***Sample form\****

**Customer's full name**

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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))**

**for the purchase of works according to the subject of the procurement:**

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

**Name of the procurement item**

**(**determined by specifying 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 requirementsThe 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 on the implementation 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)****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 | ***{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, 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, expressed 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 procurement item 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 procurement object, 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.The information specified in this paragraph shall be published by the customer in accordance with Article 10 of the Law. |
| **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 provide 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 provide 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 5.6.1 - 5.6.4. 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. Documentary confirmation of the provision of tender offer security in accordance with the requirements of clause 2 of Section III of this tender documentation.8. Signed by an authorized representative of the participant of the Pact on Consent on Professional Integrity in Ukrainian and English (Appendix 8).9. Signed by an authorized representative of the participant of the Pact on compliance with environmental and social standards in Ukrainian and English (Appendix 9).**10. Other documents (taking into account the first paragraph of part three of Article 22 of the Law):****-**copies of basic licenses, qualification certificates (if it is envisaged to perform types of work related to the creation of architectural objects, the responsible performers of which undergo professional certification) and/or permits for work issued by an authorized state body necessary for the performance of the work specified in the technical task, if obtaining licenses and/or permits for the performance of such work is provided for by law. Permits, qualification certificates and/or licenses must be valid (provided if the specified work is performed directly by the participant).- in case of involving a third-party business entity (subcontractor) in the performance of work under the project, 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 with the mandatory provision of copies of permits, qualification certificates and/or copies of licenses of such subcontractors and their employees (with a list of works) for the conduct of economic activities necessary for the performance of the work in which they are involved, if obtaining licenses, qualification certificates and/or permits for the performance of such work is provided for by law (permits, qualification certificates and/or licenses must be valid).- 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 participant winning the tender with the mandatory provision of a copy of the document certifying the person authorized to sign the procurement contract as part of their offer (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 an authorized person).- if the tender offer is submitted by an association of participants, it must include 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 tenders, 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 the fourth paragraph of subparagraph 2 of 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", ".docx", 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 a qualified or advanced 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 QES/AES of the participant 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 surname 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** | 1. The requirements and conditions for securing a tender offer are specified in accordance with the order of the Ministry of Economic Development, Trade and Agriculture of Ukraine dated 14.12.2020 No. 2628 “On Approval of the Form and Requirements for Securing a Tender Offer/Proposal” and the Law (hereinafter referred to as the Requirements).**Tender security is provided subject to the conditions set out in this clause.**.**Tender offer security amount:** \_\_\_\_\_\_\_\_\_\_\_ (indicate the amount in UAH in figures and words)\*,**Type of tender offer security: bank guarantee (***a scanned copy of the paper original of the document – ​​a file in PDF or Word format with the guarantor’s digital signature superimposed)* **or electronic bank guarantee***,* which is provided simultaneously with the submission of the tender offer. The validity period of the tender offer security is not less than 90 (ninety) calendar days from the date of opening of the tender offer, including the day of opening of the tender offer.2. The terms specified in the bank guarantee are used in the meanings defined by the Civil Code of Ukraine, the Law of Ukraine “On Public Procurement”, the Resolution of the Board of the National Bank of Ukraine dated December 15, 2004 No. 639 “On Approval of the Regulation on the Procedure for Banks to Perform Operations Under Guarantees in National and Foreign Currencies” (as amended).3. In the warranty details:1) regarding the full name of the guarantor, the following information shall be provided:— full name of the guarantor, its identification code in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations;— bank code (if available);— physical address; postal address for correspondence;— the guarantor's email address to which documents are received;— SWIFT address of the guarantor;2) regarding the full name of the principal, who is a participant in the procurement procedure, the following information shall be provided:— full name — for a legal entity;— surname, first name and patronymic (if available) — for an individual;— identification code in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations — for the principal of the resident legal entity;— registration number of the taxpayer's registration card — for the principal of a resident individual (if available);— series (if available) and passport number (for an individual who, due to his/her religious beliefs, refuses to accept the registration number of the taxpayer's registration card) or individual tax number of the value-added tax payer (in the absence of a passport);— location address;3) regarding the full name of the beneficiary, which is the customer, the following information shall be provided:— full name of the legal entity; identification code in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations, its category\*\*;— location address;4) the amount of the guarantee shall be indicated in figures and words, the name of the currency in words;5) the name of the currency in which the guarantee is provided shall indicate the currency in which the guarantee is provided and its digital and letter code in accordance with the Classifier of Foreign Currencies and Banking Metals, approved by Resolution of the Board of the National Bank of Ukraine dated February 4, 1998 No. 34;6) the date of commencement of the guarantee period shall be the date of issue of the guarantee or the date of its entry into force;7) the expiry date of the guarantee is indicated;8) the unique number of the announcement of the competitive procurement procedure, assigned by the electronic procurement system, in the format UA-XXXX-XX-XX-XXXXXX-X and the name and website of the information and telecommunications system "PROZORRO" are indicated;9) the information regarding the tender documentation shall indicate:— date of the customer's decision approving the tender documentation;— name of the procurement subject / part of the procurement subject (lot) according to the announcement of the competitive procurement procedure;10) the term for payment of funds under the guarantee is indicated in working or banking days;4. The guarantee and the contract concluded between the guarantor and the principal may not contain additional conditions regarding:— requirements for the principal to provide letters or other documents (except for cases where the principal provides the guarantor with notice of the occurrence of circumstances under which the guarantee is deemed to have expired;— requirements for third parties to provide letters or documents confirming the occurrence of a warranty event;— possibility of partial payment of the guarantee amount.5. Changes to the guarantee may be made in accordance with the procedure provided for by the legislation of Ukraine, after which they become an integral part of this guarantee.*\*\*The term "beneficiary category" refers to the category of the customer in accordance with Part 4 of Article 2 of the Law of Ukraine "On Public Procurement".*The bank guarantee must be irrevocable.The bank's obligation to pay the full amount of the tender security (guaranteed amount) upon the first written request of the Customer (beneficiary), which will contain a reference to one of the grounds specified in paragraph 3 of Section III of this documentation.A bank guarantee formulated in a different way, or which contains conditions precedent to its entry into force, shall be deemed not to meet the requirements of the tender documentation. The customer rejects the tender offer with an indication of the reasoning in the electronic procurement system on the basis of paragraph 4, subparagraph 1, clause 44 of the Features in the event that the participant in the procurement procedure did not provide a tender offer security, if such security was required by the customer.**If changes are made to the tender documentation, the tender offer must take into account the changes made and, accordingly, contain a reference to the date of the customer's decision approving the latest version of the tender documentation.** |
| **3** | **Conditions for the return or non-return of the tender security** | The tender offer security is returned to the participant in the event of: expiration of the tender offer validity period and the tender offer security specified in the tender documentation;-- conclusion of a procurement agreement with the participant who won the tender;-- withdrawal of the tender offer before the expiry of the deadline for its submission;-- termination of the procurement procedure in the event of failure to conclude a procurement agreement with any of the participants who submitted tender offers.The tender security is not refundable in the event of:-- withdrawal of a tender offer by a participant after the deadline for its submission, but before the expiration of the period during which tender offers are considered valid;-- failure to sign the procurement contract by the participant who won the tender;-- failure by the winner of the procurement procedure to submit, within the period specified in part six of Article 17 (paragraph 47 of the Features – during their application) of the Law, documents confirming the absence of the grounds established by Article 17 of the Law (paragraph 47 of the Features – during their application);-- failure by the winner of the procurement procedure to provide security for the performance of the procurement contract after receiving a notification of the intention to conclude a procurement contract, if the provision of such security is provided for in the tender documentation.Upon request of a participant to whom a tender security was provided, the customer shall notify the institution that issued the guarantee to such participant of the occurrence of grounds for returning the tender security within five days from the date of occurrence of one of the grounds for returning the tender security. |
| **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 without losing the tender offer security provided by him;agree to the request and extend the validity period of the tender offer submitted by him and the tender offer security provided.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 the participant in the procurement procedure** equipment, material and technical base and technologies:5.1.1. Certificate in the form of Appendix 5 to this documentation, containing information on the main types of equipment, vehicles, construction machines and mechanisms of the participant (indicating brands, or types, or models, number of units, own or hired), which can be used when performing work, which is the subject of procurement according to Appendix 3 of this documentation.The participant may, to confirm its compliance with this criterion, engage the capabilities of other economic entities as subcontractors/co-performers.*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.* *(Comment for the customer: This criterion is applied at the customer's own discretion, and if it is applied, it should be specified for what exactly the equipment should be intended, taking into account the nature and scope of the work)***5.2. Availability of employees of appropriate qualifications who have the necessary knowledge and experience at the participant in the procurement procedure:**5.2.1. 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 6 to this documentation..The participant may, to confirm its compliance with this criterion, engage the capabilities of other economic entities as subcontractors/co-performers.*The compliance of the submitted proposal with this criterion is confirmed by providing a properly completed certificate in accordance with Appendix 6 (and scanned copies of supporting documents) as part of the proposal.**(Comment for the customer. This criterion is applied at the customer's own discretion -- if it is applied, it should be specified what type (what specialization and qualification) of employees are needed, taking into account the nature and scope of the work).***5.3. Availability of documented experience in the implementation of similar contracts on the subject of contract procurement:**5.3.1. Information certificate on the implementation of similar contracts in accordance with Appendix 7 of this documentation.5.3.2. Supporting documents, namely: scanned copies of similar contracts with additional agreements (if any) and certificates of work performed for the entire amount of the contract as of the time of completion of the work (Form KB-2v or Form KB-3 or forms of acceptance and transfer of completed construction works prepared independently and signed by the customer, and in the case of international contracts - other regulatory documents on the volume of work performed and their cost). 5.3.3. Scanned copies of letters of feedback from counterparties specified in the certificate of execution of similar contracts addressed to the customer of this procurement, indicating information on the proper execution of the contract, with the addition of supporting documents on the acceptance into operation of completed construction facilities.**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.***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 7 and scanned copies of the supporting documents specified in subparagraphs 5.3.2-5.3.3.***5.4. 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):**5.4.1. 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).5.4.2. 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).5.4.3. 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).**5.5. Documents confirming the absence of grounds for refusal to participate in the procurement procedure, which are provided when submitting a tender offer:**5.5.1. 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 clause 47 of the Features, except for the independent declaration of the absence of such grounds by the participant in the procurement procedure in accordance with paragraph sixteen of clause 47 of the 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.5.5.2. In the case of participation of an association of participants, confirmation of compliance with the qualification requirementscriteria in this clause 5 shall be carried out taking into account the generalized combined indicators of each participant of such association on the basis of the information provided by the association. In such case, documentary confirmation of compliance with one or morequalification criteria may be provided directly to the associationparticipants as a whole (as the sum of the qualification data of the participants of the association) and/or separately for the participants of such an association (the qualification data of a particular participant corresponds to the parameters of the established qualification criterion). At the same time, based on the totality of the information provided, according to the method of documentary confirmation provided for in this tender documentation, the participant of the procurement procedure as a whole must meet the qualification criteria established by the customer in accordance with clause 5 of this Tender Documentation.If the participant in the open tender is a consortium as a registered legal entity, then documentary confirmation of information on compliance with the qualification criteria must be provided on behalf of the consortium as a bidder.5.5.3. 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 Contractfor procurement under URP III (tranche A), the participant will be denied 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 an individual who is a participant in the procurement procedure, an official (official) of a participant in the procurement procedure who signed the tender offer and/or is authorized to sign the procurement agreement, an individual who is the ultimate beneficial owner of a legal entity participating in the procurement procedure (including an 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 collabouration 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.5.5.4. 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 Contractfor 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).**5.6. Documents that the winner of the procurement procedure must submit to the customer:**5.6.1. 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.5.6.2. Certificate containing information that the manager of the participant in the procurement procedure, the 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 collabouration 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. 5.6.3 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 trafficking5.6.4 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 5.6.2-5.6.3 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) *.* 5.7. 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 5.6.1.-5.6.4. of paragraph 5 of Section III of the tender documentation.Scanned in order in one file (in PDF (Portable Document Format) format) the documents specified in the previous paragraph 5.6 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 apply for 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 the participant of the procurement procedure with the requirements of the qualification criteria, the presence of grounds specified in Clause 47 of these Features, 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 of 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.* |
| **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 participant's tender offer's compliance 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.**Information on the compliance of the proposed offer with the technical requirements established by the customer in Appendix 3 to this tender documentation must be confirmed by the following documents submitted and signed as part of the tender offer:**- at a negotiated price;- consolidated estimate;- explanatory note;- local estimates (must be prepared in accordance with the technical specifications, taking into account the technological process);- a summary statement of resources;- draft work scheduleThe contractual price is drawn up in accordance with Section V. "Determination of the cost of a construction object when drawing up the price of the offer of a participant in the procurement procedure (contractual price)" of the Estimated Standards 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).**Information on the compliance of the offer proposed by the participant with the technical requirements established by the customer in Appendix 3 to this tender documentation,** must be calculated in the AVK software package, or in a software package that interacts with it in terms of transferring estimate documentation and calculations. A tender offer that does not meet the Technical Requirements set out in Appendix 3 (in particular, does not contain all types of work or their full scope, does not contain all material and technical resources according to the list given in Appendix 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 letter of guarantee on the application of environmental protection measures as part of the proposal according to the form in Appendix 3-A to this documentation.The participant must understand that in the case of indication in Appendix 3 of a specific brand or manufacturer or a specific process characterizing a product or service of a particular business entity, or a trademark, patent, type or specific place of origin or method of production, this must be understood as the possibility of using an equivalent.Reference by the Customer in Appendix 3 to a specific trademark or company, patent, design of its source of origin or manufacturer may be necessary in accordance with the construction project that has passed state examination. |
| **7** | **Information about the subcontractor (in case of procurement of works)** | 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 amend or withdraw his tender offer before the deadline for submission without losing his tender offer security. Such amendments 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 submission of tender offers. |
| **9** | **List of tender documentation annexes** | 1. Annex 1 – Tender (Price) Proposal Form.2. Annex 2 – Draft contract for the purchase of works (contract).3. Appendix 3 -- TERMS OF REFERENCE for the procurement of the subject of the 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 availability of the Bidder with the equipment, material and technical base and technologies necessary for the performance of work on the subject of the procurement (*if this criterion is established*).7. Appendix 6 – 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*).8. Appendix 7 – Form of certificate confirming that the Bidder has documented experience in executing similar contracts.9. Appendix 8 – PACT ON CONSENT ON PROFESSIONAL INTEGRITY (in Ukrainian and English).10. Appendix 9 -- PACT ON COMPLIANCE WITH ENVIRONMENTAL AND SOCIAL STANDARDS (in Ukrainian and English).11. Annex 10 -- List of documents and/or information submitted by the procurement participant as part of the tender offer.12. Annex 11 -- 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 tender procedure are indicated. The deadlines for submitting tender offers in open tenders are indicated in accordance with the current legislation applicable at the time of publication of the announcement of the open tender procedure, BUT according to the requirements of clause 9 of the Manual "National Procurement Procedures" it must be NOT LESS than 20 calendar days from the date of publication of the announcement of the open tender procedure in the case of procurement of construction works)***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 (***Comment for the customer: ONE OF THE FOLLOWING OPTIONS SHOULD BE DETERMINED BY THE CUSTOMER AT HIS DISCRETION****:****FROM*** *by using an electronic auction in accordance with clause 35 of the Features (during their application). In this case, the customer also indicates the size of the minimum step of price reduction during the electronic auction with a specific percentage value in the range from 0.5 percent to 3 percent or the corresponding amount in monetary units in the same percentage range of the expected purchase price.**\*Auction step:*

