied in the form of a ban on public procurement of goods, works and services in accordance with the Law of Ukraine "On Sanctions", and also such person has been subject to current sanctions by any of the following organizations:  (a) The United Nations and any agency or person duly designated, authorized or empowered by the United Nations to impose, administer, implement and/or enforce sanctions;  (b) the European Union and any agency or person duly designated, authorised or empowered by the European Union to impose, administer, implement and/or enforce sanctions;  (c) The U.S. Treasury Department's Office of Foreign Assets Control (OFAC), the U.S. Department of State, and/or the United States Department of Commerce.  2) the presence of a conclusion of the State Audit Service on the results of monitoring the procurement procedure, which indicates the need to terminate (terminate) the relevant contract, and such conclusion has not been appealed and/or cancelled in court.  3) the presence of evidence, confirmed in court, of the breach of contractual obligations by the contractor under the Professional Integrity Pact. |
| **6** | **Customer's actions in case of refusal of the winner of the tender to sign the procurement contract** | 6.1. In the event of rejection of a tender offer on the grounds specified in subparagraph 3 of clause 44 of the Procurement Features, the customer determines the winner of the procurement procedure among those participants in the procurement procedure whose tender offer (the validity period of which has not yet expired) meets the criteria and conditions specified in the tender documentation and can be recognized as the most economically advantageous in accordance with the requirements of the Law and these features, and makes a decision on the intention to conclude a procurement contract in accordance with the procedure and on the terms specifiedArticle 33 of the Law and this paragraph.  6.2. In the event of rejection of a tender offer that is determined to be the most economically advantageous based on the evaluation results, the customer shall consider the next tender offer in the list of tender offers ranked according to their evaluation results, starting with the best one, which is considered to be the most economically advantageous in such a case, in the manner and within the time limits specified in the Procurement Specifications. |
| **7** | **Ensuring the implementation of the procurement contract** | Not required *(****Comment for the customer– this is at the discretion of the customer. In case the customer decides to include the requirement to provide security for the performance of the contract – the relevant sections of this documentation and the draft contract in Appendix 2 must be amended – the sample tender documentation for the purchase of works can be used as a sample)*** |

***Appendix 1***

***to the tender documentation***

**TENDER (PRICE) OFFER**

**FOR PURCHASE BY SUBJECT**

***Full name of the procurement item***

**Procurement of works for technical supervision of construction work at the site:**

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(full name of the bidding organization)*

in the person of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(surname, first name, patronymic, position of the responsible person)*

authorized to report the following:

1. Having reviewed the tender documentation for the execution of the specified order, we agree to perform the work at the price: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (including VAT\*), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (excluding VAT),

*(indicate the price of the tender offer (in figures and words) with VAT\* and without VAT)*

*\* The amount including VAT is indicated only by those participants who are VAT payers.*

The price includes the price of the works offered under the Contract, taking into account the cost of the works themselves, the cost of all costs associated with the performance of the works provided for in the tender documentation, as well as the cost of taxes and fees paid or to be paid.

2. Address (location) of the bidder \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.1. Tax status of the participant: (indicate -- VAT payer or NON-VAT payer).

3. Phone/fax \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4. Management (last name, patronymic) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

5. Total time for completion of work: \_\_\_\_ months, but no later than "\_\_" \_\_\_\_\_\_\_ 202\_\_.

6. Authorized representative of the participant to sign documents based on the results of the procurement procedure \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

7. Until a decision is made to enter into a procurement contract, your documentation together with our proposal (provided it meets all requirements) shall have the force of a preliminary contract between us. If a decision is made to enter into a contract, we shall undertake to fulfil all the conditions stipulated in the Contract.

We agree to the terms that you may reject our or all offers.

We agree to the terms that you may reject the tender offer of the Winning Bidder if it fails to provide the documents required by these tender documents.

8. We agree to abide by the terms of this offer for a period of 90 calendar days from the date of opening of bids as set by you. Our offer will be binding on us and may be reviewed by you at any time prior to the expiration of such period.

9. We confirm our agreement with the terms of the draft procurement contract set out in Annex 2 to the tender documentation for this procurement subject.

10. If a decision is made to conclude an agreement, we undertake to sign the Agreement with the Customer no earlier than 5 days from the date of publication in the electronic procurement system notification of the intention to conclude a procurement contract, but no later than 15 calendar days from the date of the decision on the intention to conclude a procurement contract in accordance with the requirements of the tender documentation and tender offer of the winner of the procurement procedure.

11. By signing below, we confirm full, unconditional and unquestionable agreement with all requirements for the procurement procedure specified by law and in the tender documentation, in particular additional requirements under the Guidelines for principles of implementation of the Ukraine Recovery Program III (tranche A), financed under the Financing Agreement with the European Investment Bank.

*Position, surname, initials, signature of the authorized person of the Participant and seal (seal if available)*

***Appendix 2***

***to the tender documentation***

**DRAFT AGREEMENT[[1]](#footnote-1)**

**on the procurement of technical supervision over the execution of construction work at the facility:**

"{full name of the object is specified}"

No. \_\_\_\_\_\_\_

(contract number)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ from "\_\_\_\_" \_\_\_\_\_\_\_\_\_\_\_20\_\_.

(place of conclusion of the contract) (date of conclusion of the contract)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(name of legal entity/full name of individual)

in the person of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

(position, full name)

acting on the basis of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Financing Agreement between Ukraine and the European Investment Bank dated June 11, 2024 “Ukraine Recovery Program III”, ratified by the Law of Ukraine [**No. 3905-IX dated 20.08.2024**](https://zakon.rada.gov.ua/laws/show/3905-20#n2) **(URP III) (tranche A),** and Loan Fund Transfer Agreement (LFTA) No. \_\_\_from \_\_\_between\_\_\_\_\_, (hereinafter referred to as the “Customer”), on the one hand, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(name of legal entity/full name of individual entrepreneur or individual)

in the person of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

(position, full name)

(in the case of concluding an agreement with a legal entity - the agreement is signed by a representative of the legal entity (authorized to sign agreements) and each certified engineer who will be involved for technical supervision at the construction site), acting on the basis of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the "Contractor"), on the other hand, jointly referred to as the "Parties", and each individually as a "Party", have concluded this agreement (hereinafter referred to as the "Agreement") on the following:

**1. SUBJECT OF THE CONTRACT**

1.1. Under this Agreement, the Customer instructs and pays, and the Contractor undertakes to carry out technical supervision over the execution of construction work on the object(s):

|  |  |
| --- | --- |
| Name of the subproject under URP III (tranche A) (including the name of the construction works and the facility), address of the construction works | TN Engineer, responsible for the project  (name, certificate number and expiration date) |
|  |  |

hereinafter referred to as the "Object", which is implemented under a contract concluded between the Customer and the Contractor {details of the contract and a link to the contract in the "Prozorro" Unified State Register of Enterprises are indicated}).

Technical supervision of the construction of the Object is carried out in accordance with the Procedure for Technical Supervision during the Construction of Architectural Objects, approved by the Resolution of the Cabinet of Ministers of Ukraine dated July 11, 2007 No. 903 "On Author's and Technical Supervision during the Construction of an Architectural Object" (hereinafter referred to as the "Works") and in accordance with Clause 2 of this Agreement and the Terms of Reference (Appendix 1 to the Agreement).

1.2. The cost of the Works entrusted to the Contractor is determined by this Agreement in accordance with the provisions of the Estimated Standards of Ukraine "Guidelines for Determining the Cost of Construction".

1.3. The composition and scope of the Works provided by the Contractor under this Agreement may be reviewed by the Parties during the performance of construction works.

