***Sample form\****

***{The full name of the customer is indicated}***

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

**(with special features, in accordance with the resolution of the CMU dated 12.10.2022 No. 1178**

**(with changes and additions))**

**by subject of purchase:**

work on technical supervision of construction works at the facility:

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

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

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

***in accordance with the Procedure for determining the subject of procurement, approved by the order of the Ministry of Economy of April 15, 2020 No. 708)***

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

*\*applies as sample tender documentation for the procurement of works related to sub-projects and objects within the framework of the Ukraine Recovery Programme (URP) and the Ukraine Early Recovery Programme (UERP). Full responsibility for the content of the specific tender documentation for a specific procurement is borne by the respective customers - final beneficiaries under the URP/UERP.*

|  |  |  |
| --- | --- | --- |
| **item no** | **Section I General Provisions** | |
| **1** | **Terms used in the tender documentation** | The tender documentation was developed in accordance with the requirements  of the Law of Ukraine "On Public Procurement" (hereinafter - the Law) and 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 — Features).  The terms used in this documentation have the meanings given in the Act and the Specifications.  **In accordance with Part 3 of Article 22 of the Law and Paragraph 10 of Clause 3 of the Specifications, the tender documentation also contains certain additional mandatory conditions), the establishment of which is provided for in the Financial Agreement (hereinafter - the Financial Agreement)**between Ukraine and the European Investment Bank regarding the implementation of:  **(*Comment for the Customer: The customer indicates under which program, from those indicated below, the purchase is made)***  **-- Ukraine Recovery Programme (hereinafter referred to as the URP, ratified by the Law of Ukraine dated July 14, 2021 No. 1645-IX), and which are described in the Guidelines for the implementation of the Program, approved by the EIB as being in accordance with the EIB Procurement Guidelines.**  **OR**  **-- Ukraine Early Recovery Programme (hereinafter referred to as the UERP), ratified by the Law dated 04/22/2015 No. 346-VIII, and which are described in the Program Implementation Guidelines, approved by the EIB as being consistent with the EIB Procurement Guidelines.**    **Such additional mandatory conditions may differ from the provisions of the Law and the Specifications, but are subject to application for this tender.** |
| **2** | **Information about the bidding customer** |  |
| 2.1 | Full name | *{Full name of the bidding customer}* |
| 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 auctions with features** |
| **4** | **Information about the subject of purchase** |  |
| 4.1 | Name of the subject of purchase | **Procurement of works for technical supervision of construction works at the facility:**  ***{full name of the subject of purchase}*** |
| 4.2 | Description of a separate part (parts) of the subject of procurement (lot) for which tenders may be submitted | The requirements of this tender documentation do not provide for the establishment of individual parts of the subject of procurement (lots). |
| 4.3 | Place and scope of work | Object address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  The scope of work is defined in Appendix 3 "Terms of Reference" to the tender documentation. |
| 4.4 | The term of performance of works | Until \_\_\_.\_\_\_\_.20\_\_\_, set out in detail in Appendix 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 the paragraph of the second subparagraph of clause 6¹ of Section X "Final and Transitional Provisions" of the Law in conjunction with Article 6 of the Law, the peculiarities regarding the localization of production and their consideration during the evaluation of proposals, provided for by the Law of Ukraine dated 16.12.2021 No. 1977-IX, NO apply to purchases within the URP and UERP. |
| **6** | **Information about the currency in which the price of the tender offer must be calculated and indicated** | The currency of the tender offer is the national currency of Ukraine - hryvnia. |
| **7** | **Information about the language(s) in which tender offers should be made** | The language of the tender offer is Ukrainian ([point 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 written in Ukrainian, and at the customer's decision, all documents can have an authentic translation in another language at the same time.  The text written in Ukrainian is decisive.  Standard characteristics, requirements, conventional designations in the form of abbreviations and terminology related to goods, works or services procured, provided by existing international or national standards, norms and rules, are explained in the language of their generally accepted application.  All information is placed in the electronic procurement system in the Ukrainian language, except for those cases when the use of letters and symbols of the Ukrainian language leads to their distortion (in particular, but not exclusively, Internet addresses, e-mail addresses, trademarks (signs for goods and services), generally accepted international terms). The tender offer and all documents required by the requirements of the tender documentation and its annexes are drawn up in Ukrainian. Documents or copies of documents (which are stipulated by the requirements of the tender documentation and its annexes), which are provided by the Participant as part of the tender offer, 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 submits several documents in different languages ​​in support of one claim, and provided that at least one of the submitted documents meets the established requirement, including regarding the language, the customer does not consider the other document(s), that the participant provided additionally to confirm this requirement, even if the other document is provided in a foreign language without translation. |
| **8** | **The expected value of the subject of procurement and information on the acceptance or rejection of a tender offer for consideration, the price of which is higher than the expected value of the subject of procurement, determined by the customer in the announcement of open bidding** | The expected value of the item of purchase is: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_UAH. \_\_ kopecks ( {expected cost in writing UAH. \_\_ kopecks }.  The customer does not accept for consideration a tender offer, the price of which is higher than the expected value of the item of purchase, determined by the customer in the announcement of open bidding.  Since the customer did not indicate the acceptance for consideration of a tender offer, the price of which is higher than the expected value of the procurement object, determined by the customer in the announcement of open bidding, and/or did not indicate an acceptable percentage of overrun, or the percentage of overrun is greater than specified by the customer in tender documentation, then the customer rejects such a tender offer in accordance with the paragraph of the fifth sub-item 2 of item 44 of the Specifications. |
| **9** | **List of attachments to the tender documentation** | 1. Appendix 1 – Tender (price) offer form).  2. Appendix 2 -- Draft contract  3. Appendix 3 -- Terms of reference for procurement by subject of procurement.  4. Appendix 3-A – Form of guarantee letter regarding performance of works.  5. Appendix 4 – Certificate form, which contains information on the involvement of subcontractors in the performance of works.  6. Appendix 5 – Certificate form on the availability of the Participant's employees with appropriate qualifications who have the necessary knowledge and experience(if this criterion is established).  7. Appendix 6 – Certificate form on the presence of the Bidder's documented experience in the execution of similar contracts.  8. Appendix 7 – COVENANT of INTEGRITY (in Ukrainian and English).  9. Appendix 8 -- List of documents and/or information submitted by a participant in the procurement procedure as part of a tender offer.  10. Appendix 9 -- List of documents and/or information submitted by the winner of the procurement procedure. |
| **Section II Procedure for making changes and providing clarifications to the tender documentation** | | |
| **1** | **The procedure for providing clarifications regarding the tender documentation** | A natural person/legal entity has the right, not later than three days before the deadline for submitting a tender offer, 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 violations during the tender (hereinafter referred to as appeals). All appeals are automatically published in the electronic procurement system without identification of the person who addressed the customer. The customer must provide a response to the request and publish it in the electronic procurement system within three days from the day of their publication.  If the customer does not respond to the appeal in a timely manner, the electronic procurement system automatically stops open bidding.  To resume open bidding, the customer must post a response in the electronic procurement system with a simultaneous extension of the deadline for submitting tenders for at least four days. |
| **2** | **Making changes to the tender documentation** | The customer has the right, on his own initiative or in case of elimination of violations of the requirements of the legislation in the field of public procurement, set out in the opinion of the state financial control body in accordance with Article 8 of the Law, or based on the results of appeals, or based on the decision of the appeal body, to make changes to the tender documentation and/or announcement of open auctions. In the case of changes to the tender documentation and/or the announcement of open tenders, the deadline for submitting tenders 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 was at least four days before the end of the tender submission deadline.  Changes made by the customer to the tender documentation and/or announcement of open bidding are posted and displayed in the electronic procurement system in the new edition of the said documentation and/or announcement in addition to their previous edition. The customer together with the changes to the tender documentation and/or the announcement of open tenders in a separate document publishes the list of changes being made. Changes to the tender documentation and/or the announcement of open tenders in a machine-readable format are posted in the electronic procurement system within one day from the date of the decision to enter them. |
| **Section ІІІ Instructions for the preparation of a tender offer** | | |
| **1** | **Content and method of submitting a tender offer** | The tender offer is submitted in accordance with the procedure defined by 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 in which information about the price, other evaluation criteria (if established by the customer), information from the participant of the procurement procedure about his compliance with the qualification criteria, presence/absence the grounds established in Clause 47 of the Specifications and in the tender documentation; as well as uploading the necessary documents required under the terms of this tender document.  **The tender offer must consist of:**  1. Documents confirming the authority of an official or a representative of a participant in the procurement procedure to sign the documents of the tender offer - in the event that the participant is a legal entity, the participant provides a document confirming its authority (an order appointing the head of the enterprise to the position or a protocol of the owners' decision or shareholders on the appointment of a manager or an extract from the minutes of the founders on the appointment of a director, president, chairman of the board, etc. or the manager's power of attorney of a participant who certifies the authority of an authorized person to sign a tender offer and/or purchase contract, or other);  - if the participant is an individual, the participant provides a copy of the passport (pages 1-2 and pages 3-6 if there are records, a page indicating the registration of the place of residence, for the passport of a citizen of Ukraine, issued in the form of a booklet, or two pages for passport of a citizen of Ukraine in the form of a card containing a contactless electronic medium), and if the tender offer and/or purchase contract will be signed by a person who was authorized by a natural person 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 purchase contract, as well as a copy of the passport (pages 1-2 and pages 3-6 if there are records, a page indicating the registration of 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) such authorized person.  2. The latest version of the charter or other founding document. If the Participant acts on the basis of the model statute, a decision on the creation of the Participant must be submitted. (for legal entities).  3. Extract from the register of VAT payers or extract from the register of payers of the single tax (in case of failure to submit at least one of the documents specified in this paragraph, the participant must provide an explanation with reference to the norms of the current legislation, which contain justification of the reasons for not submitting the specified documents, in particular in connection with the availability of free access to open data of the DPS).  4. Documents specified in p. 5 of Section III of the tender documentation (except for the documents provided for in subsections 5.5.1.-5.5.4 of Section 5 of Section III of the tender documentation, which will be provided by the winning bidder).  5. A completed tender offer (price), drawn up in accordance with Appendix 1, certified by the signature of an authorized person of the Participant and a seal\*.  6. Information and scanned documents on compliance of the proposed offer with the technical requirements, which are established in clause 6 of Section III and Appendix 3 to this tender documentation.  7. Signed by the authorized representative of the participant of the Agreement on professional integrity in Ukrainian and English (Appendix 7).  **8. Other documents (taking into account the first paragraph of the third part of Article 22 of the Law):**  **-**copies of qualification certificates;  - in case of involvement of a third-party business entity (subcontracting organization), the Participant provides a certificate, in the form according to Appendix 4, with a list of subcontracting organizations that will be involved in the performance of works / provision of services with the mandatory provision of copies of valid qualification certificates and/or copies of valid licenses of employees of such subcontracting organizations (for works/services according to the Customer's requirements in this documentation);  - other documents required by the content of the tender documentation, in particular a certificate, in any form, about the person who is authorized to sign the purchase contract in the event of a winning bid by the participant with the mandatory provision of a copy of the document certifying the person who is authorized as part of his offer sign a purchase agreement;  -- if the tender offer is submitted by an association of participants -- a document on the creation of such an association.  Each participant has the right to submit only one tender offer.  The Customer does not require mandatory inclusion of documents/excerpts/certificates in the Participant's tender offer if such information is public, made public 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, given that according to the resolution of the CMU dated March 12, 2022 No. 263, which applies to the termination or cancellation of martial law, information, information and communication and electronic communication systems, public electronic registers can both stop, limit their work, and open, renew during the period of martial law, then in the case of suspension and/or restriction of access to relevant open unified state registers in the period from the date of publication of the procurement announcement to the deadline for submitting tenders participants, failure by the Participant to submit the appropriate (relevant) documents/excerpts/certificates as part of the Participant's tender offer will be considered a discrepancy in the information and/or documents of the Participant's tender offer.  In this case, the Participant of the procurement procedure corrects inconsistencies in the information and/or documents submitted by him in his tender offer, discovered by the customer after the opening of the tender offers, by uploading through the electronic procurement system clarified or new documents in the electronic procurement system within 24 hours from the moment the customer places a notice in the electronic procurement system with the requirement to eliminate such inconsistencies.  **The documents included in the tender offer (downloaded upon submission) must be scanned and arranged sequentially one by one, in such a way that the content of a separate 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 not, also files in the format with the extension ".jpeg.", ".doc.", which provide an opportunity to familiarize 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 must be open for public access, i.e. not contain passwords.  The tender offer must be posted on the electronic platform before the deadline for submitting tender offers.  In the event that the content of this tender documentation requires the provision of a copy of a document, a copy of such a 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 a document in its entirety as part of the tender, except for cases where the documentation requires the submission of specific pages of such a document.  **\****The requirement for sealing does not apply to participants who carry out activities without a seal in accordance with current legislation.*  In accordance with the third part of Article 12 of the Law, when using the electronic procurement system for the purpose of submitting tenders and evaluating them, 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 tenders 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 offer of the participant must be signed with a qualified electronic signature (QES) or an improved electronic signature (IES), namely:  - QES or IES of an official (official) person participating in the procurement procedure, which must contain the the Unified State Register of Enterprises and Organizations of Ukraine (USREOU) code of this legal entity-participant,  or  - QES or IES of a natural person - a representative of a participant in the procurement procedure under a power of attorney, power of attorney or other document authorizing it (with mandatory provision of a copy of such a document as part of the participant's tender offer).  3) if the tender offer contains both scanned and electronic documents, it is necessary to impose the QES/IES on the tender offer 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/IES of this organization has already been imposed on them, the participant does not need to impose his QES/IES on it.  Please note: the documents of the tender offer, which are not submitted in the form of an electronic document (without the QES/IES on the document), must contain the signature of the authorized person of the procurement participant (indicating the surname, initials and position of the person), as well as imprints of the participant's seal (in case of use ) on each page of such a document (except for documents issued by other enterprises / institutions / organizations).  The customer does not require the participants to certify the 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 the imposition of an electronic signature based on 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/IES of the participant on the website of the central certification body at the link https://czo.gov.ua/verify. During the inspection of the QES/IES, the following must be displayed: the last name and initials of the person authorized to sign the tender offer (the owner of the key), the USREOU code of the legal entity-participant (for a legal entity) or the number of the ROCCP (Tax ID for a natural person-participant.  In the absence of this information or in the event that the participant does not impose the QES/IES in accordance with the terms of the tender documentation, the Customer, in accordance with clause 43 of the Specifications, posts a notice with a demand for the elimination of inconsistencies within a period that cannot be less than two working days before the end of the tender consideration period in the electronic procurement system. |
