



L A W O F U K R A I N E

On Public Procurement

**(The Official Bulletin of the Verkhovna Rada of Ukraine (BVR), 2016,
No. 9, Art. 89)**

{As amended by Laws

[No. 1078-VIII of 12 April 2016](#), BVR, 2016, No. 21, Art. 407

[No. 1356-VIII of 12 May 2016](#), BVR, 2016, No. 24, Art. 488

[No. 1670-VIII of 06 October 2016](#), BVR, 2016, No. 48, Art. 808

[No. 1761-VIII of 17 November 2016](#), BVR, 2017, No. 1, Art. 3

[No. 2002-VIII of 6 April 2017](#), BVR, 2017, No. 21, Art. 245

[No. 2019-VIII of 13 April 2017](#), BVR, 2017, No. 27-28, Art. 312

[No. 2265-VIII of 21 December 2017](#), BVR, 2018, No. 6-7, Art. 45

[No. 2629-VIII of 23 November 2018](#), BVR, 2018, No. 50, Art. 400}

{As revised by Law

[No. 114-IX of 19 September 2019](#), BVR, 2019, No. 45, Art. 289, BVR, 2019,
No. 45, Art. 289}

{As amended by Laws

[No. 300-IX of 14 November 2019](#), BVR, 2020, No. 2, Art. 12

[No. 475-IX of 16 January 2020](#), BVR, 2020, No. 30, Art. 208

[No. 530-IX of 17 March 2020](#), BVR, 2020, No. 16, Art. 100

[No. 540-IX of 30 March 2020](#), BVR, 2020, No. 18, Art. 123

[No. 808-IX of 17 July 2020](#)

[No. 954-IX of 3 November 2020](#)

[No. 1021-IX of 2 December 2020](#), BVR, 2021, No. 12, Art. 94

[No. 1026-IX of 2 December 2020](#), BVR, 2021, No. 4, Art. 34}

This Law shall define the legal and economic grounds for the procurement of goods, works and services to meet the needs of the state, territorial communities and amalgamated territorial communities.

This Law aims at ensuring efficient and transparent procurement, creating a competitive environment in the field of public procurement, preventing corruption in this field, and promoting fair competition.

This Law also aims to adapt the legislation of Ukraine to the acquis of the European Union to implement the [Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part.](#)

Section I

GENERAL PROVISIONS

Article 1. Definitions of key terms

1. For the purposes of this Law, the following definitions shall apply:

1) authorised electronic platform shall mean an information and telecommunication system authorised by the Authorised Body, which has a comprehensive data security system with certified conformity under the [Law of Ukraine](#) “On Data Security in Information and Telecommunication Systems”, constitutes a part of the electronic procurement system and is an online service providing registration of persons, automatic placement, obtaining and transmission of information and documents during procurement, and use of services with automatic information exchange, accessed via the Internet;

2) automatic risk indicators shall mean the pre-configured criteria, the use of which makes it possible to automatically select procurement procedures with the signs of a breach of public procurement legislation;

3) abnormally low bid price (hereinafter referred to as abnormally low price) shall mean the price/netback price of the most economically advantageous bid following the auction, which is 40 or more per cent less of the arithmetic mean price/netback price of the bids of other bidders at the initial auction stage, and/or is 30 or more per cent less than the next price/netback price of the bid following the electronic auction held. An abnormally low price shall be automatically determined by the electronic procurement system provided that there are at least two (2) bidders who have submitted their bids in respect of the scope of procurement or a part thereof (a lot);

4) life cycle cost shall mean the total value of the scope of procurement or a part thereof (a lot) and other direct costs of the customer when using, maintaining and terminating the use of the scope of procurement. The life cycle cost shall be calculated in accordance with the methodology provided for in bidding documents;

5) web portal of the Authorised Procurement Body (hereinafter referred to as the web portal of the Authorised Body) shall mean an information and telecommunication system, which has a comprehensive data security system with certified conformity under the [Law of Ukraine](#) “On Data Security in Information and Telecommunication Systems”, includes an electronic auction module and a database, and constitutes a part of an electronic procurement system. The web portal of the Authorised Body shall be

an online service that provides the creation, storage and disclosure of all information on procurement, electronic auctions, automatic exchange of information and documents, and use of services with automatic information exchange, accessed via the Internet. The operation of the web portal of the Authorised Body shall be ensured, inter alia, by providing fee-based access to it by the authorised electronic platform;