|  |  |
| --- | --- |
| ***The size of the minimum price reduction step, %:*** | *\_\_\_\_ %* |
| ***The size of the minimum price reduction step, UAH:*** |  *\_\_\_\_\_UAH* |

*OR*WITHOUT the use of an electronic auction according to clause 37 of the Features (when they are used - according to the customer's justification specified in the announcement). 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 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. |
| **2** | **Justification of an abnormally low tender offer** | The participant who submitted the most economically advantageous tender, which is abnormally low, must provide, within one working day from the date of determination of the most economically advantageous tender, justification in any form regarding the prices or cost of the relevant works or tender.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:-- achieving savings due to the applied technological process of producing goods, the procedure for providing services, or construction technology;-- favorable conditions under which a participant in the procurement procedure can supply goods, provide services or perform work, in particular a special price offer (discount) of a participant in the procurement procedure;-- 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 information and/or documents submitted by a participant in the procurement procedure as part of a tender offer and/or the submission of which is required by the tender documentation, is understood to mean, among other things, 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 lack of tender offer security, if such security was required by the customer, and/or the absence of information (and/or documents) on the technical and qualitative characteristics of the procurement subject offered by the participant in the procedure in its tender offer). Inconsistency in information and/or documents provided by a 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 offered by the participant in the procurement procedure as part of 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;— the use of a word or phrase borrowed from another language;— indication of the unique number of the announcement of the competitive procurement procedure assigned by the electronic procurement system and/or the unique number of the notification of the 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 a tender offer, which is certified by the signature of an authorized person of the participant in the procurement procedure and additionally contains the signature (visa) of a person whose authority is not confirmed by the participant in the procurement procedure (for example, a translation of the document is visaed 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”;— “city of Kyiv” instead of “city of Kyiv”;— “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 offer (including costs related to tender security), 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 offer, 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 aggressionof 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) having 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, 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 in cases where the assets are transferred to the management of the National Agency for the Identification, Search and Management of Assets Obtained from Corruption and Other Crimes in accordance with the procedure established by law. |
| **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) having 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, 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 in cases where the assets are transferred to the management of the National Agency for the Detection, Search and Management of Assets Obtained from Corruption and Other Crimes in accordance with the procedure established by law; 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, Art. 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.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. |
| **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 by the customer, the customer shall, within one working day from the date of making the relevant decision, indicate in the electronic procurement system the grounds 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 canceled 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 conclusion period** | 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 participant-winner 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 of the notice of 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 agreement (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 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 fulfiled 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 subject of procurement 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 terms 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 canceled 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** | The customer requires the winning bidder to provide, no later than the date of conclusion of the procurement contract, security for the performance of such contract - a bank guarantee (*recommended type of security according to the Procurement Manual for URP III*).The amount of the security should be \_\_\_\_\_\_\_% (the Customer specifies the specific amount in percentage, which cannot be more than 5%) of the contract value.The bank guarantee must be valid for the entire term of the purchase agreement.The bank guarantee must comply with the provisions of Article 200 of the Commercial Code of Ukraine, Article 560 of the Civil Code of Ukraine, and the requirements of the Resolution of the NBU Board of December 15, 2004 No. 639 “On Approval of the Regulation on the Procedure for Banks to Perform Operations Under Guarantees in National and Foreign Currencies”.Copies of bank documents are attached to the bank guarantee.; a document confirming the authority of the person who signed the guarantee (extract from the Charter, power of attorney, etc.), certified by the bank.The bank to which the guarantee is issued, according to official data from the NBU, must be solvent and not be in liquidation.***If the Winner is a non-resident***, he may provide security for the performance of the purchase agreement in the national currency of the Customer's country - hryvnia in the amount of \_\_\_% of the contract value in the equivalent, converted on the date of registration of the bank guarantee at the official exchange rate of the National Bank of Ukraine.A bank guarantee provided by a non-resident bank must be drawn up in accordance with the unified rules governing the use of the relevant instrument and officially issued by the International Chamber of Commerce. A bank guarantee provided by a non-resident bank must be advised through an advising bank that is a resident of Ukraine. The participant shall submit a document as part of the tender proposal confirming the advice of the bank guarantee provided by a non-resident bank, carried out by the advising resident bank in electronic form, with the mandatory imposition of the CEP of the advising bank.The customer returns the security for the performance of the purchase agreement:1) after the winner of the procurement procedure has completed the procurement contract;2) by court decision on the return of the contract security in the event that the results of the procurement procedure are declared invalid or the procurement contract is null and void;3) in cases provided for in Article 21 of the Features;4) in accordance with the conditions specified in the purchase agreement, but no later than within five banking days from the date of occurrence of the specified circumstances.All costs associated with providing security for the performance of the procurement contract shall be borne by the Winner.The funds received as security for the performance of the contract (if they are not returned) shall be transferred to the relevant budget to the account \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(indicate all the details of the relevant treasury service). |

***Appendix 1***

***to the tender documentation***

**TENDER (PRICE) OFFER**

**FOR PURCHASE BY SUBJECT**

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

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 materials and 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. The warranty period for the work performed is \_\_\_ (number in words) years.