| **1.1** | **Formal errors** | The presence of formal (insignificant) errors in tender proposals of participants is allowed, which does not lead to the rejection of such a proposal.  Errors related to the preparation of the tender offer and do not affect the content of the offer, namely technical errors and typos, are considered formal (insignificant).  ***Description and examples of formal non-essential errors.***  In accordance with the order of the Ministry of Economy of April 15, 2020 No. 710 "On approval of the List of formal errors" and in accordance with clause 19 of part 2 of article 22 of the Law, the tender documentation contains a description and examples of formal (insignificant) errors, the acceptance of which by participants will not lead to the rejection of their tender offers in the following version:  "Formal (insignificant) errors are considered to be errors related to the preparation of the tender offer and do not affect the content of the tender offer, namely technical errors and typos.  *Description of formal errors:*  1. The information / document submitted by the participant of the procurement procedure as part of the tender contains an error(s) in the part:  — capitalization;  — use of punctuation marks and declension of words in a sentence;  — the use of the word orlinguistic turn borrowed from another language;  — indication of the unique number of the announcement on conducting a competitive procurement procedure assigned by the electronic systemprocurement and/or unique number of the notice of intent to enter into a procurement contract — an error in numbers;  — application of the rules for transferring part of a word from line to line;  — writing words together and/or separately, and/or with a hyphen;  — numbering of pages/sheets (including several pages/sheets having the same number, missing numbers of individual pages/sheets, no numbering of pages/sheets, numbering of pages/sheets does not correspond to the list specified in the document).  2. An error made by a participant in the procurement procedure during the preparation of the text of the document / entering information into individual fields of the electronic tender offer form (including computer proofreading, replacement of letter(s) and/or number(s), transposition of letters(numbers), omission of letters (numbers), repetition of words, no gaps between words, rounding of numbers), which does not affect the price of the tender offer of the participant of the procurement procedure and does not lead to its distortion and / or does not relate to the characteristics of the subject of procurement, qualification criteria for the participant of the procurement procedure.  3. Incorrect name of the document(s) submitted by the participant of 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 (pages) of the copy of the document (documents) is not certified by the signature and / or seal of the participant of the procurement procedure (if it is used).  5. The tender offer does not include the document(s) referred to by the participant in the procurement procedure in his tender offer, and the customer is not required to submit such a document in the tender documentation.  6. Submission of a document (documents) by a participant of the procurement procedure as part of a tender offer, which does not contain the handwritten signature of an authorized person of the participant of the procurement procedure, if this document (documents) is affixed with her qualified electronic signature.  7. Submission of a document (documents) by a participant in the procurement procedure as part of a tender offer, which 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 the participant of the procurement procedure as part of the tender, which is certified by the signature of the authorized person of the participant of the procurement procedure and additionally contains the signature (visa) of the person whose authority has not been confirmed by the participant of the procurement procedure (for example, the translation of the document is certified by a translator, etc.).  10. Submission of a document (documents) by a participant in the procurement procedure as part of a tender offer that contains (contains) outdated information about the name of a street, city, name of a legal entity, etc., due to the fact that such names have been changed in accordance with the law after , as the relevant document(documents) was (were) submitted (submitted).  11. Submission of a document (documents) by a participant in the procurement procedure as part of a tender offer, in which the position of the number (numbers) in the amount is incorrect, while the amount indicated in writing is correct.  12. Submission of the document(s) by the participant of the procurement procedure as part of the tender offer in a format that differs from the format required by the customer in the tender documentation, while this format of the document provides the possibility of its review.  *Examples of formal errors:*  — "Information in arbitrary form" instead of "Information", "Letter of explanation" instead of "Letter", "certificate" instead of "guarantee letter", "information" instead of "certificate";  — "kharkiv city" instead of "Kharkiv city";  — "near - ok" instead of "while - dock";  — "not provided" instead of "not provided"";  — "\_\_\_\_\_\_\_\_\_\_\_\_\_\_№\_\_\_\_\_\_\_\_\_\_\_\_\_" instead of "14.08.2020 No. 320/13/14-01"  — the participant placed (uploaded) a document in "JPG" format instead of a document in "pdf" format (Portable Document Format)". |
| **2** | **Provision of a tender offer** | Not required (Comment for the customer is at the discretion of the customer. In the case of a decision by the customer to include a requirement for participants to provide security for the tender offer - the relevant sections of this documentation must be changed - as a sample, you can use the sample tender documentation for the procurement of works). |
| **3** | **Conditions for return or non-return of security for the tender offer** | Security of the tender offer is not required |
| **4** | **The period during which tender offers are valid** | Tender offers are considered valid for 90 (ninety) days from the date of the deadline for submitting tender offers.  Before the expiration of the specified period, the customer has the right to demand from the participants of the procurement procedure an extension of the validity period of the tender offers.  A participant in the procurement procedure has the right to:   * reject such a request; * agree to the request and extend the validity period of the tender offer submitted by him.   If necessary, a participant in the procurement procedure has the right to extend the validity period of his tender offer on his own initiative by informing 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  *(clause 47 of the Features - during their application)* | As part of the tender offer, the participant must provide documents confirming compliance with the qualification criteria and the absence of grounds for refusal to participate in the procurement procedure, including:  **5.1. Availability of employees of appropriate qualifications who have the necessary knowledge and experience at the participant of the procurement procedure (*This criterion is applied at Z's own choice*** ***cleaner-- in the case of its application, it should be specified what kind (what specialization and qualification) employees are needed, taking into account the nature and scope of work)*:**  5.1.1. A certificate in the form of Appendix 5 of this documentation, which contains information about the availability of employees with appropriate qualifications who have the necessary knowledge and experience, indicating the position, overall work experience (years), education and specialty/qualification of the employees.  In order to confirm the information about the availability of employees who will be employed by the Participant during the execution of the contract, the Bidder must provide copies of work books (all pages containing records) or copies of orders on appointment to a position, copies of orders on part-time work as part of the tender offer, or copies of civil legal agreements or other documents that confirm the existence of the Participant's legal relationship with the relevant employees specified in the Reference in the form of Appendix 5 of this documentation.  5.1.2. Documents confirming the Participant's competence, knowledge, work experience with materials and technologies of finishing, facade works, and engineering communications. Such documents can serve as training certificates from material manufacturers, certificates of passing seminars, etc.  The Participant must be able to perform work control in all specializations (general construction, engineering networks, finishing works, and others) performed by the Contractor for this object.  5.1.3. The participant must have a valid qualification certificate issued in accordance with the law by an authorized body specializing in "Technical supervision of the construction of buildings and structures" for objects with classes of consequences not lower than SS- (***The customer notes* class of consequences corresponds to the class of consequences of the object of technical supervision of this procurement)*,***who provides, as part of the proposal, the personal seal of the technical supervision engineer (the participant provides a letter of guarantee about the use of the seal in his activity). The class of consequences is determined according to the Design documentation and expertise evaluation.  5.1.4. Requirements for the Participant's personnel:  ***[The customer indicates one of the following options depending on the class of consequences of the object defined in the Design documentation]***   * ***[in the case of class of consequences CC1] –*** a technical supervision engineer is not lower than a technical supervision engineer of the II category; * ***[in the case of class of consequences CC2] –***a technical supervision engineer is not lower than a technical supervision engineer of the 1st category; * ***[in the case of class of consequences CC3] –***a technical supervision engineer is not lower than a leading technical supervision engineer.   To confirm this, the participant provides a guarantee letter as part of the offer, as well as all employees (specialists) who, according to the terms of the tender documentation, must be certified, are provided with scanned copies of the originals of the relevant qualification certificates valid on the final date of submission of the proposal.  5.1.5. To confirm its compliance with this criterion, the participant can involve the capabilities of other business entities as subcontractors / co-executors. In this case, in the certificate on the availability of employees in accordance with Appendix 5, in terms of subcontractors / co-contractors, information about all natural persons as part of the involved capacities is indicated, indicating P. AND. B., position, total length of service, education, as well as the legal basis for the use of the work of each individual employee by the participant, namely the contract between the participant and the individual entrepreneur (if the work is performed personally by the entrepreneur) and/or the contract between the participant and his subcontractor (in in all other cases).  To confirm the information specified in the certificate, the participant must provide:  - a copy of the contract between him and the natural person-entrepreneur and/or a copy of the guarantee letter from the subcontractor / co-executor of the participant, which confirms the consent of such subcontractor / co-executor to act as a subcontractor / co-executor of this participant in the event of his victory in this tender, and also contains an exhaustive list employees of the subcontractor / co-executor, whom he intends to involve in the execution of the relevant contract in the event of victory of the participant in these bidding  *The compliance of the submitted proposal with this criterion is confirmed by providing, as part of the proposal, a duly executed certificate according to Appendix 5 (and scanned copies of supporting documents regarding sub-items 5.1.1-5.1.5).*  **5.2. Availability of documented relevant experience in the execution of similar contracts:**  5.2.1. Certificate of execution of similar contracts according to Appendix 6 of this documentation.  5.2.2. Certified copies of supporting documents, namely: similar contracts with additional agreements (if any) and deeds for the entire amount of the contract. In the event that the sum of the documents does not correspond to the indicated value of the contract, provide an explanation.  **Relevant work experience:** at least 2 completed similar contracts (including subcontracting contracts) during the last 5 years, taking into account that the class of consequences (liability) of the object under a similar contract must not be lower than the class of consequences of the object according to the subject of procurement.  Similar contracts are understood to be comparable in composition and nature of works (services), namely technical supervision of construction works for new construction or reconstruction or restoration or capital repair of objects (buildings).  *The compliance of the submitted proposal with this criterion is confirmed by providing, as part of the proposal, a duly executed certificate according to Appendix 6 and scanned copies of the supporting documents specified in subsection 5.2.2.*  **5.3. Availability of financial capacity during the last 5 calendar years, which is confirmed by the provision of financial statements (depending on the organizational and legal form of the Participant):**  5.3.1. Copies of the Participant's balance sheets (form No. 1)  \*For small business entities – copies of the financial report of the Participant-small business entity (form No. 1-m).  5.3.2. For Bidders - legal entities - copies of reports on the Bidder's financial results (form No. 2).\*  For small business entities – copies of financial statements of the Participant-entity of small business (form No. 2).  5.3.3. Copies of cash flow statements.  *\*If the bidder is a legal entity or an individual who, in accordance with the norms of the current legislation, does not prepare the documents specified in this subsection, such a bidder submits as part of the proposal copies of those documents that are financial reporting documents for him*  **The financial capacity of the procurement participant meets the criterion, provided that the average annual turnover (arithmetic average of annual turnover) during the last 5 calendar years (total work experience of at least 4 years) is not less than 30% of the expected value of the procurement item specified by the Customer in the advertisement on holding open auctions**  *The annual turnover (the same as the amount of annual income) means all income of the participant during the year: 1) for the participant of a legal entity: net income from the sale of products (goods, works, services) + Other operating income + Other income; 2) for an individual entrepreneur participant:* amount of income for the reporting tax period (year).  **5.4. Documents confirming the absence of grounds for refusal to participate in the procurement procedure, which are provided when submitting a tender offer:**  5.4.1. Absence of grounds for refusal, which are defined in Part 1 of Article 17 of the Law (subclauses 1-12 of Clause 47 of the Specifics - during their application).  The participant in the procurement procedure confirms the absence of the grounds specified in sub-clauses 1-12 of clause 47 of the Specifications (except for sub-clauses 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 from the participant of the procurement procedure, when submitting a tender offer in the electronic procurement system, any documents confirming the absence of grounds specified in item 47 of the Features, except for self-declaration of the absence of such grounds by a participant in the procurement procedure in accordance with [paragraph sixteen](https://zakon.rada.gov.ua/laws/show/1178-2022-%D0%BF#n630) point 47 Features.  