**2 PROCEDURE FOR PERFORMING WORK**

2.1. The implementation of technical supervision by the Contractor under this Agreement provides for the performance by the technical supervision engineer, who has a qualification certificate entitling him to carry out technical supervision over the construction of facilities, of the following functions:

2.1.1. conducting an inspection:

- the availability of documents confirming the qualitative and quantitative characteristics of structures, products, materials and equipment used during the construction of the facility - technical passports, certificates, documents reflecting the results of laboratory tests, etc.;

- compliance of the completed construction works, structures, products, materials and equipment with the design solutions, requirements of state standards, building codes and regulations, and technical conditions;

- compliance of the volume and quality of construction work performed, invoices for construction materials and equipment provided by the contractor for payment, with the design documentation;

- the contractor's implementation of instructions and regulations issued based on the results of technical supervision, state architectural and construction control and state supervision (control), elimination of defects and shortcomings identified during the acceptance of individual types (stages) of work, structural elements, etc.;

2.1.2. keeping records of the volumes of accepted and paid construction work, as well as work performed with defects, and costs associated with the elimination of defects and alterations by the contractor;

2.1.3. conducting, together with the contractor, an inspection of the results of the work performed, including hidden and structural elements, ensuring compliance with the requirements for prohibiting further work until the inspection report of hidden work is drawn up;

2.1.4 notification to the contractor of non-compliance of products, materials and equipment with the requirements of regulatory documents;

2.1.5 preparation of reports on work performed with deficiencies;

2.1.6 participation in the conduct of:

- checks by the working commission of the quality of individual structures and assemblies, construction work of all types, compliance of installed special equipment, equipment and mechanisms with technical conditions;

- inspections by state supervision (control) and architectural and construction control bodies;

- control measurements being carried out, submission of the necessary documents for this, as well as independent control measurements of the work performed;

2.1.7. participation together with the Customer, contractor and project organization in:

- development (review) of technical solutions, organization of corrections and, if necessary, re-approval of design documentation in accordance with the established procedure, while preventing an unjustified increase in the cost of construction works;

- consideration of proposals from contractors and/or the Customer to improve the quality, reduce the cost and shorten the terms of the work performed;

- formation of a package of documents, as well as taking all other actions necessary for the Customer to obtain approvals and documents that give the right to perform construction work and confirm the acceptance into operation of the completed Facility;

- production meetings on the construction of the Facility;

2.1.8. participation in maintaining primary executive technical documentation at the Facility, making changes to it in connection with the identification of shortcomings (defects) during the performance of work, reflecting the results of technical supervision and information about violations identified during the performance of work in the general work log;

2.1.9. monthly written information to the Customer and the Ministry of Development of Communities and Territories of Ukraine in the form specified in Appendix 2 on the results of the implementation of the Agreement.

2.1.10. taking, within the limits of the powers defined by the legislation and this Agreement, measures to eliminate deficiencies during the construction of the Facility.

2.2. In the event of detection, when performing the functions specified in this Agreement, of deviations from the design decisions made during the construction of the facility, and the contractor's refusal to eliminate them, the technical supervision engineer shall notify the Customer and the relevant state architectural and construction control inspectorate to take measures in accordance with the legislation.

2.3. The Contractor shall provide technical supervision over the construction of the Facility during the term of this Agreement.

2.4. The Contractor's activities in accordance with this Agreement are aimed, among other things, at supporting the performance by the Ministry of Community and Territorial Development of Ukraine as the responsible person (main administrator of funds) of its functions within the framework of the Ukraine Recovery Program III, ratified by the Law of Ukraine[**No. 3905-IX dated 20.08.2024**](https://zakon.rada.gov.ua/laws/show/3905-20#n2)**(URP III) (tranche A).**

2.4.1. The Contractor undertakes to assist the European Investment Bank's technical assistance consultants (UNDP, Cowater, etc.) engaged by the Bank to provide sectoral advice and project monitoring, by providing access to the Facility(ies) and documents listed in clauses 2.1.1. and 2.1.2. of this Agreement.

**3. ADDITIONAL TERMS**

3.1. By agreement of the parties, the Contractor may, within the scope and limits determined by law and a separate agreement, assume responsibility for the preparatory and organizational stage of construction of the Facility.*{****Comment for the Customer – This item is recommended in the event that the Customer does not have the appropriate specialist(s) and should be excluded if a separate contract is concluded for the provision of services of a consulting engineer for this sub-project, who in such case must carry out the activities provided for in this item}***

3.2. By agreement of the parties, the Contractor may, within the scope and limits determined by legislation and a separate agreement, ensure the execution of documents on the readiness of the facility for operation.***{Comment for the Customer – This item is recommended if the Customer does not have the appropriate specialist(s) and should be excluded if a separate contract is concluded for the provision of services of a consulting engineer for this sub-project, who in such case must carry out the activities provided for in this item}***

3.3. Issues related to changes in design solutions during the construction of the Facility are resolved by the Customer with the participation of the Contractor.

3.4. The Parties give each other consent to the collection, processing, storage, use, access and dissemination of personal data in accordance with the current legislation of Ukraine. By signing this Agreement, the Parties confirm that all information provided, which constitutes personal data, is provided by the Parties voluntarily and on legal grounds, and confirm the ability to comply with the requirements of the Law of Ukraine "On Personal Data Protection".

**4. RIGHTS AND OBLIGATIONS OF THE PARTIES**

**4.1. The Contractor is obliged to:**

- to fulfil the obligations specified in this Agreement in a high quality manner and within the time limits established by the Parties;

- inform the Customer and the consultants of the European Investment Bank about the results of the inspections and identified shortcomings in the work of the contractor regarding the construction of the Facility, as well as prepare a monthly report in the form set out in Appendix 2 to the Agreement;

- in case of suspension of construction work for good reasons, additionally inform the responsible person (main administrator of funds) - the Ministry of Community and Territorial Development of Ukraine;

- immediately notify the Customer of the occurrence of circumstances that prevent (may prevent) the proper performance of its obligations under this Agreement;

- after the actual performance of the Works (part thereof), prepare and send to the Customer the Certificate of Acceptance and Transfer of the Works performed in accordance with the Agreement;

- sign in English and Ukrainian and certify with a seal (if available) the "Professional Integrity Agreement" in accordance with Appendix 5 to the Agreement;

- perform other actions necessary to fulfil obligations under this Agreement that arise in accordance with this Agreement or legislation or by agreement with the Customer.

**4.2. The Contractor has the right:**

- receive payment for the provision of Works in accordance with the terms of this Agreement;

- obtain all necessary documents (information) necessary for the proper provision of the Works under this Agreement;

- require contractors involved by the Customer in the construction of the Facility to:

performance of work in accordance with the design documentation and other regulatory documents regarding the procedure for performance and acceptance of work;

stopping work in cases of using materials, structures and products of inadequate quality or that do not comply with regulatory documents;

elimination of deviations from design solutions, shortcomings (defects) and shortcomings and re-submission of works for technical supervision;

- raise questions about conducting laboratory and expert assessments regarding the compliance of the materials used with quality certificates;

- stop work until the certificates for hidden work are issued and in the event of detection of excessive deformation of the object or places of possible defects in construction work.

**4.3. The Customer is obliged to:**

- provide the Contractor with:

the design documentation approved by the Customer, necessary for its performance of obligations under this Agreement, and all changes in the design documentation that appeared during the construction of the Facility;

contract with the contracting organization, contract price, local estimate and list of resources;

one copy of the contractor's comments on the project documentation or an official notification from the contractor about their absence;

- notify the Contractor about the performance of hidden construction work at the Facility two days before its execution for their inspection, verification and timely signing of acts for hidden work;

- provide the Contractor with Certificates of Work Performed in the KB-2v form and a certificate in the KB-3 form, invoices for the cost of materials, as well as calculations of general production and other costs for verification;

- accept the duly submitted Works and, in the absence of any comments, sign the Acceptance and Transfer Acts of the submitted Works in accordance with the Agreement.

- not to prevent the Contractor from exercising his right to exercise, in accordance with the procedure and under the conditions specified in this Agreement, control over the compliance of the scope and quality of the construction work with the design documentation;

- make timely payment for the provided Works in accordance with the terms of this Agreement.

**4.4. The Customer has the right:**

- at its own discretion, in compliance with the requirements of current legislation, organize the construction process of the Facility;

- independently choose contracting organizations, materials for construction, exterior and interior decoration;

- monitor the progress of the provision of Works by the Contractor under this Agreement;

- receive information from the Contractor about the progress of construction of the Facility;

4.5. The Customer and the Contractor must maintain the confidentiality of information received by one Party from the other.

**5. COST OF WORK AND PROCEDURE OF CALCULATIONS**

5.1. The source of financing for the cost of the Works excluding VAT under this agreement is the funds of the European Investment Bank loan from the account of JSC "Ukreximbank" at the expense of a subvention from the special fund of the State Budget (credit) and the amount of VAT at the expense of local funds.