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

8. 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.

9. 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.

10. 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.

11. If a decision is made to determine our offer as the most economically advantageous and we, as a participant, the winner of the procurement procedure, 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.

 12. 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 Implementation Guidelines Ukraine Recovery Program III (URP 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**

**about the procurement of works**

**(contract)**

***Contract number***

m. \_\_\_\_\_\_\_\_\_\_\_\_\_\_ **"\_\_\_" \_\_\_\_\_\_\_\_\_ 202\_\_ year**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereinafter referred to as the "Customer",** operating on the basis of the Regulation approved on \_\_\_\_\_\_\_№\_\_\_\_\_\_, the Financing Agreement between Ukraine and the European Investment Bank on the Ukraine Recovery Program 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) **(hereinafter referred to as the Finance Contract),** and the Loan Fund Transfer Agreement No. \_\_\_from \_\_\_between\_\_\_\_\_, on the one hand,

and

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***, hereinafter referred to as the "Contractor",** acting on the basis of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, on the other hand,

together - the Parties, have concluded this Agreement on the following.

**1. SUBJECT OF THE CONTRACT**

1.1. The Customer instructs, and the Contractor undertakes, in accordance with the design documentation and the terms of this Agreement, to perform work on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at the Facility.

1.2. Object: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Location of the Facility: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

1.3. The essential terms of the contract cannot be changed after its signing until the Parties have fulfilled their obligations in full, except as provided for by law (clause 19 "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" approved by 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").

1.4. This Agreement shall enter into force upon its signing by the Parties.

**2. TIMELINE FOR PERFORMANCE OF WORKS**

2.1. The Contractor shall commence work after:

2.1.1. Entry into force of this Agreement.

2.1.2. Obtaining the necessary permits to begin construction work, Deed of Transfer construction site (work front) The Customer, the Contractor and the project documentation.

2.1.3. Providing the Customer with an insurance contract for accidental damage to the Facility on which the work is being performed, concluded between the Contractor and an insurance company acceptable to the Customer, in the form of insurance for the complex of construction, installation and commissioning works. The term of insurance is the full period of performance of work at the facility. In the event that the term of performance of work is extended for objective reasons, the Contractor undertakes to extend the term of the insurance contract provided for in this clause of the Agreement.

2.2. The beginning and end of the work is determined by the Work Schedule, which is an integral part of the Agreement (Appendix No. 2).

2.3. The Contractor may ensure early completion of the work and its delivery to the Customer only with the Customer's consent.

2.4. The terms of performance of work under this contract cannot be changed, except for the cases provided for in clause 19 of the Features and taking into account the terms of the LFTA dated \_\_\_\_ No. \_\_\_\_\_.

**3. CONTRACTUAL PRICE**

3.1. The contractual price is:

a) Amount excluding VAT: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (amount in words) UAH;

b) VAT in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (amount in words) UAH (to be filled in if the Contractor is a VAT payer);

Total (sum of lines a and b): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (amount in words) UAH.

The Contract Price is an appendix (Appendix No. 1) to this Agreement.

The contractual price under this Agreement is determined by the Parties as**(dynamic or solid – ONE OF THESE 2 OPTIONS SHOULD BE SPECIFIED BY THE CUSTOMER)** and may be adjusted in the process of performing work in accordance with the requirements of the current legislation of Ukraine, taking into account clause 19 “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” approved by 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” (hereinafter referred to as the Features), for the period of the legal regime of martial law in Ukraine and within 90 days from the date of its termination or cancellation”.

3.2. The contractual price is an essential condition of the Contract and may not be changed, except as provided for in the Specifications.

3.3. The procedure for determining the value of the contract price is carried out in accordance with the provisions of the Estimated Norms of Ukraine "Guidelines for Determining the Cost of Construction".

3.4. Source of financing for the work under this Agreement:

co-financing of work under the project from the local budget with VAT –\_\_\_\_\_\_\_\_\_\_UAH. (***It is indicated only in the case of such co-financing from the local budget, namely when the cost is greater than the approved Eexpert working group of the Ministry of Development).***

funds of the special fund of the state budget (EIB funds) excluding VAT – \_\_\_\_\_\_\_\_\_\_\_\_\_UAH; funds of the local budget (VAT coverage) – \_\_\_\_\_\_\_\_\_\_\_\_\_\_ UAH.

*Co-financing conditions under this Agreement****(Indicated only if there is such co-financing from the local budget, namely when the cost is greater than that approved by the Expert Working Group of the Ministry of Development):***

The use of subventions from the state budget to local budgets for the implementation of projects within the framework of the Ukraine Recovery Programme III (URP III (tranche A)) to finance works under this Agreement shall be carried out after the full use of funds for co-financing works from the local budget, which shall be confirmed by copies of the relevant payment instructions with notes on payment from the bodies of the State Treasury Service of Ukraine.

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

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

4.1.1. Refuse to accept completed work if deficiencies are identified that preclude the use of the results of such work in accordance with the purpose specified in the design documentation and the Agreement, and the identified deficiencies cannot be eliminated by the Contractor, the Customer or a third party.

4.1.2. To conclude contracts for technical and author's supervision, consulting engineer services (if necessary),as well as other services that will be required for the implementation of the project.

4.1.3. Make changes to the design documentation before the start of work or during its execution in accordance with the established procedure.

4.1.4. Require free correction of defects that arose as a result of violations committed by the Contractor.

4.1.5 To withdraw from the Contract and demand compensation for damages if the Contractor fails to commence work on time or performs it so slowly that its completion within the period specified in the Contract becomes impossible.

4.1.6. To withdraw from the Agreement at any time before the completion of the work, having paid the Contractor for the completed and accepted part of the work.

4.1.7. Initiate amendments to the Agreement, demand termination of the Agreement and compensation for damages in the event of material violations by the Contractor of the terms of the Agreement.

4.1.8. Demand compensation for damages caused to him due to breach of the Agreement.

4.1.9. To terminate this Agreement unilaterally in the event of failure to fulfil obligations by the Contractor, notifying him thereof within 10 days.

4.1.10. Do not make payment on the account if it is improperly executed in accordance with clause 12.1.2 of this Agreement (lack of seal, signatures, etc.).

4.1.11. To amend the Agreement in connection with changes in legislation by concluding additional agreements.

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

4.2.1. Provide the Contractor with access to the Facility, transfer permitting and design documentation in accordance with the terms of the Agreement.

4.2.2. Accept from the Contractor the properly performed work in accordance with the established procedure and pay for it upon acceptance.

4.2.3. Immediately notify the Contractor in writing of any identified deficiencies in the work.

4.2.4. Ensure the conclusion of a contract for technical supervision, consulting engineer services (if necessary),as well as other services that will be required for the implementation of the project throughout the entire period of work on the Facility in accordance with the procedure established by law.

4.2.5. Require the contractor to promptly inform the EIB of any substantiated allegation, complaint or information regarding Prohibited Conduct in relation to the Contract.

4.2.6. Require the Contractor to maintain accounting books and records of all financial transactions and expenditures in connection with the Contract.

4.2.7. Acknowledge the right of the EIB, as part of its investigation into Prohibited Conduct, to examine the Contractor's books and records of all financial transactions and expenditures in connection with the Contract and to make copies of documents to the extent permitted by law.

4.2.8. Inform the Contractor of the EIB's right to conduct random checks at various stages of the Contract implementation process, relating to, without limitation:

(A) compliance with the scope of work resulting from audits or recommendations of the EIB for the provision of technical assistance;

(B) quality of project documentation;

(C) the quality of construction work;

(D) the quality of the building materials used;

(E) the value of the Contract;

(F) compliance with Environmental and Social Standards;

(G) procurement in general and compliance with the Procurement Manual;

4.2.9. Inform the Contractor of the right of the EIB and its employees, agents, consultants and advisors to obtain appropriate access rights (upon request) to any necessary place and any document during the verification of the matters specified in the paragraph above.

4.2.10 Require the Contractor to facilitate the mission of any technical assistance consultants engaged by the EIB to provide sectoral advice and monitor the Project (in particular, the United Nations Development Programme (UNDP), Cowater International).

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

4.3.1. Involve subcontractors in the implementation of the Agreement.

4.3.2. Stop work in the event of the Customer's failure to fulfil its obligations under the Agreement, which has led to the complication or impossibility of the Contractor's performance of the work.

4.3.3. Demand payment advance payment (advance payment)and payment for working the manner established by the Agreement.

4.3.4. To refuse the Contract in the event of changes to the design and estimate documentation that require additional work, the cost of which exceeds 10 percent of the contract price.

4.3.5. Initiate amendments to this Agreement.

4.3.6. In the event of failure to fulfil obligations by the Customer for 30 (thirty) or more calendar days, the Contractor has the right to terminate this Agreement unilaterally, notifying the Customer within 10 days, and to demand compensation for losses in the cases and in the manner provided for by this Agreement and/or legislation.

**4.4. The Contractor shall:**

4.4.1. Ensure the performance of the work within the time limits established by this Agreement.

4.4.2. Carry out expert verification (if necessary as determined by building codes) of testing of structures, products, equipment, etc. used in the performance of work, and notify the Customer thereof within the time limits specified in the Agreement.

4.4.3. Transfer the Object to the Customer in accordance with the procedure provided for by law and the Agreement.

4.4.4. Take measures to prevent the transfer of design documentation (copies, copies) to third parties without the consent of the Customer.

4.4.5. Ensure the maintenance and transfer to the Customer of documents on the implementation of the Agreement in accordance with the established procedure.