In the case 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 Specifics shall be submitted for each of the participants who are part of the association, separately.  The customer independently, based on the results of the consideration of the tender offer of the participant of the procurement procedure, confirms in the electronic procurement system that the participant of the procurement procedure does not have the grounds specified in sub-clauses 1 and 7 of clause 47 of the Features.  In the event that the Customer, during consideration of the Bidder's tender offer, discovers in his information that there are no grounds specified in Clause 47 of the Features, errors (inconsistencies) made when filling in the relevant electronic fields, the Bidder provides a certificate in an arbitrary form to eliminate such inconsistencies in the submitted information in accordance with Item 43 of the Special 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-executors in the amount of not less than 20 percent of the cost of the procurement contract, the participant shall provide a certificate in the form in accordance with Appendix No. 4 of this tender documentation.    5.4.2. In accordance with the first paragraph of the third part of Article 22 of the Law, taking into account paragraph 10 of item 3 of the Features and Financial Agreement for purchases under the URP (***or UERP - specified by the Customer***) the participant will be refused participation in the tender and his offer will be rejected, if the participant does NOT provide information in the offer about the absence of the following grounds, namely:  -- Certificates in an arbitrary form that the official (official) of the participant in the procurement procedure, who signed the tender offer and/or is authorized to sign the procurement contract, is a natural person-the ultimate beneficial owner of the legal entity-participant in the procurement procedure (including physical the person of the ultimate beneficial owner of the founder of such a legal entity, if the founder is another legal entity) - was NOT convicted of high treason or collaborative activity according to the laws of Ukraine and the conviction for such criminal offenses has not been removed or not repaid in accordance with the procedure established by law.  -- Certificates in an arbitrary form that the participant of the procurement procedure or the ultimate beneficial owner, member or participant (shareholder) of a legal entity that is 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 from him in accordance with the Law of Ukraine "On Sanctions", except in the case when the assets of such a person are transferred to the Asset Recovery and Management Agency (ARMA) administration in accordance with the procedure established by law, as well as to such a person Current sanctions have NOT been applied by any of the following organizations:  (a) The United Nations and any agency or person duly designated, authorized or authorized by the United Nations to impose, administer, implement and/or enforce sanctions;  (b) the European Union and any agency or person duly designated, authorized or empowered by the European Union to impose, administer, enforce and/or enforce sanctions;  (c) the Office of Foreign Assets Control (OFAC), the US Department of State, and/or the United States Department of Commerce.  -- Certificate in an arbitrary form that the amount of the average annual income received (arithmetic average of the annual turnover of funds) of the participant in the procurement procedure for the last 2 years, excluding the period of martial law, exceeds 50% of the initial value of the contracts concluded by this participant within the framework of the UERP and/or URP and which are not completed on the date of submission of the proposal of such participant.  *If the participant was not an executor (contractor) under contracts concluded within the framework of UERP and/or URP - information about this is indicated in the certificate in an arbitrary form.*  *The annual received turnover (identical to the volume of the annual turnover) means all income of the participant during the year: 1) for the participant of a legal entity: net income from the sale of products (goods, works, services) + Other operating income + Other income; 2) for an individual entrepreneur participant:* amount of income for the reporting tax period (year).  5.4.3. In accordance with the first paragraph of the third part of Article 22 of the Law, taking into account paragraph 10, item 3 of the Specifics and Financial Agreement for procurement under the URP (or UERP - specified by the Customer), the participant will be refused participation in the tender and his offer will be rejected, if the participant does NOT provide as part of his proposal Extract of Unified State Register USR /Extract of USR, which contains the information provided for in clause 9 of the second part of Article 9 of the Law of Ukraine "On state registration of legal entities, natural persons - entrepreneurs and public formations", or other documents in accordance with the current legislation, confirming the specified information (except for cases when the participant is an individual entrepreneur or the participant is a non-resident).  **5.5. Documents to be submitted to the customer by the winner of the procurement procedure:**  5.5.1. An 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 participant in the procurement procedure.  *The certificate is provided to prevent a situation caused by the lack of a functional possibility to check information on the web resource of the Unified State Register of persons who have committed corruption or corruption-related offenses that do not concern the requester.*  The specified document can be obtained by the winner via the link on the Internet: <https://corruptinfo.nazk.gov.ua/>  Information on bringing to justice in accordance with the law for the commission of a corruption offense or an offense related to corruption of a natural person 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 in as a result of the automatic exchange of information of the electronic procurement system with the Unified State Register of persons who have committed corrupt or corruption-related acts offense  5.5.2. A certificate containing information that the head of a participant in the procurement procedure, a natural person who is a participant, has NOT been convicted:  -- for a criminal offense committed for selfish reasons (in particular, related to bribery, fraud and money laundering), the criminal record of which has not been removed or not repaid in accordance with the procedure established by law,  -- for treason or collaborative activity under the laws of Ukraine and conviction for such criminal offenses from a natural person was not removed or not repaid in accordance with the procedure established by law.    5.5.3 Certificate containing information that the manager of the participant in the procurement procedure, the natural person who is a participant, was NOT prosecuted according to the law for committing an offense related to the use of child labor or any forms human trafficking  5.5.4 Certificate in an arbitrary form, which contains information that: a) no contracts were previously concluded between the winner and the customer, b) or that the winner of the procurement procedure fulfilled its obligations under the contract previously concluded with the customer on purchase - 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 about the fact that he provided confirmation of taking measures to prove his reliability, despite the presence of a relevant reason for refusing to participate in the procurement procedure.  The certificates specified in subsections 5.5.2-5.5.3 are provided in the form of an Extract (full) from the information-analytical system "Accounting of information on bringing a person to criminal responsibility and having a criminal record". The extract is provided for the person (persons) specified in this subsection and must be issued no more than 30 calendar days before the date of its submission to the Customer.  ***You can get an extract about the absence of a criminal record online by using the ACTION 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 via the link*[*https://vytiah.mvs.gov.ua/app/landing*](https://vytiah.mvs.gov.ua/app/landing) *.*  5.6. The winner of the bid must provide the customer with the documents provided for in subsections 5.5.1.-5.5.4 within a period not exceeding four days from the date of publication in the electronic procurement system of the notice of intent to conclude a contract. Item 5 of Section III of the tender documentation.  Documents scanned in order in one file (in PDF (Portable Document Format) format) are provided by attaching the file to the electronic platform. Scanned copies of documents must be legible and readable.  Non-resident bidders, in order to fulfil the requirements for the provision of documents provided for in Clause 1 of Section III of the tender documentation, submit the documents provided for by the legislation of the countries where they are registered as part of their offer. Such documents are submitted together with a translation certified in the prescribed manner.  On the basis of Part 15 of Article 29 of the Law (Clause 42 of the Features - during their application), the Customer has the right to request confirmation of the information provided by the participant/ the winner of the procedure, to state authorities, enterprises, institutions, organizations in accordance with their competence. .In the case of receiving reliable information about the non-compliance of the participant of the procurement procedure with the requirements of the qualification criteria, the existence of grounds defined [item 47](https://zakon.rada.gov.ua/laws/show/1178-2022-%D0%BF#n615)of these features, or the fact that any inaccurate information is indicated in the tender offer, which is essential when determining the results of open tenders, the customer rejects the tender offer of such a participant in the procurement procedure..  **\****The requirement for sealing does not apply to participants who carry out activities without a seal in accordance with current legislation.*  **5.7. Additional requirement to avoid conflict of interest**  At the request of the EIB and in order to avoid a conflict of interests, the customer will deny the participant participation in the tender and reject his tender offer, if it becomes known that such a participant provided consulting services for the preparation and implementation of the sub-project.  In order to avoid a possible conflict of interests, tender offers from bidders who are related parties within the meaning of Clause 20 of Article 1 of the Law of Ukraine "On Public Procurement" will also not be considered and rejected, in particular in a situation where the customer exercises control over the participant or the customer and the participant are under joint control. |
| **6** | **Information on the technical, qualitative and quantitative characteristics of the subject of purchase** | Participants in the procurement procedure must submit, as part of the tender offer, documentary confirmation of the compliance of the participant's tender offer with the technical, qualitative, quantitative and other requirements for the subject of procurement, established by the customer in Appendix 3 to this tender documentation.  **To confirm the compliance of the tender offer with the technical, qualitative, quantitative and other requirements of the customer, the participant in the tender offer must provide:**  - calculation of the cost of technical supervision for the subject of procurement, specified in the proposal form of Appendix 1, in accordance with the estimate norms of Ukraine "Guidelines for determining the cost of construction", approved by the order of the Ministry of Community and Territorial Development of Ukraine dated November 1, 2021 No. 281 (with changes and additions) .  - consent to the relevant conditions of this tender documentation, in particular consent to the draft contract (Appendix 2),specified in the proposal form of Appendix 1;  **-**a copy of all qualification documents for the right to engage in technical supervision of construction.  A tender offer that does not meet the Technical Requirements set out in Appendix 3 will be rejected on the basis of paragraph 2 of subparagraph 2 of Clause 44 of the Specifications, namely, the tender offer does not meet the terms 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 of 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. To confirm the application of environmental protection measures, the participant must submit a guarantee letter as part of the proposal according to the form in Appendix 3-A of this documentation. |
| **7** | **Information about the subcontractor** | The participant shall indicate in the tender offer the full name and location of each business entity that the participant plans to involve as a subcontractor in the performance of works in the amount of not less than 20 percent of the value of the purchase contract, as well as other subcontracting organizations that he plans to involve in the performance works Information about subcontractors is provided in accordance with Appendix 4 to this tender document. |
| **8** | **Making changes or withdrawing the tender offer by the participant** | The participant has the right to make changes or withdraw his tender offer before the deadline for its submission. Such changes or a statement on the withdrawal of a tender offer are taken into account if they are received by the electronic procurement system before the deadline for submitting tender offers. |
| **Chapter IV Submission and disclosure of the tender offer** | | |
| **1** | **The deadline for submitting a tender offer** | **Deadline for submission of tender offers:**  *(****Comment for the Customer. The date and time specified in the announcement of the open bidding procedure shall be indicated. The deadlines for submitting tenders in open tenders are specified in accordance with the current legislation applicable at the time of publication of the announcement of open tenders, but according to the requirements of clause 9 of the Manual "National Procurement Procedures" it must be AT LEAST 15 calendar days from the date of publication of the announcement of open tenders in the case of tender procurement of technical supervision and consulting engineer services)***  The received tender offer is automatically entered into the register.  The electronic procurement system automatically creates and sends a message to the participant about receiving his offer, indicating the date and time.  Tender offers received by the electronic procurement system after the submission deadline are not accepted and are automatically returned to the participants who submitted them. |
| **2** | **Date and time of tender opening** | The date and time of tender opening are determined in the electronic procurement system in accordance with the requirements of the legislation applicable at the time of the tender announcement. |
| **Section V Evaluation of tender offers, their rejection and other information** | | |
| **1** | **The list of criteria and the method of evaluation of the tender offer with an indication of the specific weight of the criterion** | Open auctions are held***(Comment for the customer: ONE OF THE FOLLOWING OPTIONS MUST BE DETERMINED BY THE CUSTOMER AT ITS DISCRETION)***:   * ***FROM*** *using the electronic auction in accordance with clause 35 of the Features (during their application).*   *OR*   * WITHOUT the use of an electronic auction in accordance with clause 37 of the Features (during their use).   The evaluation of the tender offer is carried out by the electronic procurement system automatically on the basis of the evaluation criteria and methodology defined by the customer in the tender documentation, by determining the tender offer as the most economically advantageous. The electronic procurement system defines the tender offer with the lowest price as the most economically advantageous tender offer.  The customer considers the tender offer, which is determined to be the most economically advantageous in accordance with the Features (hereinafter - the most economically advantageous tender offer), regarding its compliance with the requirements of the tender documentation.  Based on the results of the review and evaluation of the tender offer, the customer determines the winner of the procurement procedure and decides on the intention to enter into a procurement contract in accordance with the Law, taking into account the Features.  The customer has the right to apply for confirmation of the information provided by the participant of the procurement procedure to state authorities, enterprises, institutions, and organizations in accordance with their competence.  In the case 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 the first part of Article 17 of the Law (paragraph 47 of the Features - during their application), or the fact that any inaccurate information, which is essential during the determining the results of open tenders, the customer rejects the tender offer of such a participant in the procurement procedure.  In case of rejection of the tender offer in accordance with Clause 5.1 of Section V of this tender documentation, which is determined to be the most economically advantageous according to the results of the evaluation, the customer considers the next tender offer in the list of tender offers, located according to the results of their evaluation, starting with the best one, which is considered in this case the most economically advantageous, in the order and terms specified in this tender documentation. Tender evaluation criteria:– price with VAT\* (the 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 submit a tender without VAT.**  At the same time, the Participant, filling out the form of the document "Tender proposal (price)" according to 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 related to the subject of purchase (payment of taxes, mandatory payments, insurance, costs related to obtaining necessary permits and licenses, etc., delivery conditions), in accordance with the terms of this documentation. |