5.2. The total cost of the Works provided under this Agreement at the time of its conclusion, by agreement of the Parties, is \_\_\_\_% of the total of chapters 1-9 of the consolidated estimate of the cost of construction[[2]](#footnote-2)The object and amounts to \_\_\_,\_\_\_ UAH. (\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ UAH \_\_\_\_ kopecks)\*, of which:

- Amount excluding VAT: \_\_\_,\_\_\_ UAH. (\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ UAH \_\_\_\_ kopecks);- VAT: \_\_\_,\_\_\_ UAH. (\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ UAH \_\_\_\_ kopecks).

\* or "excluding VAT" is indicated

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name of the subproject under URP III (tranche A) (including the name of the construction works and the facility), address of the construction works | Contract number | Contract date | Size % | Total cost of works with TN, UAH. |
|  |  |  |  |  |

5.3. In the event that clause 3.1 and/or clause 3.2 of this Agreement are adopted by the Parties in accordance with separate agreements, the cost of the Works provided by the Contractor under separate agreements shall be determined by agreement of the Parties.*{****Comment for the Customer – This item is added only if clauses 3.1 and/or 3.2 are present in the contract}*.**

5.4. Current payments for the provided Works are made in accordance with the provisions of the Estimated Norms of Ukraine "Guidelines for Determining the Cost of Construction" within twenty banking days from the date of signing the Acceptance and Transfer Act for the performed works on technical supervision (Works) for the relevant period (in the form in Appendix 3 to the Agreement) and the invoice for payment and after Contractor's approval acts performed by contractor works in the form of KB-2v.

5.5. The indicated amounts of the cost of the Technical Supervision Works will be specified depending on the amount of the Works actually performed and the signed acts of the performed works.

5.6. Payment for the Works by the Customer shall be made by transferring funds to the Contractor's current account specified in this Agreement. The Works shall be considered paid for from the moment the funds are received into the Contractor's current account.

5.7. Amendments and additions regarding the change in the cost of the Works, as well as the procedure for payment for the Works, are drawn up in an Additional Agreement.

**6. PROCEDURE FOR ACCEPTANCE AND TRANSFER OF WORKS**

6.1. Acceptance and transfer of Technical Supervision Works under this Agreement are formalized by the Act of Acceptance and Transfer of Performed Technical Supervision Works for the relevant period (hereinafter referred to as the Act, in the form in Appendix 3 to the Agreement).

6.2. The Contractor shall prepare and send to the Customer a duly signed and stamped Act in four copies within three working days after the actual provision of the Works. The Acts shall be considered valid and may be accepted by the Customer for payment if they bear the stamped signatures of a certified technical supervision engineer and an official of the Contractor.

6.3. If the Works are paid to the Contractor monthly, the Parties shall also draw up the Acts monthly, within three business days after the actual provision of the relevant part of the Works.

6.4. The Customer shall, within three days from the date of receipt of the Act and invoice from the Contractor, review it and, if there are no comments (objections), sign, seal and return one copy to the Contractor. In the event of failure to provide the Works by the Contractor or their provision in an improper manner, the Customer shall, within the period specified in this clause, draw up and send to the Contractor a written reasoned refusal to accept the Works.

6.5 The act signed in the above manner is the basis for settlements between the Parties for the Works actually provided under the Contract. The confirmation of the provision of the Works by technical supervision is the signing by the Customer of the relevant primary accounting documents in the form No. KB-2v (Acceptance Act of the performed contract works) and No. KB-3 (Certificate of the cost of the performed contract works) with the signatures of the technical supervision.

**7. TERM AND CONDITIONS OF THE AGREEMENT**

7.1. This Agreement is concluded for the term specified in the contract concluded between the Customer and the Contractor, and is valid until \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, but in any case - until the Parties fully fulfil their obligations.

7.2. A Party has the right to refuse to fulfil its obligations under this Agreement in the event of failure by the other Party to fulfil its financial and other obligations under the terms of this Agreement.

7.3. The Agreement shall be deemed terminated from the date of conclusion by the Parties of the relevant agreement on termination of the Agreement or its termination.

**8. PROCEDURE FOR AMENDMENT AND TERMINATION OF THE CONTRACT**

8.1. Amendments and supplements to this Agreement shall be made by signing additional agreements agreed upon through negotiations by authorized persons of the Parties, after which they shall become an integral part of the Agreement.

8.2. Termination of the Agreement is permitted by agreement of the Parties, or in the following cases:

making a decision to stop work;

termination of activities, bankruptcy of the Contractor;[AS5]

the presence of a negative conclusion of the European Investment Bank (EIB) on the presence of significant violations based on the results of the "ex-post audit"\* with a requirement to terminate the contract. Neither Party is liable for the EIB's resolution;

*\*In the event of receiving an EIB request for an "ex-post audit" (conducting an EIB audit - reviewing the evaluation of proposals, its results and the selection of the contractor, commenting and submitting a request to the Customer for clarification), the performance of obligations under the contract may be suspended by agreement of the parties until the EIB receives a positive conclusion on the absence of material violations based on the results of the "ex-post audit".*

- if the Contractor and/or the ultimate beneficial owner of the Contractor-legal entity has become a person to whom a sanction has been applied in the form of a ban on public procurement of goods, works and services in accordance with the Law of Ukraine "On Sanctions", and also if such person has been subject to current sanctions by any of the following organizations:

(a) The United Nations and any agency or person duly designated, authorized or empowered by the United Nations to impose, administer, implement and/or enforce sanctions;

(b) the European Union and any agency or person duly designated, authorised or empowered by the European Union to impose, administer, implement and/or enforce sanctions;

(c) the U.S. Treasury Department's Office of Foreign Assets Control (OFAC), the U.S. Department of State, and/or the United States Department of Commerce;

- the presence of a conclusion of the State Audit Service on the results of procurement monitoring, which indicates the need to terminate (terminate) the relevant contract, and such a conclusion has not been appealed and/or cancelled in court;

- the presence of evidence, confirmed in court, regarding the breach of contractual obligations by the Contractor under the Professional Integrity Agreement (Appendix No. 5 to the Agreement);

other grounds provided for by law.

8.3. In the event of termination of the Agreement due to termination of work, the Customer shall pay the Contractor for the work performed and accepted by acts at the time of termination of the Agreement.

8.4. All documents and calculations for final settlements upon termination of the Agreement must be submitted to the interested Party within one month from the date of the decision. Within 15 calendar days from the date of submission of the necessary documents and calculations, their full payment must be made or a reasoned refusal must be provided.

8.5. In the event of a motivated refusal, the Parties are obliged to agree on the amounts to be paid and make mutual settlements within 15 calendar days.

8.6.The essential terms of the procurement contract cannot be changed after its signing until the parties have fulfilled their obligations in full, except for the cases specified in the paragraph Amendments to the Contract shall be made exclusively taking into account Clause 19 of the Features (during their application) or Article 41 of the Law of Ukraine "On Public Procurement". Amendments to the terms of the contract may be made only by agreement of the Parties, which shall be formalized by additional agreements to this Contract, with justification for making the specified changes.

**9. LIABILITY OF THE PARTIES**

9.1. The Parties shall be liable for failure to fulfil or improper fulfilment of obligations under this Agreement in accordance with this Agreement and the current legislation of Ukraine.

9.2. In the event of an unjustified refusal of any of the Parties to sign the Act, the Party that, in violation of the procedure for the transfer and acceptance of the Works specified in this Agreement, refused or evades signing the Act shall pay the other party a penalty in the amount of 0.1% of the amount payable.

9.3. The Parties shall not be liable for failure to perform or improper performance of their obligations under this Agreement if they prove that such failure was not due to their fault.

9.4. The Contractor shall not be liable for breach of its obligation to provide the Works if such breach is caused by the use of inaccurate documents (information) provided to it under this Agreement.

9.5. The Parties shall not be liable for improper fulfilment of the terms of this Agreement in the event of force majeure circumstances that the Parties could not foresee and that prevent the Parties from fulfilling their obligations under this Agreement.

9.6. Payment of fines and penalties for violation of the terms of this Agreement and additional agreements concluded in accordance with the terms of this Agreement, as well as compensation for damages incurred, do not exempt the guilty Party from fulfilling its obligations under this Agreement.