6) procurement contract shall mean a business contract entered into between the customer and the participant based on the results of the procurement/simplified procurement procedure and providing for the fee-based rendering of services and/or works or for the purchase of goods;

7) electronic procurement system shall mean an information and telecommunication system, which has a comprehensive data security system with certified conformity under the [Law of Ukraine](#) “On Data Security in Information and Telecommunication Systems”, provides procurement, creation, placement, disclosure, and exchange of information and electronic documents, including the web portal of the Authorised Body and authorised electronic platforms, which can automatically exchange information and documents;

8) electronic catalogue shall mean a systematised database of current bids, which is formed and maintained by a centralised procurement organisation in the electronic procurement system and is used by the customer to select a supplier of goods (products), the value of which is less than the value specified in [clauses 1](#) and [2](#), Part 1 of Article 3 hereof;

9) security for the procurement contract shall mean providing the security for the bidder’s fulfilment of obligations to the customer under the procurement contract;

10) security for the bid/offer shall mean providing security in the form of a guarantee for the fulfilment of the bidder’s obligations, which arose due to the bid/offer submission, to the customer;

11) customers shall mean entities defined in [Article 2](#) hereof that procure goods, works and services hereunder;

12) Authorised Body’s information resource shall mean a website filled in by the Authorised Body, which provides free of charge consultations of advisory nature on public procurement and which is accessed via the Internet;

13) competitive procurement procedure (hereinafter referred to as the tender) shall mean the competitive selection of bidders under the open tender, selective tendering and competitive dialogue procedures;

14) procurement procedure monitoring shall mean the assessment of the customer’s compliance with the public procurement law during the procurement procedure, entering into procurement contracts and during its validity term in order to prevent the breach of public procurement law;

15) the most economically advantageous bid/offer shall mean the bid/offer recognised as the best following the evaluation of bids/offers under [Article 29](#) hereof;

16) invitation to competitive procurement procedures shall mean a call for an open tender, a call for selective tendering, and a call for a competitive dialogue;

17) appellate authority shall mean the Antimonopoly Committee of Ukraine;

18) winner of the procurement procedure shall mean a bidder whose bid meets all the criteria and conditions specified in the bidding documents and is recognised as the most economically advantageous, and who was notified by the customer on the intention to enter into a procurement contract or a bidder who was notified by the customer on the intention to enter into a procurement contract following the negotiated procurement procedure;

19) winner of the simplified procurement shall mean a bidder whose bid meets all the terms and conditions specified in the invitation to the simplified procurement and requirements for the scope of procurement and is recognised as the most economically advantageous, who was notified by the customer on the intention to enter into a procurement contract;

20) associate shall mean a person/entity meeting any of the following criteria for the purposes hereof:

a legal entity controlling the bidder, controlled by the bidder or being under the joint control with the bidder;

an individual or family members exercising control over the bidder;

bidder's official (officer) authorised to carry out legal formalities on behalf of the bidder aimed at establishing, changing or terminating civil relations, as well as family members of such an official (officer);

an individual shall mean the customer's authorised person, the customer's manager and/or their family members who exercise control over the bidders or are authorised to carry out legal formalities on behalf of the bidder aimed at establishing, changing or terminating civil relations.

Exercising control shall be understood as the possibility of decisive influence on the bidder's economic activity. Such influence may be exercised directly or through other individuals or legal entities, in particular by means of exercising the right to own or use all or a significant share of their assets, the right to decisive influence on the composition or results of voting, as well as the ability to determine business conditions, provide binding instructions or perform the functions of the bidder's management body, or through the ownership of a share (equity interest, block of shares) amounting to at least 25 per cent of the bidder's authorised capital.

For an individual, the total amount of share in the bidder's authorised capital shall be determined depending on the scope of corporate rights jointly owned by such an

individual, family members and legal entities controlled by such an individual or family members.