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| **1.1** | **Auction step** | **The size of the minimum price reduction step, %: % of the expected purchase price.**  **The size of the minimum price reduction step, hryvnias: \_\_\_\_\_\_\_\_\_\_\_\_ hryvnias. (\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hryvnias, \_\_\_ kopecks).** |

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| **2** | **Justification of an abnormally low tender offer** | The participant who submitted the most economically advantageous tender offer, which is abnormally low, must provide, within one working day from the date of determination of the most economically advantageous tender offer, justification in an arbitrary form regarding the prices or cost of the relevant works of the tender offer.  The customer may reject an abnormally low tender offer if the participant has not provided adequate justification for the price or value specified in it, and rejects an abnormally low tender offer if such justification is not received within the period specified above.  The rationale for an abnormally low tender offer may include information on:   1. achieving savings due to the applied technological process of production of goods, order of service provision or construction technology; 2. favourable conditions under which the participant of the procurement procedure can deliver goods, provide services or perform work, in particular, a special price offer (discount) of the participant of the procurement procedure; 3. receipt by the participant of the procurement procedure of state aid in accordance with the law. |
| **3** | **Correction of inconsistencies in information and/or documents** | If the customer, during consideration of the tender offer of the participant of the procurement procedure, discovers inconsistencies in the information and/or documents submitted by the participant of the procurement procedure in the tender offer and/or the submission of which was provided for in the tender documentation, he shall post within a period that cannot be less than two working days before the end of the period for consideration of tender offers, a notice with the requirement to eliminate such inconsistencies in the electronic procurement system.  Discrepancy in the information and/or documents submitted by the participant in the procurement procedure as part of the tender offer and/or the submission of which is required by the tender documentation includes the absence in the tender offer of information and/or documents, the submission of which is required by the tender documentation (except in cases lack of tender offer security, if such security was required by the customer, and/or absence information (and/or documents) about the technical and quality characteristics of the subject of procurement offered by the participant of the procedure in his tender offer). Inconsistencies in the information and/or documents provided by the participant of the procurement procedure to meet the requirements of the technical specification for the subject of procurement are considered errors, the correction of which does not lead to a change in the subject of procurement proposed by the participant of the procurement procedure as part of his tender offer, the name of the product, brand, model etc.  The participant of the procurement procedure corrects inconsistencies in the information and/or documents submitted by him in his tender offer, discovered by the customer after the opening of the tender offers, by uploading through the electronic procurement system clarified or new documents in the electronic procurement system, within 24 hours from the moment of placement by the customer in notification to the electronic procurement system with the requirement to eliminate such discrepancies.  The customer may not post more than once a notice with regard to the same participant of the procurement procedure with the requirement to eliminate inconsistencies in the information and/or documents submitted by the participant of the procurement procedure as part of the tender offer, except in cases related to the implementation of the decision of the appeal body . |
| **4** | **Other information** | Other conditions of the tender documentation:  1. The Participant assumes all expenses related to the preparation and submission of his tender offer, and the Customer is not responsible for and bears no obligations regarding these expenses, regardless of the nature of the conduct and the results of the consideration of the tender offer, with the exception of the 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. In the event that the participant or the winner is not required to submit or, in accordance with the norms of current legislation (including in the case of a tender offer submitted by a non-resident participant / non-resident winner in accordance with the legislation of the country of registration), is not required to submit any of the specified in the regulations documentation document, impose an electronic signature, then he provides an explanatory letter in an arbitrary form, in which he notes the legal grounds for not providing the relevant documents or a copy of the clarifications of the state authorities or failure to affix an electronic signature.  4. Documents that are not provided for by law for participants — legal entities, natural persons, including natural persons — entrepreneurs, shall not be submitted by them as part of the tender offer.  5. The absence of documents that are not provided for by law for participants — legal entities, natural persons, including natural persons — entrepreneurs, in the tender offer cannot be a reason for its rejection by the customer.  6. The fact of submitting a tender offer by a participant — a natural person or a natural person — an entrepreneur, who is the subject of personal data, is considered the unconditional consent of the subject of personal data to the processing of his personal data in connection with participation in the procurement procedure, in accordance with paragraph 4 of Article 2 of the Law of Ukraine "On Protection of Personal Data" dated June 1, 2010 No. 2297-VI.  In all other cases, the fact of submitting a tender offer by a participant - a legal entity that is the manager of personal data, is considered confirmation of its right to process personal data, as well as the granting of such a right to the customer as the recipient of the specified personal data on behalf of the subject (owner). Thus, responsibility for improper transfer of personal data to the customer, as well as their processing, is solely borne by the participant in the procurement procedure who 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 were issued.  8. The participant who submitted a tender offer is considered to be in agreement with the draft procurement contract set out in Appendix 2 to this tender documentation and will comply with the terms of its tender offer within the period established in clause 4 of Chapter III to this tender documentation.  9. If the requirement in the tender documentation is set several times, the participant/winner can submit the required document or information once.  10. When submitting a tender offer, participants must take into account the norms (the fact of submitting a written confirmation of compliance with these norms is taken into account):  — Resolution of the Cabinet of Ministers of Ukraine "On ensuring the protection of national interests in future lawsuits of the state of Ukraine in connection with the military aggression of the Russian Federation" dated 03.03.2022 No. 187, since the customer cannot fulfill obligations for which the Russian Federation or persons are creditors, related to the aggressor country, defined by subparagraph 1 of paragraph 1 of this Resolution;  — the 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 importation of goods from the Russian Federation into the customs territory of Ukraine under the customs regime;  — Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" dated April 15, 2014 No. 1207-VII.  And also take into account that in Ukraine, customers are prohibited from making public purchases of goods, works and services from citizens of the Russian Federation/Republic of Belarus/Islamic Republic of Iran (except for those who live on the territory of Ukraine on legal grounds); legal entities formed and registered in accordance with the legislation of the Russian Federation/Republic of Belarus/Islamic Republic of Iran; legal entities formed and registered in accordance with the legislation of Ukraine, whose ultimate beneficial owner, member or participant (shareholder) has a share in the authorized capital of 10 percent or more (hereinafter - 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 Ukraine on legal grounds), or legal entities formed and registered in accordance with the legislation of the Russian Federation/Republic of Belarus/Islamic Republic of Iran, except for cases where the assets are transferred to ARMA and other crimes in accordance with the procedure established by law.  In the case of a participant's non-compliance with the above-mentioned conditions of this subsection 10, the tender offer of such a participant will be considered as not meeting the requirements established in the tender documentation in accordance with the first paragraph of the third part of Article 22 of the Law, and his tender offer will be subject to rejection on the basis of the fifth paragraph sub-item 2 of item 44 of the Features. |
| **5** | **Rejection of tender offers** | ***The customer rejects the tender offer*** with an indication of the reasoning in the electronic procurement system in the event that:  1) a participant in the procurement procedure:  falls under the grounds established by clause 47 of the Features;  noted in the tender proposal inaccurate information that is essential for determining the results of open tenders, which was discovered by the customer in accordance with the first paragraph of Clause 42 of the Specifications;  did not provide security for the tender offer, if such security was required by the customer;  did not correct inconsistencies in the information and/or documents submitted by him as part of his tender proposal discovered by the customer after opening the tenders, and/or changed the subject of the purchase (its name, brand, model, etc.) during the correction of inconsistencies discovered by the customer, within 24 hours from the moment the customer places a notice in the electronic procurement system with the requirement to eliminate such discrepancies;  did not provide justification for the abnormally low price of the tender offer within the period specified by the first paragraph of the fourteenth part of Article 29 of the Law/the ninth paragraph of Clause 37 of the Specifics;  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 residing in the territory of Ukraine on legal grounds); a legal entity formed and registered in accordance with the legislation of the Russian Federation/Republic of Belarus/Islamic Republic of Iran; a legal entity formed 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 - 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 who live in Ukraine on legal grounds), or a legal entity formed and registered in accordance with the legislation of the Russian Federation/Republic of Belarus/Islamic Republic of Iran, except for cases where the assets are transferred to the management of ARMA 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 (with the exception of 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 of October 12, 2022 No. 1178 "On approval of the specifics of the implementation public procurement of goods, works and services for customers provided for by the Law of Ukraine "On Public Procurement" for the period of validity of the legal regime martial law in Ukraine and within 90 days from the day of its termination or cancellation" (Official Gazette of Ukraine, 2022, No. 84, Article 5176);  2) tender offer:  does not meet the terms 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 of the procurement procedure in accordance with [point 4](https://zakon.rada.gov.ua/laws/show/1178-2022-%D0%BF#n131)3 Features;  is expired;  is one whose price exceeds the expected value of the subject of procurement, determined by the customer in the announcement of open bidding, if the customer in the tender documentation did not indicate the acceptance for consideration of a tender offer, the price of which is higher than the expected value of the subject of procurement, determined by the customer in the announcement of holding open tenders, and/or did not specify an acceptable percentage of excess or the percentage of excess is greater than specified by the customer in the tender documentation;  does not meet the requirements established in the tender documentation in accordance with the first paragraph of the third part of Article 22 of the Law;  3) the winner of the procurement procedure:  refused to sign the purchase contract in accordance with the requirements of the tender documentation or conclude the purchase contract;  did not provide, in the manner specified in the tender documentation, documents confirming the absence of grounds specified in sub-clauses 3, 5, 6 and 12 of clause 47 of the Specifications;  did not provide security for the performance of the purchase 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 discovered by the customer in accordance with the first paragraph of Clause 42 of the Specifications.  ***The customer can reject the tender offer***with an indication of the reasoning in the electronic procurement system in the event that:  1) the participant of the procurement procedure provided improper justification regarding the price or value of the relevant goods, works or services of the tender offer, which is abnormally low;  2) the participant of the procurement procedure did not fulfill his obligations under the 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 damages within three years from the date of early termination of such contract. The specified participant of the procurement procedure can provide confirmation of taking measures to prove its reliability, despite the presence of a relevant reason for rejecting the tender offer. For this, the participant of the procurement procedure (business entity) must prove that he has paid or has 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.  The participant of the procurement procedure, including the association of participants, in the electronic procurement system during the submission of a tender, confirms the absence of the grounds provided for in subsection 2 of Clause 45 of the Particulars in the form of a certificate drawn up by the participant in an arbitrary form, the content of which confirms the absence of an appropriate basis for rejecting the tender offers  Information on the rejection of a tender offer, including the grounds for such rejection (with reference to the relevant provisions of the Specifics (Law) and conditions of the tender documentation, which such a tender offer and/or participant do not meet, with an indication of what exactly such non-compliance consists of), during one day from the date of adoption of the decision is published in the electronic procurement system and automatically sent to the participant of the procurement procedure / the winner of the procurement procedure, whose tender offer was rejected, via 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 to be insufficient, such a participant may contact the customer with a request to provide additional information about 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 requirements criteria, and the customer is obliged to provide him with an answer with such information no later than four days after 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. |
| **Chapter VI Results of bidding and conclusion of the purchase contract** | | |
| **1** | **Cancellation of tenders by the customer or recognition of them as having not taken place** | ***According to clause 50 of the Features***(during their validity and application) or Article 32 of the Law (after cancellation (termination) of the Features) The customer cancels open auctions in the event of:  1) there is no further need to purchase goods, works or services;  2) the impossibility of eliminating violations that occurred due to detected violations of legislative requirements in the field of public procurement, with a description of such violations;  3) reducing the volume of expenses for the purchase of goods, works or services;  4) when the purchase became impossible due to force majeure.  In the case of cancellation of open tenders, the customer shall enter the reasons for such decision in the electronic procurement system within one working day from the date of adoption of the relevant decision.  ***According to clause 51 of the Features*** (during their validity and application) or Article 32 of the Law (after 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, which was rejected by the customer) in accordance with the Features;  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 working day from the date of the grounds for cancellation of open tenders specified in this clause.  Information on the cancellation of open tenders is automatically sent to all participants of the procurement procedure by the electronic procurement system on the day of its publication. |
| **2** | **Term of conclusion of the contract** | The customer concludes the purchase 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 the purchase contract in accordance with the requirements of the tender documentation and the proposal of the winning participant of the procurement procedure.  In order to ensure the right to appeal the customer's decisions to the appeal body, the procurement contract cannot be concluded earlier than 5 days from the date of publication in the electronic procurement system on the web portal of the Authorized Body of the notification of the intention to conclude the procurement contract.  In case of justified necessity, the term for concluding the contract can be extended up to 60 days.  If a complaint is filed with the appeals body after the announcement of the intention to conclude a procurement contract has been published in the electronic procurement system, the expiration of the term for concluding a procurement contract is stopped. |
| **3** | **Draft purchase agreement** | The procurement contract must comply with the draft contract specified in Appendix 2 to the tender documentation.  The winner of the procurement procedure during the conclusion of the procurement contract must provide information on the right to sign the procurement contract.  *If the winner does not provide information about the right to sign the purchase contract, the winner is considered to have refused to sign the purchase contract in accordance with the requirements of the tender documentation or the conclusion of the purchase contract and is subject to rejection on the basis of paragraph 2 of subparagraph 3 of item 44 of the Specifications.* |
| **4** | **Essential conditions that must be included in the purchase contract** | The purchase contract is concluded in writing, in accordance with the norms of the Civil Code of Ukraine and the Economic Code of Ukraine, taking into account the provisions of Article 41 of the Law, except parts two to five, seven to nine of Article 41 of the Law, and Special Features.  The purchase contract concluded between residents of Ukraine must be written exclusively in the Ukrainian language.  The terms of the purchase agreement must not differ from the content of the tender offer based on the results of the auction (including the price per product unit) of the winner of the procurement procedure.  The essential conditions of the purchase contract are the subject (name, quantity, quality), price and term of the contract. Other conditions of the purchase contract are not essential and may be changed in accordance with the norms of the Economic and Civil Codes.  The essential terms of the contract may not be changed after its signing until the Parties fulfill their obligations in full, except for the 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 cancellation (termination of ) features).  The purchase agreement is null and void in case of:  1) when the customer concluded a purchase contract in violation of the requirements specified in clause 5 of the Features;  2) concluding a purchase contract in violation of the requirements of clause 18 of the Features;  3) conclusion of a purchase contract during the period of appeal of open tenders in accordance with Article 18 of the Law and Special Features;  4) conclusion of a contract in violation of the terms stipulated in the third and fourth paragraphs of Clause 49 of the Specifics, except for cases of suspension of the term in connection with the review of the complaint by the appeal body in accordance with Article 18 of the Law, taking into account the Specifics;  5) when the name of the subject of procurement with the indication of the code according to the Unified Procurement Dictionary does not correspond to the goods, works or services actually purchased by the customer. |
| **5** | An additional essential condition of procurement contracts under the Ukraine Recovery Programme (URP) | **Additional grounds for its termination are an additional essential condition of procurement contracts under the URP/UERP** in the event of any of the following circumstances occurring during the execution 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 from him in accordance with the Law of Ukraine "On Sanctions", as well as to such a person current sanctions against any of the following organizations:  (a) The United Nations and any agency or person duly designated, authorized or authorized by the United Nations to impose, administer, implement and/or enforce sanctions;  (b) the European Union and any agency or person duly designated, authorized or empowered by the European Union to impose, administer, enforce and/or enforce sanctions;  (c) the Office of Foreign Assets Control (OFAC), the US Department of State, and/or the United States Department of Commerce.  2) the existence of a conclusion of the State Audit Service on the results of the monitoring of the procurement procedure, which indicates the need to terminate (terminate) the relevant contract, and such conclusion has not been contested and/or annulled in a court of law.  3) the presence of evidence, confirmed in court, regarding the breach of contractual obligations by the executor in accordance with the Agreement on Professional Integrity. |
| **6** | **Actions of the customer in case of refusal of the winning bidder to sign the purchase agreement** | 6.1. In the case of rejection of the tender offer on the grounds specified in subparagraph 3 of item 44 of the Procurement Specifications, the customer shall determine 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 beneficial in accordance with the requirements of the Law and these features, and makes a decision on the intention to enter into a purchase contract in the order and under the conditions specifiedArticle 33 of the Law and this clause.  6.2. In case of rejection of the tender offer determined to be the most economically advantageous according to the results of the evaluation, the customer considers 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 this case, in the order and terms determined Features of procurement. |
| **7** | **Ensuring the execution of the purchase contract** | Not required *(****Comment for the customer- it is at the discretion of the customer. In the case of a decision by the customer to include a requirement to provide security for the performance of the contract - the relevant sections of this documentation and the draft contract in Appendix 2 must be changed - the sample tender documentation for the procurement of works can be used as a sample)*** |