**10. FORCE MAJEURE CIRCUMSTANCES**

10.1. The Parties are exempt from liability for failure to fulfil or improper fulfilment of obligations under this Agreement in the event of force majeure circumstances that did not exist at the time of conclusion of the Agreement and arose beyond the control of the Parties. Force majeure circumstances (force majeure circumstances) are defined by the Law of Ukraine "On Chambers of Commerce and Industry in Ukraine".

The Contractor's lack of funds or relevant permits necessary to fulfil its obligations under this contract does not constitute force majeure circumstances (force majeure circumstances).

10.2. The Party that cannot fulfil its obligations under this Agreement due to force majeure circumstances must, no later than within 20 (twenty) business days from the moment of their occurrence, notify the other Party in writing with the provision of supporting documents in accordance with clause 10.3 of this Agreement.

10.3. Proof of the occurrence of force majeure circumstances and their duration are the relevant documents issued by the Chamber of Commerce and Industry of Ukraine or relevant competent authorized bodies.

10.4. In the event that the force majeure circumstances continue for more than 60 (sixty) days, each of the Parties shall have the right to terminate this Agreement in accordance with the established procedure. The final deadlines for the performance of the Parties' obligations under this Agreement shall be adjusted for a period equal to the time during which the force majeure circumstances that prevented the performance of the Parties' obligations existed.

**11. OTHER PROVISIONS**

11.1. This Agreement is concluded with the Parties' full understanding of its terms and terminology.

11.2. Additional agreements and annexes to this Agreement are its integral part and have legal force if they are set out in writing, signed by the Parties and affixed with their seals.

11.3. Neither Party has the right to transfer its rights and obligations under the Agreement to a third party without the prior written consent of the other Party.

11.4. All notifications related to the fulfilment of the terms of the Agreement shall be made in writing and signed by an authorized person of the Party.

11.5. Any notice shall be deemed received if it is delivered to the addressee against receipt, with the addressee signing a copy of the notice of delivery, which shall be returned to the sender.

11.6. All amendments to the text of this Agreement are valid and may be taken into account only if they are dated in each individual case, certified by the signatures of the Parties and affixed with their seals.

11.7. This Agreement is concluded in 2 (two) authentic copies in the Ukrainian language, which have equal legal force - one for each of the Parties.

11.8. In order to fulfil the Contractor's obligations to the EIB regarding the targeted use of loans, as well as to confirm that its activities do not contain prohibited practices, the Contractor, as well as each certified technical supervision engineer who will carry out technical supervision of the facilities, are obliged to sign and supplement this Agreement with the "Professional Integrity Agreement" (in Ukrainian and English), the standard form of which is given in the EIB Procurement Manual and is attached to this Agreement.

11.9. In order to comply with the requirements of the Law of Ukraine "On Public Procurement", the Contractor agrees to publish this Agreement through an authorized electronic platform in the electronic procurement system.

11.10. The Parties are responsible for the details specified in the Agreement and undertake to notify the other Party in writing of their replacement in a timely manner (within 5 business days from the date of changes in the details). In the event of a change in its name, organizational and legal form, taxpayer status, legal or actual address, bank or other details, the Party must notify the other Party in writing (including using facsimile communication) within \_\_ business days from the date of the relevant changes, but no later than the last business day of the reporting month in which the changes occurred, with the mandatory provision of copies of documents confirming the relevant change (changes).

11.12. According to the Tax Code of Ukraine, the Customer is a non-profit organization.

The contractor according to the Tax Code of Ukraine is \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (profit tax payer, value added tax payer, single tax payer, etc.).

11.13. Representatives of the Parties authorized to conclude this Agreement agreed that their personal data, which became known to the Parties in connection with the conclusion of this Agreement, are included in the personal data bases of the Parties.

By signing this Agreement, the authorized representatives of the Parties give their consent (permission) to the processing of their personal data in order to confirm the authority of the entity to conclude, amend and terminate the Agreement, ensure the implementation of administrative, legal and tax relations, relations in the field of accounting and statistics, as well as to ensure the implementation of other relations stipulated by law.

By signing this agreement, the representatives of the parties confirm that they have been informed of their rights in accordance with Article 8 of the Law of Ukraine "On Personal Data Protection".

**12. DISPUTE RESOLUTION**

12.1. All disputes related to the performance by the Parties of their obligations under this Agreement shall be resolved through negotiations.

12.2. In the event that it is impossible to resolve disputed issues through negotiations, the dispute shall be resolved in court in accordance with the current legislation of Ukraine.

**13. LIST OF ANNEXES TO THE CONTRACT**

13.1. All Annexes to this Agreement are its integral parts.

13.2. Annexes to the Agreement:

Appendix No. 1. Technical Task.

Appendix No. 2. Form of the Contractor's monthly report on the implementation of the Contract

Appendix No. 3. Form of the act of acceptance of the services provided for the implementation of technical supervision.

Appendix No. 4. List of key personnel of the Contractor involved in the performance of the Technical Supervision Works and copies of their qualification certificates (in accordance with the legislation (***this application may include* at the discretion of the Customer if the Contractor plans to involve several different engineers in different areas of work).**

Appendix No. 5. "Professional Integrity Agreement" (signed and stamped in English and Ukrainian) - a sample is provided in Appendix \_\_ to this Tender Documentation

**PARTY DETAILS AND SIGNATURES**

|  |  |
| --- | --- |
| **Customer**  **……….** | **Performer**  **…………..**  **Technical Supervision Engineer(s):**  **……………** |
| Address:..……legal, actual…..  r/r …………..  MFI…………..  EDRPOU………..  VAT number ………..  TIN……..  Tel. (0…) ………  Mobile (0…) …….  Email: …………. | Address:..……legal, actual…..  r/r …………..  MFI…………..  EDRPOU………..  VAT number ………..  TIN……..  Tel. (0…) ………  Mobile (0…) …….  Email: …………. |

**Position: Position:**

**/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/ (Full name) /\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/ (Full name)**

(signature) (signature)

STAMP STAMP

Appendix 1 to the Contract for Technical Supervision of Construction Works

from \_\_\_\_\_\_\_\_\_\_\_\_\_\_ No. \_\_\_\_

**Terms of Reference (TOR)**

1. **General information**

According to the Financing Agreements between Ukraine and the EIB/EU, the objective of URP III (Tranche A) is;

supporting investments in critical social infrastructure (e.g., reconstruction of educational institutions, healthcare facilities, reconstruction/restoration of centralized water supply and wastewater infrastructure;

reconstruction and construction of social housing, taking into account energy efficiency measures, as well as other social infrastructure) in the affected areas and meeting basic needs to ensure decent living conditions for displaced people and host communities.

In particular, it is planned to restore and improve critical social infrastructure facilities in the following sectors:

|  |  |
| --- | --- |
| **Sector** | **Activities** |
| Housing and communal services (state and municipal property) | Rehabilitation, modernization and construction of social housing infrastructure; rehabilitation or construction of heating systems; implementation of energy efficiency measures |
| Public buildings | Restoration, reconstruction, and construction of public buildings, including shelters (hospitals, schools, community centers, and government administrative buildings).  Renovation and improvement of energy efficiency of public buildings. |
| District heating | Restoration and modernization of district heating production, transmission and distribution |
| Urban transport infrastructure | Restoration and reconstruction of urban transport infrastructure. |
| Other critical infrastructure | Restoration, reconstruction and construction of other critical infrastructure, including centralized water supply and centralized wastewater disposal, rationalization of water resources use; repair and modernization of networks, pumping stations and treatment facilities. |

Ukraine, acting through the Ministry of Finance of Ukraine, in cooperation with the Ministry of Development of Communities and Territories of Ukraine, which exercises overall supervision and is responsible for the implementation of the Project, provides loan funds to final beneficiaries (central government bodies, their local state administrations, local self-government bodies, military-civilian administrations).

The loan funds are a subvention from the State Budget to local budgets for the implementation of projects within the framework of the Ukraine Recovery Program III, which is implemented on the basis of the Financing Agreement between Ukraine and the European Investment Bank, ratified by the Law of Ukraine.[*No. 3905-IX dated 20.08.2024*](https://zakon.rada.gov.ua/laws/show/3905-20#n2) *(URP III) (tranche A), and Resolution of the Cabinet of Ministers of Ukraine dated February 14, 2025 No. 162 “On approval of the Procedure and conditions for providing subventions from the state budget to local budgets for the implementation of projects within the framework of the Ukraine Recovery Program III”.*

Lists of projects financed by subventions are formed and approved by the Ministry of Community and Territorial Development of Ukraine within the framework of the distribution of subventions between local budgets.