4.4.6. Ensure coordination of subcontractors' activities, involve them in solving existing problems, create the necessary conditions for the fulfilment of contractual obligations and monitor the progress of their fulfilment, accept work, represent their interests in relations with the Customer. The Contractor is responsible to the Customer for the actions of subcontractors to the same extent as for his own actions.

4.4.7. Ensure that, if there are subcontracts, there are no legal relationships between the Customer and subcontractors during the performance of this Agreement.

4.4.8. Be responsible for engaging workers and engineering and technical personnel in sufficient numbers and with appropriate qualifications to perform the work.

4.4.9. Be responsible for the quality of the work performed, materials used, and equipment. Provide the technical supervision representative (and the consulting engineer -- if there is a corresponding contract) with access to the construction site.

4.4.10. Timely eliminate defects in the work caused by his fault.

4.4.11. To compensate for losses caused to the Customer in accordance with the legislation and the Agreement.

4.4.12. Inform the Customer in accordance with the established procedure about the progress of fulfilling obligations under the Agreement, circumstances that impede its fulfilment, as well as about the measures necessary to eliminate them.

4.4.13. Within one day, inform the EIB, the Ministry of Infrastructure and the Ministry of Finance of receipt of a substantiated accusation, complaint or information regarding any alleged or suspected cases of Prohibited Conduct by the Contractor, its directors, employees, agents, joint venture partners or subcontractors, if any, acting on behalf of the Contractor with appropriate authority in relation to the Subproject.

4.4.14. Keep accounting books and records of all financial transactions and expenses in connection with the Agreement and provide them to the Customer upon its written request within 2 business days.

4.4.15. Grant the EIB the right, as part of its investigation into Prohibited Conduct, to inspect the books and records of all financial transactions and expenditures in connection with the Agreement and to make copies of documents to the extent permitted by law.

4.4.16. Grant the EIB the right, as part of the review of Prohibited Conduct, to conduct random inspections at various stages of the implementation process of the Agreement, relating to, without limitation:

(A) compliance with the scope of work resulting from audits or recommendations of the EIB for the provision of technical assistance;

(B) quality of project documentation;

(C) the quality of construction work;

(D) the quality of the building materials used;

(E) the value of the Contract;

(F) compliance with Environmental and Social Standards;

(G) procurement in general and compliance with the Procurement Manual.

4.4.17. Grant the Bank and its employees, agents, consultants and advisors the right to obtain appropriate access rights (upon request) to any necessary place and any document during the verification of the matters specified in the paragraph above.

4.4.18 Facilitate the mission of any technical assistance consultants engaged by the EIB to provide sectoral advice and monitor the Project (in particular, the United Nations Development Programme (UNDP), Cowater International).

4.4.19. To comply with the prohibition on purchasing goods, works, and services necessary to fulfil the terms of this Agreement 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 the National Agency for the Detection, Search and Management of Assets Obtained from Corruption and Other Crimes in accordance with the procedure established by law.

4.4.20. Insure the risk of accidental damage to the Facility on which the work is being performed, in the form of insurance for a complex of construction, installation and commissioning works. (commissioning and commissioning works are included if the performance of such works is provided for by the contract).

4.4.21. The Contractor is responsible for ensuring insurance of its personnel against death, injury and loss of property during the performance of work under the Contract. The Contractor shall provide workers involved in the performance of the work with protective equipment and ensure the availability of fire safety equipment at the Construction Site.

4.4.22. Provide the Customer with a contract performance security in the amount of \_\_% of the contract value with a validity period until the full completion of the work under the contract, and in the event of an extension of the terms of implementation of this Contract for objective reasons, extend the validity period of such security.

4.4.23 If during construction there is a need to perform additional work not taken into account by the design documentation, the Contractor is obliged to notify the Customer of the circumstances that led to the performance of such work and submit proposals with appropriate calculations to the Customer. The Customer, considering the said proposals, makes a decision on the merits and notifies the Contractor thereof. If the Contractor has not notified the Customer in accordance with the established procedure about the need to perform additional work, he may not demand from the Customer payment for the performed additional work and compensation for the losses caused to him, unless he proves that the performance of such work was necessary in the interests of the Customer, in particular, due to the fact that the suspension of work threatened the destruction or damage to the construction object.

**5. RISKS OF DESTRUCTION OR DAMAGE TO THE OBJECT**

5.1. The Contractor bears the risk of destruction or damage to the Facility, taking into account the work performed by subcontractors, from the beginning of their performance until the approval of the Act on Acceptance into Operation of the Facility, except in the case of accidental destruction or damage to the Facility due to force majeure.

At the request of the Customer, the Contractor shall submit to him for approval a plan of measures to eliminate the consequences of accidental damage to the construction site. Upon agreement with the Customer, the Contractor may, at his own expense, involve third parties in eliminating the consequences of accidental destruction or damage to the construction site.

5.2. The Contractor is responsible for the protection of property (fences, lighting, etc.), construction site (work front), work being performed, and ensuring safety throughout the entire term of the Contract until the completed work (Construction Facility) is accepted by the Customer. If the Contractor discovers circumstances that threaten the destruction or damage of the construction facility through no fault of the Contractor, he is obliged to immediately stop work and notify the Customer of such circumstances. In such a case, the Contractor may initiate appropriate changes to the contract regarding the terms of work, contract price, etc.

5.3. Notification of damage to the Facility shall be sent to the Customer within 2 (two) business days after its discovery. The damage shall be repaired by the Contractor within the time frame agreed upon by the Parties, taking into account its complexity and scope.

5.4. The Contractor is obliged to take measures to prevent the destruction or damage of the construction site.

**6. PROVISION OF WORKS WITH PROJECT DOCUMENTATION**

6.1. Providing the works with design documentation is carried out taking into account the provisions of the General Conditions for the Conclusion and Execution of Contracts in Capital Construction, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 01.08.2005 No. 668 (hereinafter referred to as the General Conditions), and other regulatory documents.

6.2. The Customer has the right to make changes to the design documentation, taking into account the conditions specified in clause 53 of the General Conditions.

6.3. The Contractor may provide the Customer with proposals for improving the design solutions. The Customer will consider and respond to the Contractor within 5 (five) days from the date of receipt of the proposals.

**7. PROVISION OF WORKS WITH MATERIALS, EQUIPMENT AND SERVICES**

7.1. The provision of materials, equipment and services for the work shall be carried out taking into account the provisions of the General Conditions.

7.2. The Contractor shall provide the works with materials and equipment. He shall be obliged to coordinate with the Customer the suppliers of materials and equipment.

7.2.1. The Contractor is obliged to preliminarily agree in writing with the Customer and the balance holder of the Facility (if these are different legal entities) the quality parameters and warranty conditions of the equipment, furniture, inventory and equipment provided for by the Design documentation. To do this, the Contractor must send the Customer a letter indicating: the name, location and identification code of the seller/supplier of such goods in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations; the name of the goods (equipment / furniture / inventory / equipment); the specific price including VAT; quality parameters and warranty conditions of the equipment, furniture, inventory and equipment.

7.2.2. The cost of equipment, furniture and inventory must not exceed the average market value in Ukraine for such goods, which is determined according to the data of the State Statistics Service and/or the Chamber of Commerce and Industry of Ukraine and/or the State Enterprise inform (in the form of a certificate from one of these organizations or the contractor's own certificate with a reference to the sources of confirmation of the information in the certificate).

7.2.3. If the Contractor does not receive written approval from the Customer for the equipment, furniture, inventory and equipment or its cost clearly exceeds the average market value in Ukraine, the Customer refuses to accept such goods.

7.3. The Customer shall provide the Contractor with water, electricity, and provide warehouse and other premises in the amounts provided for in the project documentation.

7.4. The Contractor is obliged to eliminate deficiencies in the work, materials, equipment, identified by the Customer, relevant state bodies, architectural supervision, technical supervision, consulting engineer (if any) within the time limits specified in the inspection reports, instructions and regulations, and to inform the Customer.

7.5. The Contractor is obliged to notify the Customer in writing about the conduct of current inspections and tests of works, materials and equipment and provide information about their results, measures taken to eliminate identified deficiencies after receiving a corresponding request from the Customer.

**8. ENGAGEMENT OF WORKFORCE IN THE PERFORMANCE OF WORK**

8.1. The Contractor shall fully ensure the involvement of labour in the performance of the work in compliance with the provisions of the General Conditions.

8.2 The Contractor will ensure that all employees comply with labour legislation, create necessary working and rest conditions for them, provide necessary training, etc.

8.3. The Customer has the right to demand from the Contractor, with appropriate justification, the suspension of workers and engineering and technical personnel from performing work in cases of insufficient qualifications, violations of discipline, violations of safety rules and regulations.

**9. ORGANIZATION OF WORK PERFORMANCE**

9.1. The Customer shall transfer the Facility and all accompanying documentation to the Contractor by deed within 2 (two) business days from the date of entry into force of the Agreement.

9.2. The Contractor may use the Facility 24/7 for the period of performance of the work.

9.3. The Contractor shall ensure the performance of the works in accordance with the Schedule of Work Performance. The Contractor shall take measures to eliminate the backlog of works, if any. The Contractor shall ensure the complete, high-quality and timely maintenance of the executive documentation provided for by regulatory documents.

All current information on the progress of work in the specified volumes and order is recorded by the Contractor in the work performance log. Responsibility for maintaining the log lies with the person who is the authorized representative of the Contractor at the construction site. The Customer may at any time familiarize himself with the procedure for maintaining documentation. The Customer's requirements regarding identified violations are entered into the work performance log.

9.4. The Contractor shall notify the Customer of any circumstances that threaten the performance of the Agreement immediately upon their occurrence. The Customer shall respond to the Contractor within 3 (three) days of receipt of the notification regarding the decisions made and the planned measures.

9.5. The Contractor shall provide the Customer with the information specified in clause 73 of the General Conditions on a monthly basis. The amount of information shall be sufficient to analyse the status of the Agreement implementation, identify existing problems, and take the necessary measures by the Customer to eliminate them. The Customer shall have the right to request the information necessary for it out of turn.