***Appendix 1***

***to the tender documentation***

**TENDER (PRICE) OFFER**

**FOR PURCHASE BY SUBJECT**

***Full name of the subject of purchase***

**Procurement of works for technical supervision of construction works at the facility:**

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

*(full name of the bidder's organization)*

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

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

authorized to notify the following:

1. Having reviewed the tender documentation for the execution of the specified order, we agree to perform the work at the price: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (with VAT\*), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (without VAT),

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

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

The price includes the price of the works offered under the Contract, taking into account the cost of the works themselves, the cost of all costs related to the performance of the works provided for in the tender documents, 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: (specify - VAT payer or NOT payer of VAT).

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

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

5. The total duration of the works: \_\_\_\_ months, but no later than "\_\_" \_\_\_\_\_\_\_ 202\_\_ year.

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

7. Before making a decision about the intention to enter into a purchase contract, your documentation together with our proposal (provided it meets all the requirements) have the force of a preliminary contract between us. If a decision is made about the intention to conclude a contract, we will undertake to fulfill all the conditions stipulated in the Contract.

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

We agree with the conditions that you can reject the tender offer of the Winning Participant if he does not provide the documents stipulated in this tender documentation.

8. We agree to abide by the terms of this offer for 90 calendar days from the date of opening of tenders set by you. Our offer will be binding on us and may be considered by you at any time before the end of the specified period.

9. We confirm our agreement with the terms and conditions of the draft procurement contract set out in Appendix 2 to the tender documentation for this procurement item.

10. If a decision is made about the intention to conclude a contract, we undertake to sign the Contract with the Customer no earlier than 5 days after 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 after the decision on the intention to conclude a procurement contract was made in accordance with the requirements of the tender documentation and tender offer of the winner of the procurement procedure.

11. By signing below, we confirm full, unconditional and unquestionable agreement with all the requirements for conducting the procurement procedure, defined by law and in the tender documentation, in particular, additional requirements according to the Guidelines for the implementation of the Ukraine Recovery Programme, which is financed under the Finance Contract with the European Investment Bank.

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

***Appendix 2***

***to the tender documentation***

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

**on the purchase of technical supervision of construction works at the facility:**

"{the full name of the object is indicated}"

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

(contract number)

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

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

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

(name of legal entity/name of natural person)

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

(position, full name)

operating on the basis of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Financial Agreement between Ukraine and the European Investment Bank (*Comment for the Customer: The customer indicates under which program, from those indicated below, the purchase is made):*

*--*Programs for the recovery of Ukraine, implemented on the basis of the Financial Agreement between Ukraine and the European Investment Bank, ratified by the Law of Ukraine [No. 1645-IX dated July 14, 2021](https://zakon.rada.gov.ua/laws/show/1645-20#n2)year (hereinafter referred to as the Financial Agreement).

OR

-- Emergency credit program for the recovery of Ukraine, ratified by the Law dated 04/22/2015 No. 346-VIII (hereinafter referred to as the Financial Agreement),

and Loan fund transfer agreement (LFTA) No.\_\_\_ of \_\_\_between\_\_\_\_\_, (hereinafter - the "Customer"), on the one hand, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(name of legal entity/ name of natural person-entrepreneur or natural person)

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

(position, full name)

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

**1. SUBJECT OF THE AGREEMENT**

1.1. Under this Agreement, the Customer entrusts and pays, and the Contractor undertakes to carry out technical supervision of the construction works of the object (s):

|  |  |
| --- | --- |
| The name of the sub-project according to the URP/UERP (including the name of the construction works and the object), the address of the construction works | TN engineer responsible for the project  (name, certificate number and validity period) |
|  |  |

further in the text - "Object", which is implemented according to the subcontract concluded between the Customer and the Contractor {the details of the subcontract and the reference to the contract are indicated in the "Prozorro"}).

Technical supervision of the construction of the Object is carried out in accordance with the Procedure for the implementation of technical supervision during the construction of architectural objects, approved by the Resolution of the Cabinet of Ministers of Ukraine dated July 11, 2007 No. 903 "On copyright and technical supervision during the construction of an architectural object" (hereinafter - "Works") and in accordance with clause 2 of this Agreement and the Terms of Reference (Appendix 1 to the Agreement).

1.2. The cost of the Works entrusted to the Contractor is determined by this Agreement in accordance with the provisions of the Estimates Standards of Ukraine "Guidelines for determining the cost of construction".