In order to facilitate the optimal use of funds from the Ukraine Recovery Program III (URP III (Tranche A), the EIB, in cooperation with the Ministry of Communities and Territories Development of Ukraine, signed a Cooperation Agreement on the provision of technical assistance with the United Nations Development Programme, under which UNDP will assist in monitoring the implementation of the Project.

1. **Purpose of the TOR**

The main purpose of this TOR is:

* providing an independent and objective assessment of the technical quality of all construction work;
* carrying out technical supervision and monitoring of the contractor's compliance with design decisions and the requirements of state standards and regulations;
* monitoring the quality and volume of work performed throughout the construction period, as defined by the current legislation of Ukraine.

1. **Scope of Work**

Technical supervision of construction works is carried out in accordance with the current legislation, specified in Art. 3 and Art. 11 of the Law of Ukraine "On Architectural Activity" No. 687-XIV of May 20, 1999.

The procedure for conducting technical supervision was determined by the Cabinet of Ministers of Ukraine in its resolution of July 11, 2007 No. 903 "On design and technical supervision during the construction of an architectural object."

The contractor of the procurement contract will provide technical supervision of the execution of construction works in accordance with the subject and scope of the contract for the object: (name and address of the construction object)

**The list of works and the contract for the performance of works on this object can be found at the link:***(reference to the tender in the EU for the performance of construction works is indicated)*

When carrying out technical supervision, measures are taken to monitor the compliance of the volume and quality of completed construction and installation works, structures, products, materials and equipment with the design solution, the requirements of state standards, building codes and regulations, technical conditions, and the provision of advisory support during the implementation of the project in volumes.

In particular, the scope of Technical Supervision Works under the terms of this TOR should include, but not be limited to, the following:

1. checking the availability of documents confirming the qualitative and quantitative characteristics of structures, products, materials and equipment used during the construction of the facility, including, among other things, technical passports, certificates, documents reflecting the results of laboratory tests, etc.;
2. conducting verification of compliance of completed construction works, structures, products, materials and equipment with the design solution, requirements of state standards, building codes and regulations, and technical conditions;
3. conducting a check of the compliance of the volume and quality of construction work performed, invoices for construction materials and equipment provided by the contractor for payment, with the design documentation;
4. conducting a check on the contractor's implementation of instructions and regulations issued based on the results of technical supervision, state architectural and construction control and state supervision (control), eliminating defects and shortcomings identified during the acceptance of individual types (stages) of work, structural elements, etc.;
5. keeping records of the volumes of accepted and paid construction work, as well as work performed with defects, and costs associated with the contractor's elimination of defects and alterations;
6. conducting, together with the contractor, an inspection of the results of the work performed, including hidden and structural elements, ensuring compliance with the requirements for prohibiting further work until the inspection report of hidden work is drawn up;
7. notification to the contractor of non-compliance of products, materials and equipment with the requirements of regulatory documents;
8. drawing up reports of work performed with defects;
9. participation in the conduct of:

* checks by the working commission of the quality of individual structures and assemblies, construction work of all types, compliance of installed special equipment, equipment and mechanisms with technical conditions;
* inspections by state supervision (control) and architectural and construction control bodies;
* control measurements being carried out, submission of the necessary documents for this, as well as independent conduct of control measurements of the work performed;

1. participation together with the Customer, contractor and project organization in:

* development (review) of technical solutions, organization of corrections and, if necessary, re-approval of design documentation in accordance with the established procedure, while preventing an unjustified increase in the cost of construction works;
* consideration of proposals from contractors and/or the Customer to improve the quality, reduce the cost and shorten the terms of work performed;
* forming a package of documents, as well as performing all other actions necessary for the Customer to obtain approvals and documents that give the right to perform construction work and confirm the acceptance into operation of the completed construction facility;
* production meetings on the construction of the facility;

1. participation in maintaining primary executive technical documentation at the site, making changes to it in connection with the identification of shortcomings (defects) during the performance of work, reflecting the results of technical supervision and information about violations identified during the performance of work in the general work log;
2. monthly informing the Customer and the Ministry of Development of Communities and Territories of Ukraine in the form specified in the appendix to the agreement about the results of its implementation.
3. taking, within the limits of the powers defined by the legislation of Ukraine, measures to eliminate deficiencies during the construction of the facility.
4. **Reporting and expected results**

The Technical Supervision Engineer will report directly to the representative of the Customer-Final Beneficiary and will coordinate technical issues with representatives of the UNDP Technical Assistance Program.

The Technical Supervision Engineer shall provide the Customer-Final Beneficiary with monthly reports and all relevant documentation in the quantity and form specified in Annex 2 to the Agreement.

1. **Duration of Technical Supervision Works**

The duration of the Technical Supervision Works depends on the duration of the construction works at a particular construction site. The Contractor must begin his duties immediately after signing the contract and until the facility is put into operation.

|  |  |  |
| --- | --- | --- |
| **No.** | **Individual code (IC) of the subproject, name and address of the construction site** | **Expected duration**  **months or deadline)** |
| 1. |  |  |

1. **Conflict of interest**

The EIB may exclude suppliers, contractors and consultants from the bidding process if such parties or their affiliates have provided consultancy services for the preparation and implementation of the project. In order to avoid conflict of interest, such bidders and their affiliates will be disqualified and will not be able to participate in subsequent supplies, construction works, etc. under the same project.

In order to avoid a possible conflict of interest, applications from enterprises, institutions, organizations and other entities belonging to the sphere of management of local governments and local state administrations will not be considered, as they do not meet the eligibility requirements for receiving a contract.

Annex 2 to the Contract for Technical Supervision of Construction Works

from \_\_\_\_\_\_\_\_\_\_\_\_\_\_ No. \_\_\_\_

**Monthly report form on the implementation of the Agreement**

**for "\_\_\_\_\_\_\_\_\_\_\_" 20\_ years.**

|  |
| --- |
| **Brief description of the construction of the Facility**  *Describe very briefly the status of construction of the Facility during the reporting period.*  *This part of the report should not exceed 1 page.* |
| **Deviation**  *Provide concise information if any part of the work is not being carried out in accordance with the approved plan and what measures have been taken to correct the situation.* |
| **Table: Description of the main types of work according to the design documentation**   |  |  |  |  |  | | --- | --- | --- | --- | --- | | No. | Name | Planned completion date | Expected completion date as of the reporting date | Actual completion date | | 1 | General construction work | dd-mmm-yy | dd-mmm-yy | dd-mmm-yy | | 2 | Special works |  |  |  | | 3 | Hidden works |  |  |  | |
| **Photo confirmation of the construction of the Facility**  *Attach photographs confirming the progress of the construction of the Facility and completed (confirmed by certificates of work performed) types of work.* |

**Confirmed and signed by the Contractor:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** (position)(signature)

**STAMP**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

(date)

Appendix No. 3

to the Contract for technical supervision of construction works No. \_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_.

Form of the act of acceptance of the provided works for the implementation of technical supervision No. \_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ from "\_\_\_\_" \_\_\_\_\_\_\_\_\_\_\_20\_\_

*(place of preparation of the act) (date of preparation of the act)*

We, the undersigned, an authorized representative of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of legal entity/full name of individual) represented by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the Customer), on the one hand (position, full name),

and the authorized representative of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of legal entity/full name of individual entrepreneur or individual) represented by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the Contractor), (position, full name) on the other hand,

in accordance with the Agreement on the implementation of technical supervision dated "\_\_\_" \_\_\_\_\_\_\_\_20\_\_ No. \_\_\_\_\_\_\_\_ have drawn up this Act stating that for the period from "\_\_" \_\_\_\_\_\_\_\_ 20\_\_ to "\_\_" \_\_\_\_\_\_\_\_ 20\_ the Contractor provided the Customer with services in the amount of:

|  |  |  |
| --- | --- | --- |
| No.  n/a | Cost of work and expenses | Cost  thousand UAH |
| 1 | 2 | 3 |
| 1 | Total cost of work under the contract, excluding  VAT |  |
| 2 | The cost of technical supervision work, including  VAT |  |
| 3 | Interest | = n2/n1 |
| 4 | Cost of construction works for the reporting period, excluding  VAT |  |
| 5 | The cost of technical supervision work for the reporting period  period, excluding VAT | =n4\*n3 |
| 6 | VAT |  |
| 7 | Total including VAT |  |

The works were provided by the Contractor on time, in full and in compliance with all the terms of the aforementioned Agreement.