9.6. The Contractor, in accordance with the procedure specified in the regulatory documents and the Contract, shall maintain and transfer to the Customer, upon completion of the work, documents on the performance of the Contract. The Contractor shall be obliged to clear the Facility and the adjacent territory of garbage, construction machinery and mechanisms, temporary structures and premises within 2 (two) working days after completion of the work.

9.7. If the Contractor fails to do so within the specified time frame, the Customer has the right to warn the Contractor about the specified violation, determine the necessary time frame for its elimination, and if the Contractor fails to take measures, vacate the Facility and the adjacent territory by its own efforts or with the involvement of third parties. Compensation for the costs incurred shall be at the expense of the Contractor.

9.8. Other obligations of the Parties regarding the organization of work performance comply with the provisions of the General Conditions.

**10. PROCEDURE FOR THE CUSTOMER TO CONTROL THE QUALITY OF WORKS AND MATERIAL RESOURCES**

10.1. The Customer's control over the quality of work, materials, and equipment will be carried out in accordance with regulatory requirements and provisions of the General Conditions.

10.2. The works and material resources used for their implementation must comply with the requirements of regulatory legal acts and regulatory documents in the field of construction, project documentation and the Agreement.

10.3. In order to monitor the compliance of works and material resources with the established requirements, the Customer shall ensure the implementation of technical supervision and provision of consulting engineer services(if necessary) for construction in accordance with the procedure established by law. The Customer shall monitor the progress, quality, cost and scope of work in accordance with the Civil Code of Ukraine and the Agreement.

10.4. To carry out technical supervision and control over the performance of work, the Customer shall engage responsible persons(definite)their in accordance with the Manual on National Procurement Procedures approved by the European Investment Bank, a specialized organization or specialist), and the customer concludes a contract for the provision of technical supervision services and consulting engineer The Contractor is obliged, at the request of the Customer or persons who, in accordance with the contracts, carry out technical supervision and control, provide the necessary information and documents. In the event of non-compliance of the performed work with the established requirements, the Customer shall decide to eliminate the shortcomings made by the Contractor or to suspend the performance of the work.

10.5. If the Contractor discovers that the resources do not meet the established requirements, he is obliged to immediately replace them. The Customer shall not pay for the work performed using resources that do not meet the established requirements.

**11. FINANCING OF WORKS**

11.1. The procedure and terms of financing under this Agreement are determined by the Resolution of the Cabinet of Ministers of Ukraine dated December 4, 2019 No. 1070 “Some Issues of Prepayment by Administrators (Recipients) of Budget Funds for Goods, Works and Services Purchased with Budget Funds”, Resolution of the Cabinet of Ministers of Ukraine dated December 27, 2001 No. 1764 “On Approval of the Procedure for State Financing of Capital Construction”, the terms of this Agreement and the Plan for Financing the Works Performed (Appendix No. 3) agreed upon by the Parties, which is an integral part of the Agreement. The Plan for Financing the Works Performed is drawn up taking into account the Schedule of Works Performance and the procedure for making payments for the works performed.

11.2. The sources of financing for the works under this contract are subventions from the state budget to local budgets for the implementation of projects 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), 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”.

**12. PAYMENT OF PAYMENTS FOR WORK PERFORMED**

12.1. Payment forwork performed is carried outby way of advance payment (advance payment) (if necessary and in accordance with clause 12.2 of this Agreement) and current payments. Interim payments for the work performed shall be made by the Customer within the limits of no more than 95 (ninety-five) percent of their total cost at the Contract Price on the basis of signed acceptance certificates of completed construction works (Forms - KB-2v), certificates of the cost of completed construction works and costs (Forms - KB-3), and/or signed acceptance certificates of equipment and an invoice for payment. Acceptance certificates of completed construction works (Forms - KB-2v), certificates of the cost of completed construction works and costs (Forms - KB-3), acceptance certificates of equipment shall be signed by the Customer if he has all the necessary executive documents. The Contractor shall provide, together with the KB-2v, KB-3 forms (in 4 copies), to the Customer by the 25th of the current month on paper and magnetic media, documents confirming the performance of the work, all necessary executive documentation (certificates for materials used, passports for structures and equipment, warranty documents, acts for hidden work, documents confirming actual expenses for business trips, etc.), a list of resources, which is signed by the chief accountant or head of the enterprise and confirmed by the seal, as well as a register of invoices for materials and equipment used with an indication of the cost, certified by the signature of the head and seal.

12.1.1. Acceptance certificates of completed work are accepted by the Customer as the work is completed.

12.1.2. Requirements for issuing invoices for payment:

1) The invoice, as the basis for payment, must contain:

date and place of compilation; name and details (including bank details) of the Contractor;

name, address and Unified State Register of Accounts of the Customer;

content and scope of the business transaction with reference to:

a) certificate of acceptance of the work performed and a certificate of the cost of the work performed (No., date) - if this is payment upon completion of the work; or

b) the clause of the Agreement regarding the advance payment – ​​if it is an advance payment;

the total cost of the business transaction (excluding VAT, VAT, total with VAT, currency) if it is payment upon completion of work;

the amount of the previously paid and not closed advance payment, which is deducted from the amount due on the invoice (excluding VAT, VAT, total with VAT, currency) - if this is payment upon completion of work;

the amount payable on this invoice (excluding VAT, VAT, total including VAT, currency);

positions of persons responsible for the implementation of a business transaction and the correctness of its registration;

personal signature or other data that allows identifying the person who participated in the business transaction.

Currency of the contract/payment;

The invoice payment period is 45 (forty-five) calendar days from the date of invoice issuance, provided that the composition of the accompanying and payment documents and the deadlines for their submission for approval comply with the LFTA dated \_\_\_\_№ \_\_\_\_\_.

12.2. The Customer has the right to make a preliminary payment (advance payment) taking into account the requirements of the resolutions of the Cabinet of Ministers of Ukraine dated 27 December 2001 No. 1764 «On approval of the Procedure for state financing of capital construction" (in particular, clause 19 of the Procedure)and dated December 4, 2019 No. 1070 “Some issues of prepayment by administrators (recipients) of budget funds for goods, works and services purchased with budget funds”, in the amount of no more than 30 percent of the cost of the annual volume of work. The contractor undertakes to use the received advance for the purchase and supply of materials, structures, products necessary for the performance of the work within three months after receiving the advance. Upon completion of the three-month period, unused amounts of the advance are returned to the customer.

12.3. In the event of a request by the Contractor for an advance payment (advance payment), the Contractor, before providing the Customer with an invoice (invoice) for the advance payment (advance payment) (or together with it), must provide the Customer with an irrevocable bank guarantee for the return of the advance payment (advance payment) in an amount equivalent to the amount of the advance payment (advance payment), with a validity period until the full crediting of the advance payment (advance payment) according to the acts of acceptance of the completed construction works or the return by the Contractor of the amount of the advance payment (advance payment) according to clause 12.4 of the Agreement, but not less than 4 (four) calendar months (including 30 (thirty) days for the Customer to exercise the right to receive funds from this guarantee). The terms of the guarantee may provide for a proportional reduction in the amount of the guarantee for the amount of the accepted works according to the acts of acceptance of the completed construction works.

12.4. In the event of failure by the Contractor to fulfil its contractual obligations within the period specified in clause 12.2 of this Agreement, the received advance payment amounts shall either be returned by the Contractor to the Customer to the accounts that will be notified to the Contractor by the Customer, or shall be received by the Customer under a bank guarantee for the return of the advance payment.

12.5. Final payments between the Customer and the Contractor in the amount of 5 (five) percent of the Contract Price shall be made within 45 (forty-five) calendar days after registration of the declaration of readiness of the Facility for operation.

12.6. The cost of work performed, subject to payment, is determined taking into account the volume of work performed, all components of the cost of work calculated in the contract price, confirmed by relevant documents.

In the event of non-compliance of the work submitted for payment with the established requirements, overestimation of their volumes or incorrect application of estimated norms, current prices and other errors that affected the price of the work performed, the Customer has the right, with the participation of the Contractor, to adjust the amount payable.

12.7. The Parties agree that under this Agreement the Customer has the right to defer payment for the work performed, the period of deferment of payment for the work performed under this Agreement is calculated from the date of termination or cancellation of martial law in Ukraine and 180 (one hundred eighty) calendar days after such termination or cancellation.

12.8. In order to fulfil the requirements of the Finance Contractand the Loan Fund Transfer Agreement (LFTA), when preparing primary accounting documents and making payments, the Customer will verify whether the Contractor, its officials and participants in the ownership structure, as well as the servicing bank of the Contractor, its officials and participants in the ownership structure, are not included in the list of persons subject to sanctions by Ukraine, the European Union, or the United Nations. It is prohibited to provide any funds to any Sanctioned Subject or for the benefit of a Sanctioned Subject, directly or indirectly.

**13. ACCEPTANCE-TRANSFER OF COMPLETED WORKS**

13.1. Acceptance and handover of completed works will be carried out in accordance with the requirements of the General Conditions and other regulatory acts regulating the acceptance of completed facilities into operation.

13.2. Defects in the performed works, identified during the acceptance and transfer of completed works, which arose due to the fault of the Contractor, must be eliminated by the Contractor within the time limits specified by the Customer. If the Contractor is unwilling or unable to eliminate these defects, the Customer may warn the Contractor about his breach of his obligations, and, if the Contractor does not take the necessary measures to correct the situation without delay, will eliminate the defects by himself or with the involvement of third parties at the expense of the Contractor.

13.3. If the Contractor has completed the work and the Customer has not paid under the Agreement, the Contractor has the right to withhold the transfer of the completed work to the Customer.

13.4. The Customer has the right to refuse to accept the work in the event of defects being identified that cannot be eliminated or cannot be eliminated within the period specified in the Act of Defects Identified in the Work Performed, or in the event that a violation of the deadlines for the performance of the work (stage of work) occurs and lasts more than 30 (thirty) calendar days. In such a case, the Customer has the right to unilaterally terminate the Agreement, which shall be deemed terminated from the date of receipt by the Contractor of the relevant written notice of termination of the Agreement.