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

**2 WORK PERFORMANCE PROCEDURE**

2.1. The performance of technical supervision by the Executor in accordance with this Agreement involves the performance of the following functions by a technical supervision engineer who has a qualification certificate entitling him to perform technical supervision of the construction of objects:

2.1.1. inspection:

- the presence of documents that confirm the qualitative and quantitative characteristics of structures, products, materials and equipment used during the construction of the object, technical passports, certificates, documents reflecting the results of laboratory tests, etc.;

- compliance of the completed construction works, structures, products, materials and equipment with the design decision, requirements of state standards, construction norms and rules, technical conditions;

- conformity of the volumes and quality of the completed construction works, invoices for construction materials and equipment provided by the contractor for payment, to the project documentation;

- execution by the contractor of instructions and prescriptions issued as a result of technical supervision, state architectural and construction control and state supervision (control), elimination of defects and deficiencies discovered during the acceptance of certain types (stages) of works, structural elements, etc.;

2.1.2. keeping records of the volumes of accepted and paid construction works, as well as works performed with defects, and costs associated with the contractor's elimination of defects and modifications;

2.1.3. carrying out, together with the contractor, a review of the results of the completed works, including hidden and constructive elements, ensuring compliance with the requirements for prohibiting further work before issuing an act of inspection of hidden works;

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

2.1.5 registration of acts of works performed with defects;

2.1.6 participation in:

- inspection by the working commission of the quality of individual structures and nodes, construction works of all kinds, compliance of mounted special equipment, equipment and mechanisms with technical conditions;

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

- the control measurements that are carried out, the presentation of the necessary documents for this, as well as the independent conduct of control measurements of the completed works;

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

- development (revision) of technical solutions, organization of the established order of adjustment and, if necessary, re-approval of project documentation, while not allowing unjustified increase in the cost of construction works;

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

- forming a package of documents, as well as taking all other actions necessary for the Customer to obtain approvals and documents that give the right to perform construction works and confirm the commissioning of the completed Object;

- production meetings on the construction of the Object;

2.1.8. participation in maintaining the primary executive technical documentation at the Facility, making changes to it in connection with the detection of deficiencies (defects) during the performance of works, displaying the results of technical supervision and information about violations detected during the performance of works in the general log of works;

2.1.9. monthly written informing of the Customer and the Ministry of Development of Communities, Territories and Infrastructure of Ukraine in the form specified in Appendix 2 about the results of the implementation of the Agreement.

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

2.2. In the event that deviations from the design decisions made during the construction of the facility are detected during the performance of the functions defined by this Agreement, and the contractor refuses to eliminate them, the technical supervision engineer shall notify the Customer and the relevant inspection of the state architectural and construction control to take measures in accordance with legislation.

2.3. The Contractor performs technical supervision of the construction of the Facility during the term of this Agreement.

2.4. The Executor's activities in accordance with this Agreement are aimed, among other things, at supporting the Ministry of Community Development, Territories and Infrastructure of Ukraine as the responsible person (the main manager of funds) in the performance of its functions within the framework of (***Comment for the Customer: The customer indicates under which program, from those indicated below, the purchase is made):***

***--***Programs for the recovery of Ukraine, implemented on the basis of the Financial Agreement between Ukraine and the European Investment Bank, ratified by the Law of Ukraine [**No. 1645-IX dated July 14, 2021**](https://zakon.rada.gov.ua/laws/show/1645-20#n2)**year (hereinafter referred to as the Financial Agreement).**

**OR**

**-- Emergency credit program for the recovery of Ukraine, ratified by the Law dated 04/22/2015 No. 346-VIII (hereinafter referred to as the Financial Agreement).**

2.4.1. The contractor undertakes to assist the consultants of the European Investment Bank in providing technical support (UNDP, Cowater, etc.), engaged by the Bank to provide sectoral advice and monitoring of the project, through access to the Object (s) and documents listed in clause 2.1.1. and 2.1.2. of this contract.

**3. ADDITIONAL TERMS**

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

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

3.3. Issues related to the change of design solutions during the construction of the Object are resolved by the Customer with the participation of the Contractor.

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

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

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

- qualitatively and within the time limits set by the Parties to fulfil the obligations defined by this Agreement;

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

- in case of suspension of construction works for valid reasons, to additionally inform the responsible person (the main manager of funds) - the Ministry of Development of Communities, Territories and Infrastructure of Ukraine;

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

- after the actual execution of the Works (part thereof), prepare and send to the Customer the Act of acceptance and transfer of the completed Works in accordance with the Agreement;

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

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

**4.2. The executor has the right to:**

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

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

- to demand from the contractors engaged by the Customer in the construction of the Object:

execution of works in accordance with project documentation and other regulatory documents regarding the order of execution and acceptance of works;

stoppage of work in cases of the use of materials, structures and products of inadequate quality, or which do not comply with regulatory documents;

elimination of deviations from design decisions, shortcomings (defects) and incompleteness and re-presentation of works for technical supervision;

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

- to stop work until the documents for hidden work are drawn up and in case of detection of excessive deformation of the object or places of possible construction defects.

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

- provide the Contractor with:

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

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

one copy of the contractor's construction organization's comments on the project documentation or the contractor's official notice of their absence;

- to warn the Contractor about the implementation of hidden construction works at the Object two days before their implementation for their review, inspection and timely signing of acts on hidden works;

- provide the Executor for verification with Acts of completed works in the form of KB-2v and a certificate in the form of KB-3, invoices for the cost of materials, as well as calculations of general production and other costs;

- accept the duly submitted Works and, in the absence of comments, sign the Acts of acceptance and handover of the submitted Works in accordance with the Agreement.

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

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

**4.4. The customer has the right to:**

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

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

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

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

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

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

5.1. The source of financing the cost of the Works without VAT under this contract is the funds of the loan of the European Investment Bank from the account of JSC "Ukreximbank" at the expense of the subvention of the special fund of the State Budget (loan) and the amount of VAT - at the expense of local funds.

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

- Amount without VAT: \_\_\_,\_\_\_ hryvnias. (\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ UAH \_\_\_\_ kopecks);- VAT: \_\_\_,\_\_\_ UAH. (\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ UAH \_\_\_\_ kopecks).

\* or indicate "without VAT"

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| The name of the sub-project according to the URP/UERP (including the name of the construction works and the object), the address of the construction works | Contract No | Date of contract | Size % | Total cost of work with TN, hryvnias. |
|  |  |  |  |  |

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

5.4. Current calculations for the payment of the provided Works are carried out in accordance with the provisions of the Estimating Standards of Ukraine "Instructions for determining the cost of construction" within twenty banking days from the date of signing the Act of acceptance and handover of the performed works for the implementation of technical supervision (Work) for the relevant period (in the form in Appendix 3 to the Agreement ) and invoices for payment and after visa by the Executor acts performed A contractor works according to the KB-2v form.

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

5.6. Payment for the Works by the Customer is made by transferring funds to the Contractor's current account specified in this Agreement. The works are considered paid from the moment of receipt of funds to the current account of the Contractor.

5.7. Changes and additions regarding changes in the cost of Work, as well as the procedure for payment of Work, are formalized in an Additional Agreement.

**6. PROCEDURE FOR RECEIVING AND TRANSFERRING WORKS**

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

6.2. The Contractor draws up and sends to the Customer a duly signed and stamped Act in four copies within three working days after the actual delivery of the Works. Acts are considered valid and such that can be accepted by the Customer for payment, in the presence of signatures certified by seals of a certified technical supervision engineer and an official of the Contractor.

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

6.4. Within three days of receiving the Act and invoice from the Executor, the Customer is obliged to review it and, in the absence of comments (objections), sign, seal and return one copy to the Executor. In the case of non-delivery of the Works by the Contractor or improper delivery of the Works within the period specified in this clause, the Customer must draw up and send to the address of the Contractor a written reasoned refusal to accept the Works.

6.5 The act signed in the above manner is the basis for settlements between the Parties for the Works actually provided under the Contract. The Customer's signing of the relevant primary accounting documents in the form No. KB-2b (Act of Acceptance of Performed Contractual Works) and No.KB-3 (Certificate on the Cost of Performed Contractual Works) with the signatures of technical supervision shall be considered as confirmation of the provision of Technical Supervision Works.

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

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

7.2. The Party has the right to refuse to fulfill its obligations under this Agreement in the event that the other Party fails to fulfill its financial and other obligations in accordance with the terms of this Agreement.

7.3. The Agreement is considered terminated from the date of conclusion by the Parties of the respective agreement on termination of the Agreement or termination of its validity.

**8. PROCEDURE FOR CHANGE AND TERMINATION OF THE AGREEMENT**

8.1. Amendments and additions to this Agreement are carried out by the signing by the authorized persons of the Parties of additional agreements agreed through negotiations, after which they become an integral part of the Agreement.

8.2. Termination of the Agreement is allowed with the consent of the Parties, or in the following cases:

making a decision to stop work;

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

in the presence of a negative conclusion of the European Investment Bank (EIB) about the presence of significant violations based on the results of the "ex-post audit"\* with a demand for termination of the contract. None of the Parties is responsible for the resolution of the EIB;

*\*In the case of receiving a request from the EIB for an "ex-post audit" check (conducting an EIB check - consideration of the evaluation of proposals, its results and the selection of a contractor, commenting and submitting a request to the Customer for clarification), the performance of obligations under the contract may be suspended with consent parties until the moment of receiving a positive conclusion of the EIB on the absence of significant violations based on the results of the "ex-post audit".*

- if the Contractor and/or the ultimate beneficial owner of the Contractor, a 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 from him in accordance with the Law of Ukraine "On Sanctions", and the applicable laws have been applied to such a person sanctions by any of the following organizations:

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

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

(c) the Office of Foreign Assets Control (OFAC), the United States Department of State, and/or the United States Department of Commerce;

- the existence of a conclusion of the State Audit Service on the results of procurement monitoring, which indicates the need to terminate (terminate) the relevant contract, and such conclusion was not challenged and/or annulled in a court of law;

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

other grounds provided for by law.

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

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

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

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

**9. RESPONSIBILITY OF THE PARTIES**

9.1. The Parties are responsible for non-fulfillment or improper fulfillment of obligations under this Agreement in accordance with this Agreement and the current legislation of Ukraine.

9.2. In case of unjustified refusal of any of the Parties to sign the Act, the Party which, in violation of the order of transfer and acceptance of Works specified in this Agreement, refused or avoids signing the Act, shall pay the other party a fine in the amount of 0.1% of the amount due to pay

9.3. The parties are not responsible for non-fulfilment or improper fulfillment of their obligations under this Agreement, if they prove that such non-fulfillment was not due to their fault.

9.4. The Contractor shall not be liable for breach of his obligation to provide Works, if such breach is caused by the use of unreliable documents (information) provided to him in accordance with this Agreement.

9.5. The Parties are not responsible for improper fulfillment of the terms of this Agreement in the event of force majeure (force majeure) that the Parties could not foresee and which prevent the Parties from fulfilling their obligations under this Agreement.

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

**10. CIRCUMSTANCES OF FORCE MAJEURE**

10.1. The Parties are released from responsibility for non-fulfillment or improper fulfillment of obligations under this Agreement in the event of force majeure circumstances that did not exist at the time of concluding the Agreement and arose beyond the control of the Parties. Circumstances of force majeure (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 authorization documents required to fulfill obligations under this contract are not circumstances of force majeure (force majeure).

10.2. The Party that is unable to fulfill its obligations under this Agreement as a result of force majeure circumstances must, no later than within 20 (twenty) working days from the moment of their occurrence, notify the other Party of this in writing with the provision of supporting documents in accordance with clause . 10.3 of this Agreement.

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

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

**11. OTHER PROVISIONS**

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

11.2. Additional agreements and appendices to this Agreement are an integral part of it and have legal force if they are set out in writing, signed by the Parties and sealed with their seals.

11.3. None of the Parties has the right to transfer its rights and obligations under the Agreement to a third party without the prior written consent of the other Party.

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

11.5. Any message is considered received if it is delivered to the addressee under receipt, while the addressee signs a copy of the notice of delivery, which is returned to the sender.

11.6. All corrections according to the text of this Agreement are valid and can be taken into account only on the condition that they are dated in each individual case, certified by the signatures of the Parties and sealed with their seals.

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

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

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

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

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

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

11.13. The 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 subject to conclude, change and terminate the Agreement, to 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 relationships provided for by law.

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

**12. RESOLUTION OF DISPUTES**

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

12.2. In the case of impossibility of resolving disputed issues through negotiations, the dispute shall be resolved in court in accordance with the current legislation of Ukraine.

**13. LIST OF APPENDICES TO THE AGREEMENT**

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

13.2. Appendices to the Agreement:

Appendix No. 1. Technical Task.