The Customer has no complaints about the quality of the provided Works.

The total cost of the provided Works is UAH 100,000.

(\_

*(amount in words)*

UAH

UAH kopecks

cop.), including VAT (%):

This Act is the basis for making settlements between the Parties for the Services provided for the relevant period.

The act is drawn up in 2 (two) copies, one each for the Customer and the Contractor.

Customer

Performer

*(position, surname, initials, signature)*

*(position, surname, initials, signature)*

STAMP

(if available)

" " 20 years

STAMP

(if available)

" " 20 years

Total including VAT

UAH

copy (

UAH

*(amount in words)*

copy)

Appendix No. 4*(if enabled)*

to the Contract for technical supervision of construction works No. \_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_.

**List of key personnel of the Contractor,**

**who is involved in the performance of technical supervision works,**

**and copies of their qualification certificates (in accordance with the legislation).**

*(being prepared during the process of signing the contract)*

Appendix No. 5

to the Contract for technical supervision of construction works No. \_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_.

**Covenant of Integrity**

[Name of lead tenderer]hereby declare and covenant, on our behalf and on that of our joint venture partners, if any, for[name of the contract]managed by[name of promoter](the “Contract”), that neither we nor anyone, including any of our directors, employees, agents or subcontractors for the Contract, acting on our behalf with due authority or with our knowledge or consent or facilitated by us (together, the “Associated Entities and Persons”), nor any of our parent, subsidiary or affiliate companies,

(i) have engaged in any Prohibited Conduct in connection with the tendering process, nor will we or the Associated Entities and Persons engage in such Prohibited Conduct during the execution of the Contract;

(ii) are listed or otherwise subject to EU/United Nations sanctions;

(iii) are the subject of a current decision of exclusion by the European Investment Bank;

(iv) during the 5 (five) years immediately preceding the date of this Covenant, have been convicted in any court or sanctioned by any authority (irrespective of whether such conviction or sanction is still in force) of any offense on grounds comparable to Prohibited Conduct in connection with a tendering process or any provision of works, goods or services; or

(v) are excluded or subject to enforcement actions or otherwise sanctioned by the EU institutions or bodies, or any multilateral development bank, on grounds comparable to Prohibited Conduct, or have been under such exclusion, enforcement action or sanction the effectiveness of which ceased no more than 5 (five) years immediately preceding the date of this Covenant.

We will immediately inform you and[name of promoter]if any instance described under (i) to (v) above in respect of us or any of the Associated Entities and Persons comes to the attention of any person in our organization having responsibility for ensuring compliance with this Covenant at any time during the tendering process and, if successful, during the Contract.

We further declare and covenant that, if successful, neither us nor any of the Associated Entities and Persons will act in contravention of EU/United Nations sanctions during the execution of the Contract.

If applicable, we provide below the details of all convictions, exclusions or other sanctions, exclusion/sanctions proceedings, and/or enforcement actions, listed above under paragraphs (i) to (v), in respect of us or any of the Associated Entities and Persons, together with details of the measures taken, or to be taken, to ensure that no Prohibited Conduct is committed in connection with the tendering process or with the execution of the Contract(if not applicable, please indicate not applicable in the table below):

|  |  |  |
| --- | --- | --- |
| Name of entity | Disclosure details | Measures taken or to be taken |
|  |  |  |
|  |  |  |

We, or any of the Associated Entities and Persons, have paid, or will pay, the following commissions, gratuities or fees with respect to the tendering process or execution of the Contract[insert complete name of each recipient, its full address, the reason for which each commission, gratuity or fee was paid, or will be paid, and the amount and currency of each such commission, gratuity or fee]:

|  |  |  |  |
| --- | --- | --- | --- |
| Name of recipient | Address | Reason | Amount |
|  |  |  |  |
|  |  |  |  |

For the duration of the tendering process and, if we are successful, for the duration of the Contract, we will appoint and maintain in office an officer who shall be a person reasonably satisfactory to you and to whom you shall have full and immediate access, having the duty, and the necessary powers, to ensure compliance with this Covenant.

We grant the[name of promoter], the European Investment Bank, and any persons appointed by it and/or any authority or European Union institution or body having competence under European Union law, the right to (i) visit the sites, installations and works, (ii) interview our representatives and any other relevant person and (iii) inspect and copy our books and records in connection with the tendering process or the Contract, and we shall require our Associated Entities and Persons with knowledge of the Contract to respond to questions from the European Investment Bank and to provide to it any information or documents necessary for the investigation of allegations of Prohibited Conduct.

We agree to preserve our books and records and ensure that the books and records of the Associated Entities are preserved generally in accordance with applicable law but in any case, for at least 6 (six) years from the date of tender submission and, in the event, we are awarded the Contract, at least 6 (six) years following the date of substantial performance of the Contract. We shall ensure that in any agreements with Associated Entities concerning the execution of the Contract provisions to the effect of this paragraph are included.

We acknowledge that any failure to comply with the obligations under this Covenant of Integrity (including any omission or misrepresentation, made knowingly or recklessly, of a past conviction, exclusion, other sanction or enforcement action), or any unauthorized amendment to the Covenant, may be considered a breach of the EIB Group Anti-Fraud Policy and thus result in the rejection of our tender for the Contract and/or cause the initiation of exclusion proceedings by the EIB against us and/or any of the Associated Entities and Persons.

**SIGNED by a duly authorized representative with the requisite power and authority to sign on behalf of his company and, in the case of a joint venture bid, on behalf of each member thereof:**

Date:

Company name:

Name of signatory:

Position of signatory:

Signature:

***Note:*** *This Covenant must be sent to the Bank together with the contract in the case of an international procurement procedure. In other cases, it must be kept by the promoter and be made available, upon request, to the Bank. This document is being executed in English and Ukraine. The English version is the operative document and the Ukrainian version is for convenience only. To the extent of any inconsistencies between the two versions, the English version shall prevail*

***Appendix 3***

***to the tender documentation***

**TECHNICAL ASSIGNMENT**

**for procurement by subject of procurement {full name of the subject of procurement is indicated}**

*(Comment for the Customer - here the Customer enters the technical specifications for the subject of the procurement (with a reference to the tender for the procurement of works)*

The procedure for conducting technical supervision was determined by the Cabinet of Ministers of Ukraine in Resolution No. 903 of July 11, 2007 “On design and technical supervision during the construction of an architectural object”.

Technical supervision of the execution of construction works will be carried out in accordance with the subject and scope of the contract concluded with the contractor following the results of the relevant procurement procedure.

**The participant provides a letter of guarantee as part of the proposal, which will be guided in its work by the following documents:**

***- explanatory note to the construction project;***

*- a report on the examination of the construction project, conducted by an expert organization with the involvement of experts who meet the qualification requirements in force in Ukraine for the professions of employees of the relevant qualification category, in cases where the examination of the construction project is provided for by law.*

**Note: If this technical specification refers to a specific brand or company, patent, design or type of product, then the technical specification is considered to contain an expression (or equivalent).**

**Annex 3-A**

**to the tender documentation**

**Letter of guarantee**

Full name of the participant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Legal address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

EDRPOU code \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of the manager or representative according to the power of attorney\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

We, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(full name of participant)

when performing work on the object:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

1. We guarantee that:
   1. When performing the work, environmental protection measures will be applied, namely:

* prevention of the formation and reduction of construction waste;
* collection, storage and removal of waste generated during the performance of work specified in the contractual obligations regarding the subject of the procurement;
* preventing the spillage of petroleum products, lubricants and other chemicals onto the soil;
* during the operation of construction machinery and mechanisms, measures to reduce emission toxicity;
* economical use of water and electricity.
  1. The head of the enterprise is responsible for fulfilling environmental safety requirements.
  2. The documents provided as part of the proposal fully correspond to the original/copy, and the information reflected in them is complete, reliable and objective, and that the person who signed the proposal bears personal responsibility for the information specified in the documents;
  3. The work will be completed on time and in full, with appropriate warranty periods.
  4. All necessary safety and occupational health requirements will be observed during the work.