In this case, the Contractor shall compensate the Customer for losses incurred in connection with the Contractor's improper fulfilment of the terms of the Agreement, and the Customer shall have the right to demand the return of all funds paid to the Contractor in connection with the performance of this Agreement, including, but not limited to, the advance payment (prepayment) paid and other payments made to the Contractor.

By signing this Agreement, the Parties agree in advance with the unconditional right of the Customer to terminate this Agreement in the manner specified in this clause and in the event of the occurrence of relevant circumstances and the fulfilment of the requirements of this clause, the Parties agree that the Agreement is considered terminated and the Contractor agrees to this unconditionally and irrevocably and has no right to refer to the validity of the Agreement or challenge the right of the Customer to terminate this Agreement.

**14. WARRANTY PERIODS FOR THE QUALITY OF COMPLETION OF WORKS (OPERATION OF THE FACILITY) AND THE PROCEDURE FOR ELIMINATING DEFECTS (DEFECTS)**

14.1. The relations between the Parties related to ensuring the warranty periods for the quality of work (operation of the facility) and the elimination of identified deficiencies (defects) are governed by the provisions of the General Conditions.

14.2.The warranty period is \_\_\_\_\_\_\_\_\_\_\_\_ years (the Customer shall specify the period taking into account Article 884 of the Civil Code of Ukraine and taking into account the types of work performed) from the date of acceptance of the object by the Customer. The beginning of the warranty periods is the day of signing the act of acceptance of the work performed. The warranty period is extended for the time during which the object could not be operated due to defects for which the Contractor is responsible.

14.3. In the event that deficiencies (defects) are discovered in the completed work during the warranty period, the Customer shall notify the Contractor thereof within 3 (three) business days after their discovery and request him to draw up a report on the procedure and terms for eliminating the identified deficiencies (defects).

14.4. If the Contractor fails to appear without good reason within the time specified in the invitation, the Customer has the right to involve independent experts in drawing up the act, notifying the Contractor thereof. The act drawn up without the Contractor's participation shall be sent to him for execution within 2 (two) business days after drawing up.

14.5. The Contractor shall be obliged to eliminate, at his own expense, the deficiencies (defects) attributable to him within the time limits and in the manner specified in the act on their elimination.

14.6 If the Contractor fails to ensure compliance with this requirement or violates the deadlines for its implementation, the Customer has the right to decide, having previously notified the Contractor, to eliminate the deficiencies (defects) on its own or with the involvement of third parties with reimbursement of costs and losses incurred at the Contractor's expense.

**15. LIABILITY OF THE PARTIES FOR BREACH OF OBLIGATIONS UNDER THE CONTRACT AND DISPUTE RESOLUTION PROCEDURE**

15.1. The Parties shall be liable for breach of obligations under the Agreement and shall settle disputes in accordance with the legislation and the terms of the Agreement.

15.2. Types of violations and possible sanctions for them, established by the Agreement:

- for delay in the terms of performance of the works, the Contractor shall pay the Customer a penalty in the amount of 0.1 percent of the cost of the works, the performance of which is delayed, for each day of delay, but not more than 10 (ten) percent of the total cost of the Contract;

- for a delay of more than 30 (thirty) days, the Contractor shall additionally pay the Customer a fine in the amount of 7 (seven) percent of the cost of the work, the performance of which is overdue;

- in the event of poor-quality performance of work under the Contract, the Contractor, within the warranty period provided for by the current legislation of Ukraine, shall eliminate the defects caused by poor-quality work at his own expense.

Payment of penalties and fines does not relieve the Contractor from his obligations to perform this Agreement.

15.3. The Parties undertake to make efforts to resolve disputes out of court. In the event of resolving disputes in court, the Parties will apply to the court at the location of the Facility.

**15-1. SECURITY OF FULFILMENT OF CONTRACTOR'S OBLIGATIONS**

15-1.1. The fulfilment of obligations under the contract is ensured by a bank guarantee, which must be valid until the complete completion of work on the facility.

To ensure the fulfilment of its obligations under the Contract to the Customer, the Contractor shall provide the latter, at the time of signing the Contract, with the original bank guarantee to ensure the fulfilment of the Contract in the currency of payment - hryvnia (hereinafter referred to as the bank guarantee).

The circumstances that give rise to the Customer's right under the Agreement to apply to the guarantor bank with a demand for payment of the amount of the bank guarantee are the Supplier's failure to fulfil or improper fulfilment of any of its own obligations under the Agreement or the actions (inaction) of the Contractor specified in subparagraph 15-1.5 of this Agreement.

15-1.2. The amount of the bank guarantee is \_\_\_\_% of the contract value.

15-1.3. All expenses related to the provision of a bank guarantee shall be borne by the Contractor.

15-1.4. If, during the term of the Agreement, the guarantor bank that issued the bank guarantee provided by the Contractor is classified as insolvent banks and is determined, in accordance with the procedure established by law, to be insolvent, or other circumstances arise that negatively affect the ability of the guarantor bank to fulfil its obligations under the bank guarantee provided by the Contractor, the Contractor shall be obliged to provide the Customer with a bank guarantee from another bank on the terms specified in this Agreement within a period not exceeding 10 (ten) business days from the date of the decision by the National Bank of Ukraine to classify the guarantor bank as insolvent or the occurrence of circumstances that negatively affect the ability of the guarantor bank to fulfil its obligations under the bank guarantee provided by the Contractor.

In the event that the Contractor fails to provide a bank guarantee from another bank under the terms specified in this clause of the Agreement, the Contractor shall be obliged to pay a fine to the Customer in the amount identical to the amount of the bank guarantee specified in the Agreement, and the Customer fails to make payment for its monetary obligations arising under the Agreement for the period prior to the payment of the specified fine by the Contractor, while the specified non-payment does not constitute a breach of the Agreement or a delay in payment, and the Customer shall not bear any responsibility and obligations for committing such actions.

15-1.5. In the event of the occurrence of circumstances specified in this subparagraph, which give rise to the right to apply to the guarantor bank with a demand to pay the amount of the bank guarantee in favor of the Customer, such bank guarantee shall not be returned to the Contractor. The security for the performance of the contract shall not be returned by the Customer to the Contractor in the event of the Contractor's failure to fulfil its obligations under this contract in full or in part, namely:

- Failure to comply with the conditions and deadlines for the performance of work specified in the contract, taking into account clause (add references to clauses under which the deadlines may be changed), which leads to a delay in signing the certificate of completed work due to the fault of the Contractor for more than 30 calendar days;

- Early termination of the contract by the Customer in the event that the Contractor fails to fulfil or improperly fulfils its obligations under this contract;

- Early termination of the contract at the initiative of the Contractor, provided that the Customer fulfils the provisions of the contract.

The fact of non-fulfilment or improper fulfilment by the Contractor of its obligations under the contract is confirmed by documents indicating the Contractor's non-compliance with the terms of the contract.

15.1-6. The bank guarantee must indicate the unconditional and irrevocable obligation of the guarantor bank to pay the full amount of the bank guarantee specified in the Agreement to the Customer, at the Customer's request, in the event of:

- occurrence of circumstances of non-fulfilment (improper fulfilment) by the Contractor of any of its own obligations under the Contract;

- actions (inaction) of the Contractor that led to the impossibility of further performance of the Contract.

15-1.7. The Customer shall send a letter of demand to the Bank (if the security for the performance of the contract is provided in the form of a bank guarantee) or another financial institution for the payment of the amount of money in accordance with the security for the performance of the Contract issued by it and to the Contractor for the non-return of the security for the performance of the contract.

The term for consideration by the guarantor bank of the Customer's claim for payment in its favor of the amount of the bank guarantee, under the terms of the latter, must be no more than 5 (five) business days from the date of receipt of such claim by the guarantor bank.

If the provided bank guarantee does not comply with the requirements specified in this Section of the Agreement, the bank guarantee is improper and is considered not provided under the Agreement.

The funds received by the Customer as security for the performance of the Contract under a bank guarantee (in the event that they are not returned to the Contractor) do not constitute the Contractor's performance of obligations under the Contract, are not offset against other obligations of the Contractor under the Contract and do not exempt the Contractor from fulfiling the terms of the Contract, including from paying the full amount of penalties (liability) and losses under the Contract.

15-1.8. If the Parties conclude an additional agreement to extend the term of performance of works under this Agreement or the validity of this Agreement, the Contractor must extend the term of validity of the contract performance security (provided that the contract performance security is provided in the form of a bank guarantee - amendments to it are provided to the Customer) until the date of conclusion of the additional agreement. In this case, the term (term) of validity of the contract performance security must be no less than the term of validity of the Agreement, taking into account the amendments.

15-1.9. The customer shall return the security for the performance of the purchase agreement no later than within five banking days after:

- full execution of the Agreement and transfer by the Contractor to the Customer of a complete set of executive documentation for the Facility;

- in the event that the court declares the results of the procurement procedure or the procurement contract invalid;

- in cases provided for by Article 43 of the Law and paragraph 21 of the Features.

The bank guarantee under the Agreement is returned to the Contractor upon receipt of a written request from the Contractor and taking into account the grounds specified in Article 27 of the Law of Ukraine "On Public Procurement".

**15-2. PROCEDURE FOR INVOLVING SUBCONTRACTORS IN THE PERFORMANCE OF WORK***(indicated in case of involving subcontractors))*

15-2.1. The Contractor shall engage subcontractors in agreement with the Customer. The Customer may refuse such agreement with a written justification for its decision.

15-2.2. The Contractor is responsible for the results of the work of subcontractors and acts before the Customer as a general contractor, and before subcontractors - as a customer.

15-2.3. The Contractor shall be liable to subcontractors for failure to fulfil or improper fulfilment of its obligations under this Agreement, and to the Customer for failure to fulfil obligations by subcontractors.

15-2.4. The contractor coordinates the performance of work by subcontractors at the construction site, creates conditions and monitors their fulfilment of contractual obligations.

**16. FORCE MAJEURE CIRCUMSTANCES**

16.1. 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.

Circumstances of force majeure 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.

16.2. A party that cannot fulfil its obligations under this Agreement because of force majeure circumstances, must notify the other Party in writing, no later than within 10 (ten) business days from the moment of their occurrence, with the provision of supporting documents in accordance with clause 16.3 of this Agreement.