Appendix No. 2. Form of the Contractor's monthly report on the performance of the Agreement

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

Annex #4. The list of key personnel of the Contractor involved in the performance of Technical Supervision Works and copies of their qualification certificates (in accordance with the legislation (***this application may include* at the discretion of the Customer if the Contractor plans to involve several different engineers in different areas of work).**

Appendix No. 5. Agreement on professional integrity" (with signature and seal in English and Ukrainian) - a sample is provided in Appendix \_\_ of this Tender documentation

**DETAILS AND SIGNATURES OF THE PARTIES**

|  |  |
| --- | --- |
| **Customer**  **……….** | **Performer**  **…………..**  **Engineer(s) of technical supervision:**  **……………** |
| Address:..……legal, actual…..  y/y …………..  MFI…………..  USREOU………..  Name of the VAT payer No.………..  TIN……..  Tel. (0…) ………  Mob. (0...) …….  E-mail: …………. | Address:..……legal, actual…..  y/y …………..  MFI…………..  USREOU………..  Name of the VAT payer No.………..  TIN……..  Tel. (0…) ………  Mob. (0...) …….  E-mail: …………. |

**Position: Position:**

**/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/ (surname) /\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/ (surname)**

(signature) (signature)

Stamp Stamp

Appendix 1 to the Agreement on technical supervision of construction works

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

**Terms of Reference (TOR)**

1. **General information**

In accordance with the Financial Agreements between Ukraine and the EIB / EU, the purpose of the URP/UERP is;

• overcoming the consequences of the war in Ukraine, including addressing the needs of internally displaced persons and supporting, facilitating and accelerating the rapid reconstruction of infrastructure in areas under the control of the Government of Ukraine; and

• restoration and improvement of communal services (water supply and drainage, electricity supply, district heating), repair of roads, railways and bridges, repair and reconstruction of damaged public buildings (including administrative buildings, schools, medical centres and hospitals, post offices and other social infrastructure) – (each object is called a "Subproject").

In particular, restoration and improvement of critical social infrastructure facilities in the following sectors is envisaged:

|  |  |
| --- | --- |
| **Sector** | **Activities** |
| housing and communal services | Restoration, modernization and construction of residential infrastructure; restoration or construction of heating systems; restoration, improvement of energy efficiency measures. |
| Water supply and drainage | Restoration, reconstruction and construction of water supply networks, rationalization of the use of water resources; repair and modernization of water supply networks, pumping stations and treatment facilities at the regional and municipal levels. |
| Central heating | Restoration and modernization of production, transmission and distribution of heat. |
| Public buildings | Restoration, modernization and construction of public buildings (hospitals, schools, cultural centres, postal services that provide financial services, buildings of state administrative bodies). Restoration and improvement of energy efficiency in public buildings. |
| Transport | Restoration and reconstruction of bridges and roads of local and regional importance, as well as other relevant infrastructure. Restoration and reconstruction of city transport infrastructure and pedestrian paths and replacement of destroyed city vehicles. |

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

The loan funds are a subvention from the State budget to local budgets for the implementation of projects within the framework**(*Comment for the Customer: The customer indicates under which program, from those indicated below, the purchase is made):***

*--Programs for the recovery of Ukraine, implemented on the basis of the Financial Agreement between Ukraine and the European Investment Bank, ratified by the Law of Ukraine* [*No. 1645-IX dated July 14, 2021*](https://zakon.rada.gov.ua/laws/show/1645-20#n2)*year, and Resolution of the Cabinet of Ministers of Ukraine dated December 15, 2021 No. 1324 "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".*

*OR*

*-- The emergency credit program for the recovery of Ukraine, implemented on the basis of the Financial Agreement between Ukraine and the European Investment Bank ratified by the Law dated 04.22.2015. No. 346-VIII (hereinafter referred to as the Financial Agreement), as well as by Resolutions of the Cabinet of Ministers of Ukraine from November 25, 2015 No. 1068 and dated May 8, 2019. No. 378.*

Lists of projects financed by the subvention are formed and approved by the Ministry of Community Development, Territories and Infrastructure of Ukraine within the limits of subvention distribution between local budgets.

In order to promote the optimal use of the funds of the Program for the Reconstruction of Ukraine, the EIB, in cooperation with the Ministry of Community Development, Territories and Infrastructure of Ukraine, signed a Cooperation Agreement on the provision of technical assistance with the United Nations Development Program, under which UNDP will help monitor the implementation of the Project.

1. **Purpose of ToR**

The main purpose of this ToR is:

* provision of an independent and objective assessment of the technical quality of all construction works;
* implementation of technical supervision and control over the contractor's compliance with project decisions and requirements of state standards and regulations;
* implementation of control over the quality and volume of works performed during the entire period of construction, as defined by the current legislation of Ukraine.

1. **Scope of work**

Technical supervision of construction works is carried out in accordance with the current legislation, defined in Art. 3 and Art. 11 ZU "On architectural activity" No. 687-XIV of May 20, 1999.

The procedure for carrying out technical supervision is defined by the Cabinet of Ministers of Ukraine in the Resolution dated July 11, 2007. N 903 "On author's and technical supervision during the construction of an architectural object."

The executor of the purchase agreement will provide Works on technical supervision of the execution of construction works in accordance with the subject and scope of the contract for the object: (name and address of the construction object)

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

When carrying out technical supervision, it is ensured that measures are taken to control the compliance of the volumes and quality of the completed construction and installation works, structures, products, materials and equipment with the design decision, the requirements of state standards, building norms and rules, technical conditions, and the provision of advisory support during the implementation of the project in terms of volume .

In particular, the scope of work on technical supervision under the terms of this TOR should include, but not be limited to, the following:

1. checking the availability of documents that confirm the qualitative and quantitative characteristics of structures, products, materials and equipment used during the construction of the object, including, among other things, technical passports, certificates, documents reflecting the results of laboratory tests, etc.;
2. checking the compliance of completed construction works, structures, products, materials, and equipment with design solutions, requirements of state standards, construction norms and rules, and technical conditions;
3. verification of the compliance of the volumes and quality of completed construction works, invoices for construction materials and equipment, provided by the contractor for payment, to the project documentation;
4. conducting an inspection of the contractor's implementation of instructions and prescriptions issued as a result of technical supervision, state architectural and construction control and state supervision (control), elimination of defects and deficiencies discovered during the acceptance of certain types (stages) of works, structural elements, etc.;
5. keeping records of the volumes of accepted and paid construction works, as well as works performed with defects, and costs associated with the contractor's elimination of defects and modifications;
6. carrying out, together with the contractor, a review of the results of the completed works, including hidden and constructive elements, ensuring compliance with the requirements for prohibiting further work before issuing an act of inspection of hidden works;
7. notification to the contractor about the non-compliance of products, materials and equipment with the requirements of regulatory documents;
8. registration of acts of works performed with defects;
9. participation in:

* inspection by the working commission of the quality of individual structures and nodes, construction works of all kinds, compliance of mounted special equipment, equipment and mechanisms with technical conditions;
* inspections of state supervision (control) and architectural and construction control bodies;
* control measurements being carried out, presentation of necessary documents for this, as well as independent carrying out of control measurements of completed works;

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

* development (revision) of technical solutions, organization of the established order of adjustment and, if necessary, re-approval of project documentation, while not allowing an unreasonable increase in the cost of construction works;
* consideration of proposals from contractors and/or the Customer to improve quality, reduce costs, and shorten the duration of work;
* forming a package of documents, as well as taking all other actions necessary for the Customer to obtain approvals and documents that give the right to perform construction works and confirm the commissioning of the completed facility;
* production meetings on the construction of the facility;

1. participation in maintaining primary executive technical documentation at the facility, making changes to it in connection with the detection of deficiencies (defects) during the performance of works, displaying the results of technical supervision and information about violations detected during the performance of works in the general log of works;
2. monthly informing the Customer and the Ministry of Development of Communities, Territories and Infrastructure of Ukraine in the form specified in the annex to the contract about the results of its implementation.
3. taking measures to eliminate deficiencies in the construction of the object within the limits of the powers defined by the legislation of Ukraine.
4. **Reporting and expected results**

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

The Technical Supervision Engineer shall provide the Customer-End Beneficiary with monthly reports and all relevant documentation in the quantity and form as defined in Annex 2 to the contract.

1. **Duration of work on technical supervision**

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

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

1. **Conflict of interest**

The EIB may exclude suppliers, contractors and consultants from the bidding process, if such parties or their affiliates provided consulting services for the preparation and implementation of the project. In order to avoid a conflict of interest, the said applicants and their affiliates will be disqualified and will not be able to participate in the next supply of goods, execution of construction works, etc. within the same project.

In order to avoid a possible conflict of interests, applications from enterprises, institutions, organizations and other subjects belonging to the sphere of management of local self-government bodies and local state administrations will not be considered, as they do not meet the legal requirements for obtaining a contract.

Appendix 2 to the Agreement on technical supervision of construction works

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

**The form of the monthly report on the implementation of the Agreement**

**for "\_\_\_\_\_\_\_\_\_\_\_" 20\_ r.**

|  |
| --- |
| **Brief description of the construction of the Object**  *Briefly describe the construction status of the Facility during the reporting period.*  *This part of the report should not exceed 1 page.* |
| **Deviation**  *Provide concise information if any part of the work is not carried out according to the approved plan and what measures were taken to correct the situation.* |
| **Table: Description of the main types of work according to the project documentation**   |  |  |  |  |  | | --- | --- | --- | --- | --- | | No | Name | Planned completion date | Estimated completion date as of report date | Actual end date | | 1 | General construction works | dd-mmm-yy | dd-mmm-yy | dd-mmm-yy | | 2 | Special works |  |  |  | | 3 | Hidden works |  |  |  | |
| **Photo-confirmation of the construction of the Object**  *Attach photos that confirm progress in the construction of the Object and completed (confirmed by acts of completed works) types of work.* |

**Confirmed and signed by the Executor:**

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

**Stamp**

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

(date)

Appendix No. 3

to the Agreement on technical supervision of construction works No. \_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_

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

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

*(place of drawing up the act) (date of drawing up the act)*

We, the undersigned, the authorized representative of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of legal entity/ full name of natural person) in the person of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the Customer), on one (position, full name) side,

and the authorized representative of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of the legal entity/ full name of the natural person-entrepreneur or natural person) in the person of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the Executor), (position, full name) on the other side,

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

|  |  |  |
| --- | --- | --- |
| No  n/p | Cost of work and expenses | Cost  thousand hryvnias |
| 1 | 2 | 3 |
| 1 | The cost of works under the subcontract is all, excl  VAT |  |
| 2 | The cost of works on technical supervision of everything, excl  VAT |  |
| 3 | Interest | = p2/p1 |
| 4 | The cost of construction works for the reporting period, excl  VAT |  |
| 5 | The cost of technical supervision works for the reporting period  period, excluding VAT | =p4\*p3 |
| 6 | VAT |  |
| 7 | Total including VAT |  |

The work was provided by the Contractor in a timely manner, in full and in compliance with all the terms of the said Agreement.

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

The total cost of the provided Works is UAH. cop.

(\_

*(amount in writing)*

UAH

UAH cop.

cop.), including VAT (%):

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

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

Customer

Performer

*(position, surname, initials, signature)*

*(position, surname, initials, signature)*

Stamp

(if available)

"" of the 20 year

Stamp

(if available)

"" of the 20 year

Total with VAT

UAH

cop. (

UAH

*(amount in writing)*

cop.)

Appendix No. 4*(if included)*

to the Agreement on technical supervision of construction works No. \_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_

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

**who is involved in the performance of Technical Supervision Works,**

**and copies of their qualification certificates (according to legislation).**

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

Appendix No. 5

to the Agreement on technical supervision of construction works No. \_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_

**Covenant of Integrity**

*(Must be drawn up in accordance with Appendix 7 to the Tender Documentation, with the signature of the authorized person and seal of the Contractor, in English and Ukrainian)*

***Appendix 3***

***to the tender documentation***

**TECHNICAL TASK**

**for procurement by the subject of procurement {indicate the full name of the subject of procurement}**

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

The procedure for carrying out technical supervision is defined by the Cabinet of Ministers of Ukraine in the Resolution dated July 11, 2007. N 903 "On author's and technical supervision during the construction of an architectural object."

Technical supervision of construction works will be carried out in accordance with the subject and scope of the contract concluded with the executor as a result of the relevant procurement procedure.