**stamp**

***Position, surname, initials, signature of the authorized person of the participant.***

***Appendix 4***

***to the tender documentation***

*Submitted in the form below, on the participant's letterhead (if available)*

**A certificate containing information on the involvement of subcontractors in the performance of work**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.**  **salary** | **Full name of the subcontractor organization, address, telephone number** | **Type of work** | **Estimated cost of work by the subcontractor,**  **amount (UAH) and as a percentage (%) of the tender offer price** | **Number and series of the license and/or permit of the subcontracting organization** |
| 1  … |  |  |  |  |

\* the participant must provide a copy of the license and/or permit of the subcontracting organization as part of his/her tender proposal (provided if the work to be performed by the subcontracting organization requires obtaining a license and/or permit).

**Position, surname and initials of the authorized person of the participant, signature, STAMP**

*Note: if the Participant does not plan to involve subcontractors in the performance of the* *working the amount of not less than 20 percent of the value of the procurement contract, The participant must provide a letter in any form as part of the tender proposal, in which it must be stated that the subcontracting organizations to perform work in the amount of not less than 20 percent of the value of the procurement contract will not be involved.*

**STATEMENT**

**regarding the absence of grounds specified in part one of Article 17 of the Law of Ukraine “On Public Procurement” (***in paragraph 47 of the Features – during their application)***), regarding the subcontractors/co-contractors involved**

We, /name of the Participant/ (hereinafter referred to as the Participant), hereby certify that there are no grounds specified in Part One of Article 17 of the Law of Ukraine “On Public Procurement” ((Clause 47 of the Features – during their application)), in relation to the subcontractor/co-performer engaged by us, /name of the subcontractor/co-performer/, namely (the list of grounds according to the legislation applicable at the time of the tender announcement is indicated):

|  |  |  |
| --- | --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| *position of authorized person of the Participant* | *signature* | *last name, initials* |

***Appendix 5***

***to the tender documentation***

*Submitted in the form below, on the participant's letterhead (if available)*

*The participant must not deviate from this form.*

**Reference**

**about the presence of the Participant in the procurement procedure for employees with appropriate qualifications,**

**who have the necessary knowledge and experience\***

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| No.  salary | Employee's last name, first name, patronymic | Position, education, specialty, rank | Series, qualification certificate number\*\* | Detailed work experience by specialty, place of work | Name  subcontractor and details of the contract with the subcontractor\*\*\* |
|  | Full-time and part-time employees | | | | |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  | It is planned to attract | | | | |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

**\* -***the table may contain summary information, and detail may be provided in a separate detailed resume for each employee, which contains all the data required by the Customer*

*\*\* - indicated for employees for whom the legislation provides for professional certification with the issuance of the corresponding qualification certificate.*

*\*\*\* - filled in for personnel if hired from a subcontractor, and it is allowed to submit a letter of intent.*

The annexes to this certificate must be the supporting documents required under subparagraph 5.1, paragraph 5, section III "Instructions for preparing a tender offer" of this tender documentation.

**Conflict of interest**

At the request of the EIB and in order to avoid a conflict of interest, the contracting authority will refuse a participant from participating in the tender and reject its tender proposal if it becomes known that such participant provided consulting services for the preparation and implementation of the sub-project.

In order to avoid a possible conflict of interest, tenders from bidders who are related parties within the meaning of paragraph 20 of Article 1 of the Law of Ukraine "On Public Procurement" will also not be considered and rejected, in particular in a situation where the customer exercises control over the bidder or the customer and the bidder are under common control.

***Appendix 6***

***to the tender documentation***

*Submitted in the form below, on the participant's letterhead (if available)*

*The participant must not deviate from this form.*

**Reference**

**on the Bidder's documented experience in executing similar contracts**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No. of the company** | **Name, address and EDRPOU code of the customer for whom the work was performed** | **Subject of the contract, date of its conclusion and completion** | **Start and completion of work**  **(year, month**) | **Contract price, UAH** | **Full name, position, phone number of the customer's contact person** |
| 1 |  |  |  |  |  |
| 2 |  |  |  |  |  |
| **…** |  |  |  |  |  |

Applications:

Scanned copies of supporting documents, namely: similar contracts with additional agreements (if any) and certificates of work performed for the entire amount of the contract). In the event that the amount of the certificates of work performed does not correspond to the specified value of the contract - provide an explanation.

Experience is considered to meet the conditions under this criterion if the participant has provided at least 2 completed similar contracts (including subcontracts) within the last 7 years, taking into account that the class of consequences (liability) of the object under a similar contract must be no lower than the class of consequences of the object under the subject of the procurement.

*Similar contracts are understood to be contracts comparable in terms of the composition and nature of the works (services), namely, technical supervision of the execution of construction works for new construction or reconstruction or restoration or major repairs of facilities (buildings).*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

position, surname, initials of the authorized person of the participant (signature)

***Appendix 7***

***to the tender documentation***

*Submitted in the form below, on the participant's letterhead (if available)*

*The participant must not deviate from this form.*

**Covenant of Integrity**

[Name of lead tenderer]hereby declare and covenant, on our behalf and on that of our joint venture partners, if any, for[name of the contract]managed by[name of promoter](the “Contract”), that neither we nor anyone, including any of our directors, employees, agents or subcontractors for the Contract, acting on our behalf with due authority or with our knowledge or consent or facilitated by us (together, the “Associated Entities and Persons”), nor any of our parent, subsidiary or affiliate companies,

(i) have engaged in any Prohibited Conduct in connection with the tendering process, nor will we or the Associated Entities and Persons engage in such Prohibited Conduct during the execution of the Contract;

(ii) are listed or otherwise subject to EU/United Nations sanctions;

(iii) are the subject of a current decision of exclusion by the European Investment Bank;

(iv) during the 5 (five) years immediately preceding the date of this Covenant, have been convicted in any court or sanctioned by any authority (irrespective of whether such conviction or sanction is still in force) of any offense on grounds comparable to Prohibited Conduct in connection with a tendering process or any provision of works, goods or services; or

(v) are excluded or subject to enforcement actions or otherwise sanctioned by the EU institutions or bodies, or any multilateral development bank, on grounds comparable to Prohibited Conduct, or have been under such exclusion, enforcement action or sanction the effectiveness of which ceased no more than 5 (five) years immediately preceding the date of this Covenant.

We will immediately inform you and[name of promoter]if any instance described under (i) to (v) above in respect of us or any of the Associated Entities and Persons comes to the attention of any person in our organization having responsibility for ensuring compliance with this Covenant at any time during the tendering process and, if successful, during the Contract.

We further declare and covenant that, if successful, neither us nor any of the Associated Entities and Persons will act in contravention of EU/United Nations sanctions during the execution of the Contract.

If applicable, we provide below the details of all convictions, exclusions or other sanctions, exclusion/sanctions proceedings, and/or enforcement actions, listed above under paragraphs (i) to (v), in respect of us or any of the Associated Entities and Persons, together with details of the measures taken, or to be taken, to ensure that no Prohibited Conduct is committed in connection with the tendering process or with the execution of the Contract(if not applicable, please indicate not applicable in the table below):

|  |  |  |
| --- | --- | --- |
| Name of entity | Disclosure details | Measures taken or to be taken |
|  |  |  |
|  |  |  |

We, or any of the Associated Entities and Persons, have paid, or will pay, the following commissions, gratuities or fees with respect to the tendering process or execution of the Contract[insert complete name of each recipient, its full address, the reason for which each commission, gratuity or fee was paid, or will be paid, and the amount and currency of each such commission, gratuity or fee]:

|  |  |  |  |
| --- | --- | --- | --- |
| Name of recipient | Address | Reason | Amount |
|  |  |  |  |
|  |  |  |  |

For the duration of the tendering process and, if we are successful, for the duration of the Contract, we will appoint and maintain in office an officer who shall be a person reasonably satisfactory to you and to whom you shall have full and immediate access, having the duty, and the necessary powers, to ensure compliance with this Covenant.