16.3. Proof of the occurrence of force majeure circumstances (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.

16.5. 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. In the event of advance payment, the Contractor shall return the funds to the Customer within 3 (three) business days from the date of termination of the Agreement. Unspent advance payment funds shall be returned by the Contractor to the Customer to the accounts that will be notified to the Contractor by the Customer.

**17. AMENDMENTS TO THE AGREEMENT AND ITS TERMINATION**

17.1. The Agreement shall be amended by amending or supplementing its terms at the initiative of any Party on the basis of an additional agreement, which is an integral part of the Agreement.

17.2. 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;

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 monitoring the procurement procedure, which indicates the need to terminate (terminate) the relevant contract, and such a conclusion has not been appealed and/or canceled in court;

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

 other grounds provided for by law.

17.3. 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.

17.4.The essential terms of the procurement contract may not be changed after its signing until the parties have fulfilled their obligations in full, except for the cases specified in clause m p.19 of the Features (during their application) or Art. 41 of the Law of Ukraine "On Public Procurement". Changes to the terms of the Agreement may be made only by agreement of the Parties, which shall be formalized in additional agreements to this Agreement, with justification for making the said changes.

**18. TERM OF THE AGREEMENT**

18.1. This Agreement is considered concluded and enters into force after signing by the Parties in accordance with clause 1.4 of this Agreement and is valid until \_\_\_\_\_\_\_\_\_\_\_\_\_\_ year, in terms of the fulfilment of the obligations of the Parties - until the Parties fully fulfil their obligations under this Agreement, and in terms of warranty obligations - until the expiration of the warranty period for work.

18.2. The expiration of the Agreement does not release the Parties from liability for its violation, if such occurred during the validity of the Agreement.

**19. OTHER TERMS OF THE CONTRACT**

19.1. Relations between the Parties not regulated by this Agreement are governed by the current legislation of Ukraine.

19.2. 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.

19.3. The Parties are responsible for the details specified in the Agreement and undertake to promptly (within 5 business days from the date of changes in the details) notify the other Party of their replacement in writing. The Contractor is responsible for the availability of licenses necessary for the performance of work specified in regulatory documents.

19.4. 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(s).

19.5. Neither Party has the right to transfer its rights and obligations under this Agreement to third parties without the written consent of the other Party.

19.6. 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.).

19.7. 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".

19.8The Agreement is concluded in 2 (two) copies, which have equal legal force - one copy for each Party.

Appendices (integral part of this agreement):

No. 1. Negotiable price.

No. 2. Calendar schedule of work.

No. 3. Financing plan for completed works.

No. 4. Consolidated estimate of construction costs.

No. 5. “Pact of Consent on Professional Integrity” (with signature and seal in English and Ukrainian).

No. 6. “Pact on Compliance with Environmental and Social Standards” (with signature and seal in English and Ukrainian).

**20. LOCATION AND BANKING DETAILS OF THE PARTIES**

|  |  |
| --- | --- |
| **Customer** | **Contractor** |
|  |  |

STAMP

(if available) (if available)

**Appendix No. 1. Negotiated price**

*Appendix No. 1*

 *to Agreement No. \_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_.*

(Should be prepared in accordance with the provisions of the Estimates Standards of Ukraine "Guidelines for Determining the Cost of Construction".)

**Appendix No. 2. Work schedule**

*(Below is a sample form of Appendix 2)*

*Appendix No. 2*

 *to Agreement No. \_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_.*

**Work schedule**

*\_\_\_\_\_\_\_\_\_\_\_*[insert project name]\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |  |  |  |
| --- | --- | --- | --- |
| No. of the company | Title of works | Year | Year*(if transitive)* |
| Month 1 | Moon 2 | … | … | … |
| 1 | *…* |  |  |  |  |  |
| 2 | … |  |  |  |  |  |
| 3 | … |  |  |  |  |  |

*(Notes on filling in:*

*cells for months/periods in which work is expected to be performed may be shaded in dark colour;*

*months/periods are counted from the date of entry into force of the Agreement in accordance with clause 1.4 of the Agreement)*

**From the Contractor:** \_\_\_position\_\_\_ \_\_\_\_*signature*\_\_\_\_\_ Full name

STAMP

**From the Customer:** \_\_\_position\_\_\_ \_\_\_\_*signature*\_\_\_\_\_ Full name

STAMP

**Appendix No. 3. Financing plan for completed works**

*(Below is a sample form of Appendix 3)*

*Appendix No. 3*

 *to Agreement No. \_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_.*

**Financing plan for completed works**

*\_\_\_\_\_\_\_\_\_\_\_*[insert project name]\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| No. of the company | Period | Name | Total amountwith VAT,UAH | VAT,*UAH* | Amount excluding VAT,UAH |
|  | **Year** |  |  |  |  |
| 1 | *Month 1* | **Advance payment** |  |  |  |
| 2 | *Moon 2* | *stage of work* |  |  |  |
| 3 | *…* | … |  |  |  |
|  | **Year***(if transitive)* |  |  |  |  |
|  | *Month 1* | *stage of work* |  |  |  |
|  | *Moon 2* | … |  |  |  |
|  | *…* |  |  |  |  |
|  |  | **Total:** |  |  |  |

*(Note on filling in: months/periods are counted from the date the Agreement enters into force in accordance with clause 1.4 of the Agreement)*

**From the Contractor:** \_\_\_position\_\_\_ \_\_\_\_*signature*\_\_\_\_\_ Full name

STAMP

**From the Customer:** \_\_\_position\_\_\_ \_\_\_\_*signature*\_\_\_\_\_ Full name

STAMP

**Appendix No. 4. Consolidated estimate of construction costs**

*(To be drawn up in accordance with the provisions* **Estimated norms of Ukraine "Guidelines for determining the cost of construction"** *according to* Negotiated price)

**Appendix No. 5. Professional Integrity Consent Pact**

*(To be drawn up in accordance with Annex 8 to the Tender Documentation, with the signature of an authorized person and the seal of the Contractor, in English and Ukrainian)*

**Appendix No. 6. Covenant on Compliance with Environmental and Social Standards**

*(To be drawn up in accordance with Annex 9 to the Tender Documentation, with the signature of an authorized person and the seal of the Contractor, in English and Ukrainian)*

***Appendix 3***

***to the tender documentation***

**TECHNICAL ASSIGNMENT**

**for purchase by subject**

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

*(Here is the technical task for the subject of procurement, which is the performance of construction work (new construction, reconstruction, restoration, major repairs) of facilities, the technical task includes:*

*- an explanatory note to the construction project developed by specialists who meet the qualification requirements for the professions of employees of the relevant qualification category in force in Ukraine, and approved in accordance with the legislation,*

*-- statement of scope of work;*

*- 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.*

***(The specified documents are EITHER included in the file with the tender documentation, OR uploaded to the “PROZORRO” electronic system OR as a link (only for the expert report) on the Portal of the State Electronic System in the Field of Construction (https://e-construction.gov.ua/). The Customer, depending on the specifics of the object, can also add at his own discretion*** *basic drawings (master plan, architectural and construction solutions, technological solutions) and specifications of materials and resources).*

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

We guarantee that:

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.

The head of the enterprise is responsible for fulfilling environmental safety requirements.

After the completion of construction work on the facility, the area will be cleared of construction debris.

All materials and equipment used will have certificates, including fire safety and hygiene certificates, and will be provided during acceptance and handover of the facility.

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;

The work will be completed on time and in full, with appropriate warranty periods.

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**

**on the Bidder's availability of equipment, material and technical base and technologies necessary to perform work on the subject of the procurement.**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| No.salary | Name (including type / brand / model of mechanism, equipment and vehicle) | Number | Affiliation\* | Document confirming affiliation \*\* |
| 1 | 2 | 3 | 4 | 5 |
|  |  |  |  |  |

*\* - if the participant is the owner, “own” is indicated, in other cases, the right of use is indicated (rental agreement, service agreement, leasing or other right of use).*

*\*\*- indicate the number and date of the document that the participant provided as a confirmation in accordance with column 5 of the Certificate*.

*To confirm the availability of its own equipment specified in the Certificate, the participant shall provide copies of technical passports or copies of equipment registration certificates or other document confirming ownership for each unit of such equipment. To confirm the availability of its own material and technical base specified in the Certificate, the participant shall provide an extract from the register of real rights to real estate or other document confirming ownership.*

 *If the Participant is NOT the owner of the equipment and material and technical base, in addition to documents confirming the ownership of the respective owner, it is necessary to additionally provide a rental agreement, or a service provision agreement, or a leasing agreement, or a document confirming another right of use for the entire period of performance of the services.*

 *In case of involving equipment and material and technical base of a subcontractor, an appropriate contract is provided, in particular a letter of intent.*

 *\*\*\* If the participant has technologies that he plans to apply to perform the Procurement Agreement, such participant must provide a certificate in any form with an appropriate explanation.*

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

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

STAMP

*\*Filled in the lines for which it is planned to engage the subcontractor's capacity.*

***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**

**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/specialty, rank | Series, qualification certificate number\* | Work experience in the specialty | Namesubcontractor and details of the contract with the subcontractor\*\* |
|  | Full-time and part-time employees |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  | It is planned to attract |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

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

*\*\*To be filled in for personnel if engaged from a subcontractor,* and is allowed to submit a letter of intent.

The annexes to this certificate must be the supporting documents required under subparagraph 5.2 of paragraph 5 of section III "Instructions for preparing a tender offer" of this tender documentation.

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 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 6 to this documentation. If the subcontractor is an individual (individual entrepreneur) who has the appropriate qualifications and will ensure the performance of the assigned volumes of work with his/her personal labour, the above-mentioned documents on employment are not provided.

To confirm the information about the qualifications of the participant's (subcontractor's) employees, together with the certificate provided for in this appendix to the tender documentation, the Participant must provide scanned copies of the valid (not suspended, not cancelled, etc.) qualification certificates of the relevant employees specified in the certificate as part of the tender proposal.