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

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

*- a report on the examination of the construction project, conducted by an expert organization with the involvement of experts who meet the current qualification requirements 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 legislation.*

**Note: If in this specification there is a reference to a specific brand or firm, patent, design or type of product, then it is considered that the specification contains the expression (or equivalent).**

**Appendix 3-A**

**to the tender documentation**

**Letter of guarantee**

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

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

USREOU code \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

(participant's full name)

when performing works on the object:

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

1. We guarantee that:
   1. When performing the works, it will be provided for the application of environmental protection measures, namely:

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

**Stamp**

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

***Appendix 4***

***to the tender documentation***

*It is submitted in the form below, on the company letterhead of the participant (if available)*

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

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No**  **s/p** | **Full name of the subcontractor's organization, address, telephone** | **Type of works** | **Estimated cost of works of the subcontracting organization,**  **amount (UAH) and in percentage (%) to the price of the tender offer** | **Number and series of the license and/or permission of the subcontracting organization** |
| 1  … |  |  |  |  |

\* the participant must provide a copy of the subcontractor's license and/or permit as part of his tender offer (provided if the work to be performed by the subcontractor requires obtaining a license and/or permit).

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

*Note: if the Participant does not plan to involve subcontractors in the performance of works**in the amount of not less than 20 percent of the value of the purchase contract, the participant as part of the tender offer must provide a letter in an arbitrary form in which it must be noted that the subcontracting organizations to the completion of works in the amount of not less than 20 percent of the cost of the purchase contract will not be involved.*

**STATEMENT**

**regarding the absence of grounds defined in the first part of Article 17 of the Law of Ukraine "On Public Procurement" (***in clause 47 of the Features - during their application)***),concerning involved subcontractors/co-contractors**

We, /the name of the Participant/ (hereinafter - the Participant), certify with this certificate that there are no grounds defined in the first part of Article 17 of the Law of Ukraine "On Public Procurement" ((Clause 47 of the Special Features - during their application)) in relation to the subcontractor engaged by us/ co-executor, /name of subcontractor/co-executor/, namely (specify the list of reasons according to the legislation applicable at the time of the announcement of tenders):

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

***Appendix 5***

***to the tender documentation***

*It is submitted in the form below, on the company letterhead of the participant (if available)*

*The participant must not deviate from this form*

**Reference**

**about the availability of the Participant's procurement procedure for workers with appropriate qualifications,**

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| No  s/p | Surname, first name, patronymic of the employee | Position, education, specialty, rank | Series, number of qualification certificate\*\* | Detailed work experience by specialty, places of work | Name  subcontractor and details of the contract with the subcontractor\*\*\* |
|  | Full-time and part-time employees | | | | |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  | It is planned to attract | | | | |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

**\* -***the table can contain summary information, and the details can be provided by separate detailed summaries for each employee, which contain all the data required by the Customer*

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

*\*\*\* - to be completed for personnel if subcontracted and allowed to submit letter of intent.*

Appendices to this certificate must be supporting documents required in accordance with sub-item 5.1 of item 5 of Chapter III "Instructions for the preparation of a tender offer" of this tender documentation.

**Conflict of interest**

At the request of the EIB and to avoid a conflict of interests, the customer will deny the participant participation in the tender and reject his tender offer, if it becomes known that such a participant provided consulting services for the preparation and implementation of the sub-project.

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

***Appendix 6***

***to the tender documentation***

*It is submitted in the form below, on the company letterhead of the participant (if available)*

*The participant must not deviate from this form*

**Reference**

**about the availability of the Bidder's documented experience of performing similar contracts**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No. z/p** | **Name, address and USREOU code of the customer to whom the work was performed** | **The subject of the contract, the date of its conclusion and completion** | **Beginning and completion of works**  **(year, month**) | **Contract price, hryvnias.** | **Name, position, phone number of the customer's contact person** |
| 1 |  |  |  |  |  |
| 2 |  |  |  |  |  |
| **…** |  |  |  |  |  |

Add-ons:

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

Experience is considered to meet the conditions under this criterion if the participant has provided at least 2 completed similar contracts (including subcontracting contracts) within the last 5 years, taking into account that the class of consequences (liability) of the object under a similar contract must not be lower class of consequences of the object according to the subject of purchase. .

*Similar contracts are understood to be comparable in composition and nature of works (services), namely technical supervision of construction works for new construction or reconstruction or restoration or capital repair of objects (buildings).*

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

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

***Appendix 7***

***to the tender documentation***

*It is submitted in the form below, on the company letterhead of the participant (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[[3]](#footnote-3) 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[[4]](#footnote-4);

(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[[5]](#footnote-5) by any authority (irrespective of whether such conviction or sanction is still in force) of any offence 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[[6]](#footnote-6) by the EU institutions or bodies, or any multilateral development bank[[7]](#footnote-7), 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 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 organisation 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 | Details of disclosure | 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 unauthorised 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 authorised representative with the requisite power and authority to sign on behalf of its company and, in the case of a joint venture bid, on behalf of each member thereof:**

Date:

Name of company:

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 (as defined in article 3.3.2 of the EIB Guide to Procurement). In other cases, it must be kept by the promoter and available upon request from the Bank.

**This document is being executed in English and Ukraine. The English version is the operative document and the Ukrainian version is for convenience only. To the extent of any inconsistencies between the two versions, the English version shall prevail.**

***Appendix 8***

***to the tender documentation***

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

**WHICH ARE SUBMITTED TO PARTICIPANTS OF THE PURCHASE PROCEDURE AS PART OF THE TENDER PROPOSAL**

1. **GENERAL DOCUMENTS:**
   1. **Documents confirming the authority of an official or a representative of a participant in the procurement procedure to sign tender documents -**in accordance with the requirements of clause 1.1 of Section III "Instructions for the preparation of a tender offer" of this tender documentation.
   2. **Charter or other founding document**- in accordance with the requirements of clause 1.2 of Section III "Instructions for the preparation of a tender offer" of this tender documentation.
   3. **Extract from the register of VAT payers or extract from the register of single tax payers**- in accordance with the requirements of clause 1.3 of Section III "Instructions for the preparation of a tender offer" of this tender documentation.
   4. **Signed by an authorized person of the Participant** "Professional integrity agreement" in Ukrainian and English - in accordance with the requirements of clause 1.7 of Section III "Instructions for the preparation of a tender offer" and in accordance with the form in Appendix 7 of this tender documentation.
   5. **Certificate of the person who is authorized to sign the purchase contract in case the Participant wins the bidding** - in accordance with the requirements of clause 1.8 of Section III "Instructions for the preparation of a tender offer" of this tender documentation.
   6. **Copies of valid qualification certificates** in accordance with the requirements of clause 1.8 of Chapter III "Instructions for the preparation of a tender offer" of this tender documentation.
   7. **Document** on the creation of an association (in case of submission of an offer by an association of participants) - in accordance with the requirements of clause 1.8 of Section III "Instructions for the preparation of a tender offer" of this tender documentation.
   8. **Reference in an arbitrary form regarding previously concluded contracts and their implementation,** which is drawn up in accordance with the requirements of clause 5 of Section V"Evaluation of tender offers, their rejection and other information".
   9. Written confirmation by the participant in accordance with the requirements of clause 4.10. Section V "Evaluation of tender offers, their rejection and other information"
   10. **Other general documents (***if the Customer uses additional requirements for the provision of documents (taking into account the first paragraph of the third part of Article 22 of the Law) - it is necessary to define these documents with reference to specific sections of the TD, where the requirements for their submission are formulated).*
2. **DOCUMENTS OF THE QUALIFICATION PART:**
   1. **Documents regarding** availability **in a participant in the procedure for the procurement of appropriately qualified employees who have the necessary knowledge and experience**, drawn up in accordance with the requirements of Clause 5.1 of Section III "Instructions for the preparation of a tender offer" and Appendix 5 of this tender documentation*(in case of application of this criterion by the Customer).*
   2. **Documents confirming the availability** experience in the execution of similar contracts for the subject of procurement, drawn up in accordance with the requirements of clause 5.2 of Section III "Instructions for the preparation of a tender offer" and Appendix 6 of this tender documentation;
   3. **Documents confirming the availability** financial capacity of the participant, drawn up in accordance with the requirements of subsection 5.3 of Section III "Instructions for the preparation of a tender offer".
   4. **Documents on involvement of subcontractors** -- in the case of their involvement in accordance with clauses 1.8, 5 and 7 of Chapter III "Instructions for the preparation of a tender offer" and Appendix 4 of this tender documentation.
   5. **documents,** which confirm the absence of grounds for refusal to participate in the procurement procedure, which are provided when submitting a tender offer - in accordance with the requirements of clause 5.4 of Section III "Instructions for the preparation of a tender offer", in particular, special certificates in an arbitrary form in accordance with the requirements of sub-clause 5.4.2 and Extract of the USR/ An extract of the USR in accordance with the requirements of subsection 5.4.3
3. **DOCUMENTS OF THE TECHNICAL PART:**
   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 clause 6 of Section III "Instructions for preparing a tender offer" and Appendix 3 of this tender documentation.
   2. **Guarantee letter on the application of environmental protection measures to the subject of purchase**in accordance with the requirements of Clause 6 of Chapter III "Instructions for the preparation of a tender offer" and Appendix 3-A of this tender documentation.
4. **DOCUMENTS OF THE PRICE PART:**
   1. **Tender offer (price)**, drawn up in accordance with the requirements of clause 1 "Content and method of submitting a tender offer" of Section III "Instructions for the preparation of a tender offer" and the requirements and form in Appendix 1 of this tender documentation.

***Appendix 9***

***to the tender documentation***

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

**WHICH ARE SUBMITTED TO THE WINNER OF THE PURCHASE PROCEDURE**

**(in particular, in accordance with the requirements of Clause 5.5 of Chapter III "Instructions for the preparation of a tender offer" 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 "Accounting of information on bringing a person to criminal responsibility and the existence of a criminal record"** of the head of the participant in the procurement procedure or an individual who is a participant.
3. **Reference in an arbitrary form regarding previously concluded contracts and their implementation**, which is drawn up in accordance with the requirements of subsection 5.5.4 of Chapter III "Instructions for preparing a tender offer"
4. **Documents of the winning participant regarding the right to sign the purchase contract** in accordance with the requirements of clause 3 of chapter VI "Results of bidding and conclusion of the purchase contract" of this tender documentation.

1. This draft contract was developed on the basis of the Order of the Ministry of Regions dated 04/13/2020 No. 89 "On approval of exemplary forms of contracts on technical supervision and on the provision of engineering and consulting services in construction"(<https://ips.ligazakon.net/document/FN060850>) and taking into account Order of the Ministry of Development of Communities and Territories of Ukraine dated 01.12.2022 No. 244, which approved [Amendment 2 to the Guidelines on determining the cost of construction, which will enter into force on January 1, 2023.](https://e-construction.gov.ua/laws_detail/2988031810300019759?doc_type=6)In addition, see clarification:<http://www.gitn.org.ua/news/KoshtorisninormiUkrainiNastanovazviznachennyavartostibudivnitstvaOsnovninovatsii/>) [↑](#footnote-ref-1)
2. According to clause 4.32 of the Guidelines on determining the cost of construction, the cost of technical supervision should not exceed 1.5% of the total of chapters 1 - 9 of the ZKR. [↑](#footnote-ref-2)
3. Corruption, fraud, collusion, coercion, obstruction, theft at EIB Group premises, misuse of EIB Group resources or assets, money laundering or financing of terrorism, all as defined in the EIB Group Anti-Fraud Policy, available at https://www.eib.org/en/publications/anti-fraud-policy and as amended from time to time. [↑](#footnote-ref-3)
4. EU sanctions or restrictive measures pursuant to Chapter 2 of Title V of the EU Treaty and the objectives of the Common Foreign and Security Policy set out in Article 21 of the EU Treaty and Article 215 of the Treaty on the Functioning of the EU, either autonomously or pursuant to the sanctions decided by the United Nations Security Council on the basis of Article 41 of the United Nations Charter. [↑](#footnote-ref-4)
5. Including a fine or any other financial penalty, irrespective of whether paid yet or not. [↑](#footnote-ref-5)
6. Including any decision having an effect similar to conditional non-exclusion, temporary suspension, letters of reprimand, or self-restraint. [↑](#footnote-ref-6)
7. Including the World Bank Group, the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank and the Inter-American Development Bank. [↑](#footnote-ref-7)