We grant the[name of promoter], the European Investment Bank, and any persons appointed by it and/or any authority or European Union institution or body having competence under European Union law, the right to (i) visit the sites, installations and works, (ii) interview our representatives and any other relevant person and (iii) inspect and copy our books and records in connection with the tendering process or the Contract, and we shall require our Associated Entities and Persons with knowledge of the Contract to respond to questions from the European Investment Bank and to provide to it any information or documents necessary for the investigation of allegations of Prohibited Conduct.

We agree to preserve our books and records and ensure that the books and records of the Associated Entities are preserved generally in accordance with applicable law but in any case, for at least 6 (six) years from the date of tender submission and, in the event, we are awarded the Contract, at least 6 (six) years following the date of substantial performance of the Contract. We shall ensure that in any agreements with Associated Entities concerning the execution of the Contract provisions to the effect of this paragraph are included.

We acknowledge that any failure to comply with the obligations under this Covenant of Integrity (including any omission or misrepresentation, made knowingly or recklessly, of a past conviction, exclusion, other sanction or enforcement action), or any unauthorized amendment to the Covenant, may be considered a breach of the EIB Group Anti-Fraud Policy and thus result in the rejection of our tender for the Contract and/or cause the initiation of exclusion proceedings by the EIB against us and/or any of the Associated Entities and Persons.

**SIGNED by a duly authorized representative with the requisite power and authority to sign on behalf of his company and, in the case of a joint venture bid, on behalf of each member thereof:**

Date:

Company name:

Name of signatory:

Position of signatory:

Signature:

***Note:*** *This Covenant must be sent to the Bank together with the contract in the case of an international procurement procedure. In other cases, it must be kept by the promoter and be made available, upon request, to the Bank. This document is being executed in English and Ukraine. The English version is the operative document and the Ukrainian version is for convenience only. To the extent of any inconsistencies between the two versions, the English version shall prevail*

***Appendix 8***

***to the tender documentation***

**LIST OF DOCUMENTS AND/OR INFORMATION,**

**SUBMITTED BY THE PARTICIPANT OF THE PROCUREMENT PROCEDURE AS PART OF THE TENDER PROPOSAL**

1. **GENERAL DOCUMENTS:**
   1. **Documents confirming the authority of an official or representative of a procurement participant to sign tender documents –**according to the requirements of clause 1.1 of Section III "Instructions for preparing a tender proposal" of this tender documentation.
   2. **Charter or other founding document**– according to the requirements of clause 1.2 of Section III “Instructions for preparing a tender proposal” of this tender documentation.
   3. **Extract from the register of VAT payers or extract from the register of single tax payers**– according to the requirements of clause 1.3 of Section III “Instructions for preparing a tender proposal” of this tender documentation.
   4. **Signed by the authorized person of the Participant** "Professional Integrity Agreement" in Ukrainian and English - in accordance with the requirements of clause 1.7 of Section III "Instructions for the Preparation of a Tender Proposal" and in accordance with the form in Appendix 7 of this tender documentation.
   5. **Certificate of the person authorized to sign the procurement contract in the event of the Participant winning the tender** – according to the requirements of clause 1.8 of Section III “Instructions for preparing a tender proposal” of this tender documentation.
   6. **Copies of valid qualification certificates** according to the requirements of clause 1.8 of Section III "Instructions for preparing a tender proposal" of this tender documentation.
   7. **Document** on the creation of an association (in case of submission of a proposal by an association of participants) - in accordance with the requirements of clause 1.8 of Section III "Instructions for the preparation of a tender proposal" of this tender documentation.
   8. **A certificate in any form regarding previously concluded contracts and their implementation,** which is drawn up in accordance with the requirements of paragraph 5 of Section V"Evaluation of tender offers, their rejection and other information".
   9. Written confirmation by the participant in accordance with the requirements of clause 4.10. Section V "Evaluation of tender offers, their rejection and other information"
   10. **Other general documents (***if the Customer uses additional requirements for the provision of documents (taking into account the first paragraph of part three of Article 22 of the Law) - it is necessary to identify these documents with reference to specific sections of the TD, where the requirements for their submission are formulated).*
2. **QUALIFICATION PART DOCUMENTS:**
   1. **Documents regarding** the availability of employees of appropriate qualifications who have the necessary knowledge and experience, drawn up in accordance with the requirements of clause 5.1 of Section III "Instructions for the preparation of a tender offer" and Annex 5 of this tender documentation*(if this criterion is applied by the Customer).*
   2. **Documents confirming the presence** experience in implementing similar contracts on the subject of the procurement, drawn up in accordance with the requirements of clause 5.2 of Section III "Instructions for preparing a tender proposal" and Appendix 6 of this tender documentation;
   3. **Documents confirming the presence** financial capacity of the participant, drawn up in accordance with the requirements of subparagraph 5.3 of Section III "Instructions for the preparation of a tender offer".
   4. **Documents on engaging subcontractors** -- in case of their involvement in accordance with clauses 1.8, 5 and 7 of Section III "Instructions for preparing a tender proposal" and Annex 4 of this tender documentation.
   5. **Documents,** confirming the absence of grounds for refusal to participate in the procurement procedure, which are provided when submitting a tender offer - in accordance with the requirements of clause 5.4 of Section III "Instructions for preparing a tender offer", in particular special certificates in any form in accordance with the requirements of subclause 5.4.2 and Extract from the Unified State Register/Extract from the Unified State Register in accordance with the requirements of subclause 5.4.3
3. **TECHNICAL DOCUMENTS:**
   1. **Documentary confirmation** compliance of the participant's tender offer with the technical, qualitative, quantitative and other requirements for the subject of procurement in accordance with the requirements of paragraph 6 of Section III "Instructions for the preparation of a tender offer" and Appendix 3 of this tender documentation.
   2. **Letter of guarantee on the application of environmental protection measures to the subject of procurement** according to the requirements of paragraph 6 of Section III "Instructions for preparing a tender proposal" and Annex 3-A of this tender documentation.
4. **PRICE DOCUMENTS:**
   1. **Tender offer (price)**, drawn up in accordance with the requirements of paragraph 1 "Content and method of submitting a tender offer" of Section III "Instructions for preparing a tender offer" and the requirements and form in Appendix 1 of this tender documentation.

***Appendix 9***

***to the tender documentation***

**LIST OF DOCUMENTS AND/OR INFORMATION,**

**WHICH ARE SUBMITTED BY THE WINNER OF THE PROCUREMENT PROCEDURE**

**(in particular, according to the requirements of clause 5.5 of Section III "Instructions for preparing a tender proposal" of this tender documentation)**

1. **Information certificate from the Unified State Register of Persons** who have committed corruption or corruption-related offenses, according to which no information will be found about corruption or corruption-related offenses of the head of the procurement procedure participant.
2. **Extract (full) from the information and analytical system "Recording of information on bringing a person to criminal liability and the presence of a criminal record"** regarding the manager of a participant in the procurement procedure or an individual who is a participant.
3. **Free form information regarding previously concluded contracts and their execution**, which is drawn up in accordance with the requirements of subclause 5.5.4 of Section III "Instructions for preparing a tender offer"
4. **Documents of the winning bidder regarding the right to sign the procurement contract** according to the requirements of paragraph 3 of section VI "Bid results and conclusion of the procurement contract" of this tender documentation.

1. This draft agreement was developed based on the Order of the Ministry of Regional Developmentdated 04/13/2020 No. 89 “On approval of sample forms of contracts for technical supervision and for the provision of engineering and consulting services in construction”(<https://ips.ligazakon.net/document/FN060850>) and taking into accountOrder of the Ministry of Community and Territorial Development of Ukraine dated 01.12.2022 No. 244, which approved[Amendment 2 to the Guidelines for Determining Construction Costs, which comes into force on January 1, 2023.](https://e-construction.gov.ua/laws_detail/2988031810300019759?doc_type=6)Additionally, see the explanation:<http://www.gitn.org.ua/news/KoshtorisninormiUkrainiNastanovazviznachennyavartostibudivnitstvaOsnovninovatsii/>) [↑](#footnote-ref-1)
2. According to clause 4.32 of the Guidelines for determining the cost of construction, the cost of technical supervision should not exceed 1.5% of the total of chapters 1 - 9 of the Construction Costs Code. [↑](#footnote-ref-2)