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

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

STAMP

***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.*

**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 |  |  |  |  |  |
| **…** |  |  |  |  |  |

Scanned copies of supporting documents are attached to this certificate:

**--**similar contracts with additional agreements (if any) and confirmation of the work performed for the entire amount of the contract as of the time of completion of the work (Form KB-2v or Form KB-3 or forms of acceptance and transfer of completed contract works in construction prepared independently and signed by the customer, and in the case of international contracts - other regulatory documents on the volume of work performed and their cost).

-- letters of feedback from counterparties specified in the certificate of execution of similar contracts addressed to the customer of this procurement, indicating information on the proper execution of the contract, with the addition of supporting documents on the acceptance into operation of completed construction facilities.

**Relevant work experience: at least 2 completed similar contracts (including subcontracts) within the last 5 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.**

*An explanation for the discrepancy between the amounts of the acts and the contract is provided by the participant only in the case when the amount of the acts of the performed works does not correspond to the specified contract value for each contract separately. Explanations can also be provided separately (with the provision of supporting documents from the relevant state bodies) regarding the absence of all supporting documents on the acceptance into operation of completed construction objects.*

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

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

STAMP

***Appendix 8***

***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 9***

***to the tender documentation***

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

*The participant must not deviate from this form.*

**Environmental and Social Covenant**

We,[name of lead tenderer], shall, and shall ensure that all of our joint venture members and subcontractors, if any, for[name of the contract]managed by*[insert name of the Contracting Authority*](the “Contract”), comply with all labour and health and safety laws and regulations applicable in the country of implementation of the Contract, as well as all national legislation and regulations and any obligation in the relevant international conventions and multilateral agreements on the environment that are applicable, ratified and in force in the country of implementation of the Contract.

*Labour standards*

We commit to adhere to the principles of the Fundamental Conventions of the International Labour Organization, and, in particular, we explicitly pledge not to employ child labour or forced labour, in line with Standard 8 of the EIB's Environmental and Social Standards.

We will require our subcontractors not to employ child labour or forced labour [and to cascade these requirements throughout their respective supply chains]. We shall:

1. pay rates of wages and benefits and observe conditions of work (including working time) that are fair and not lower than those established for the trade or industry where the work is carried out and ensure that wages are paid promptly and regularly; and
2. keep complete and accurate records of employment of workers at the site.

[for works contracts, insert:

*“Workers relations*

We shall, in line with Standard 8 of the EIB's Environmental and Social Standards, [insert “have in place”/“develop and implement”] labour management policy and procedures commensurate to the size and workforce that will be applicable to the project (including a grievance mechanism in line with good international practice to address both labour and occupational health and safety considerations). We will regularly monitor and report on the implementation of the grievance mechanism*[insert name of the Contracting Authority*], including on any corrective measures deemed necessary.”]

*Occupational and public health, and safety and security*

We shall:

1. comply with all applicable occupational health and safety laws in the country of implementation of the Contract;
2. develop and implement the necessary health and safety management plans and systems commensurate with the project risks and impacts, in accordance with the measures defined in the Project's environmental and social management plans or equivalent and/or in the relevant studies and International Labour Organization guidelines on occupational safety and management systems;
3. provide workers employed in relation to the Contract access to adequate, safe and healthy facilities as well as living quarters for workers living on-site, if relevant, in line with the EIB's Environmental and Social Standards;

1. communicate all occupational health and safety rules, instructions and signage in a language understood by the workforce;
2. provide qualified*[emergency response /]* first aid arrangements at all times;
3. develop and implement a code of conduct and adopt specific measures to prevent and address inter alia gender-based violence, sexual exploitation and human trafficking for all workers, including those of our subcontractors;
4. use security management arrangements that are consistent with international human rights standards and principles where such arrangements are required for the delivery of the Contract;
5. establish procedures and systems for investigating, recording and reporting any type of accident and incident (whether they happen on-site or within the Contract influence area) that occurs as a direct consequence of the implementation works or Contract activities;
6. report, investigate, document and analyse any environmental and health and safety incidents, accidents or circumstances and their impact or the effect arising or likely to arise from them, including permanent disabilities, ill health or fatalities occurring in relation to the Contract, and take due actions to address and prevent any future similar event, keep the EIB informed of the ongoing implementation of these measures and, where required by national law, notify the relevant authorities of such occurrences and cooperate with them in this respect.

*Environmental protection*

We shall take all reasonable steps to protect the environment, biodiversity and ecosystems on and off the site and to limit the nuisance to people and property resulting from pollution, noise, traffic and other outcomes of the operations. To this end, emissions, discharges to the surface, ground and marine environments and effluent from our activities will comply with the limits, specifications or stipulations as defined in [insert name of the relevant document] and the international and national legislation and regulations applicable in the country of implementation of the Contract.

*Environmental and social performance*

We shall comply with the measures prescribed to us in the Contract and any corrective or preventive actions in the annual environmental and social monitoring report or other environmental and social action plan required by the Contract, if any and submit each 6-months-period environmental and social monitoring reports to*[insert name of the Contracting Authority*].

[in the case of contracts above 5,000,000.00 EUR, insert "To this end, we shall develop and implement an environmental and social management system commensurate to the size and complexity of the Contract and provide [insert name of the Contracting Authority] with the details of the (i) plans and procedures, (ii) roles and responsibilities and (iii) relevant monitoring and review reports. We further commit to fully cooperate with the staff of the supervision consultant, where applicable.”]

Our tender price as offered for the Contract includes all costs related to our environmental and social performance obligations under the Contract. We shall:

1. reassess, in consultation with*[insert name of the Contracting Authority],*any changes that may potentially cause negative environmental or social impacts;
2. provide*[insert name of the Contracting Authority]*with a written notice and in a timely manner of any unanticipated environmental or social risks or impacts that arise during the implementation of the Contract previously not taken into account; and
3. in consultation with*[insert name of the Contracting Authority]*, adjust environmental and social monitoring and mitigation and/or compensatory and/or remedy measures as necessary to ensure compliance with our environmental and social obligations.

*Environmental and social staff*

We shall facilitate*[insert name of the Contracting Authority]*'s ongoing monitoring and supervision of our compliance with the environmental and social obligations described above.

[in the case of contracts above EUR 5,000,000.00, insert:

*"Environmental and social management team*

For this purpose, we shall appoint and maintain in office until the completion of the Contract an environmental and social management team (scaled to the size and complexity of the Contract) that shall be reasonably satisfactory to [insert name of the Contracting Authority] and to whom [insert name of the Contracting Authority] shall have full and immediate access, having the duty and the necessary powers to ensure compliance with this Environmental and Social Covenant.”]

We agree*[insert name of the Contracting Authority]*and the EIB, and auditors appointed by either of them, the right to inspect all our accounts, records, electronic data and documents related to the environmental and social aspects of the current Contract, as well as all those of our joint venture members and subcontractors.

**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 Environmental and Social 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 10***

***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. **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 1.10 of Section III “Instructions for preparing a tender proposal” of this tender documentation.
	5. **Documents**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 1.10 of Section III "Instructions for the preparation of a tender proposal" of this tender documentation.
	6. **Copies of current major licenses, qualification certificates and/or permits** according to the requirements of clause 1.10 of Section III "Instructions for preparing a tender proposal" of this tender documentation.
	7. **Signed by the authorized person of the Participant** "Professional Integrity Agreement" in Ukrainian and English - in accordance with the requirements of clause 1.8 of Section III "Instructions for the Preparation of a Tender Proposal" and in accordance with the form in Appendix 8 of this tender documentation.
	8. **Signed by the authorized person of the Participant** "Pact on Compliance with Environmental and Social Standards" in Ukrainian and English - in accordance with the requirements of paragraph 1.9 of Section III "Instructions for Preparing a Tender Proposal" and in accordance with the form in Appendix 9 of this tender documentation.
	9. **A letter of explanation in any form, indicating the legislative grounds for failure to provide relevant documents or a copy of the explanation(s) from state authorities or failure to affix an electronic signature -- in accordance with the requirements of clause 4.3. Section V "Evaluation of the tender offer".**
	10. Written confirmation by the participant in accordance with the requirements of clause 4.10. Section V "Evaluation of the tender offer"
	11. **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 participant has a procedure for purchasing equipment, material and technical base and technologies, drawn up in accordance with the requirements of clause 5.1 of Section III "Instructions for preparing a tender offer" and Appendix 5 of this tender documentation*(if this criterion is applied by the Customer).*
	2. **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 5.2 of Section III "Instructions for the preparation of a tender offer" and Annex 6 of this tender documentation*(if this criterion is applied by the Customer).*
	3. **Documents confirming the presence** experience in implementing similar contracts on the subject of the procurement, drawn up in accordance with the requirements of clause 5.3 of Section III "Instructions for preparing a tender proposal" and Appendix 7 of this tender documentation;
	4. **Documents confirming the presence** financial capacity of the participant, drawn up in accordance with the requirements of subparagraph 5.4 of Section III "Instructions for the preparation of a tender offer".
	5. **Documents on engaging subcontractors** -- in case of their involvement in accordance with clauses 1.10, 5 and 7 of Section III "Instructions for preparing a tender proposal" and Appendix 4 of this tender documentation;
	6. **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 5.5 of Section III "Instructions for preparing a tender offer", in particular special certificates in any form in accordance with the requirements of subclause 5.5.3 and the single state register SSR Extract/SSR Extract in accordance with the requirements of subclause 5.5.4.
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.
	2. Documentary confirmation of the provision of tender security in accordance with the requirements of paragraph 2 "Tender Security" of Section III "Instructions for the Preparation of Tender" of this tender documentation.

***Appendix 11***

***to the tender documentation***

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

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

**(in accordance with the requirements of clause 5.6 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 - according to the requirements of subparagraphs 5.6.2-5.6.3.
3. **A certificate in any form regarding previously concluded contracts and their implementation,** which is drawn up in accordance with the requirements of subparagraph 5.6.4.
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.
5. Documentary confirmation of the provision of security for the performance of the procurement contract - in accordance with the requirements of paragraph 7 "Security for the performance of the procurement contract" of Section VI Results of the bidding and conclusion of the procurement contract