For the purposes of this Law, family members shall include spouses, children, parents, siblings, grandparents, grandchildren, adoptive parents, adopted children, as well as other persons, given that they permanently reside with and maintain a common household with an associate;

21) services shall mean any scope of procurement other than goods and works, in particular transport services, embracing technologies, scientific research, research and development, medical and household services, hire (rent), financial and advisory services, as well as current repair;

22) the scope of procurement shall mean goods, works or services procured by the customer under a single procurement procedure or as a simplified procurement, where bidders are allowed to submit bids/offers or negotiated offers (in the case of a negotiated procurement procedure) in respect of such goods, works or services. The customer shall determine the scope of procurement in the manner prescribed by the Authorised Body, applying the Unified Procurement Dictionary approved in the manner prescribed by law;

23) netback price shall mean the price specified by bidder in the bid/offer and listed according to the mathematical formula taking into account indicators of other evaluation criteria defined by the customer in the bidding documents/invitation to the simplified procurement;

24) bid of the simplified procurement bidder (hereinafter referred to as the bid) shall mean a bid for the scope of procurement or a part thereof (a lot), submitted by the bidder to the customer in compliance with the invitation to the simplified procurement and requirements to the scope of procurement;

25) public procurement (hereinafter referred to as the procurement) shall mean the purchase of goods, works and services by the customer in the manner prescribed hereby;

26) framework agreement shall mean a deed concluded by one or more customers (including a centralised procurement organisation) in the manner prescribed hereby with several bidders in order to determine basic terms for the procurement of certain goods and services with the aim to conclude relevant procurement contracts within the framework agreement validity term;

27) work shall mean the development of design documents for construction, research and design documents for the restoration of architectural monuments and urban planning, construction of new industrial and non-industrial facilities and structures, as well as expansion, reconstruction, overhaul and restoration of existing industrial and non-industrial facilities and structures, work on standardisation in construction, geological exploration, technical re-equipment of existing enterprises and accompanying services, including geodetic works, drilling, seismic surveys, aerial and

satellite surveys and other services included in the work cost estimates, unless the cost of such services exceeds the cost of the works themselves;

28) simplified procurement shall mean the purchase by the customer of goods, work and services, the value of which is equal to or exceeds 50 thousand hryvnias and is less than the value provided for in [clauses 1](#) and [2](#), Part 1 of Article 3 hereof;

29) bid validity term shall mean the term established by the customer in the bidding documents, after which the bid is considered invalid and is rejected;

30) appellant to the appellate authority (hereinafter referred to as the appellant) shall mean an individual or a legal entity that applied to the appellate authority in order to protect its rights and legally protected interests regarding the decision, action or omission of the customer contrary to public procurement law and violating the rights or legitimate interests of such an individual/legal entity;

31) bidding documents shall mean the documents on terms and conditions of the tender, which is developed and approved by the customer and is made publicly available in the electronic procurement system;

32) bid shall mean an offer in respect of the scope of procurement or a part thereof (a lot), which the bidder submits to the customer in accordance with the bidding documents;

33) datasheet for the scope of procurement shall mean a set of datasheets established by the customer determining the features of goods (products), service (services) or required to perform work on the construction facility, which may include indicators of environmental and climate impact, design features (including fitness for disabled persons), conformity, effectiveness, resource efficiency, safety, quality assurance procedure, requirements for the brand name under which a product is sold, terminology, symbols, trial and test methods, requirements for packaging, marking and labelling, user manuals, technological processes and processing technologies at any stage of the life cycle of works, goods or services;

34) goods shall mean products, items of any kind and purpose, including raw materials, products, equipment, technologies, items in solid, liquid and gaseous state, as well as services related to the delivery of such goods, unless the value of such services exceeds the value of the goods themselves;

35) authorised person (persons) shall mean an official (officer) or other person employed by the customer and appointed as a person in charge of organising and conducting procurement/simplified procurement procedures hereunder by virtue of the customer's own administrative decision or employment agreement (contract);

36) Authorised Body shall mean the central executive authority in charge of shaping and implementing the state policy in the field of public procurement;

37) bidder in the procurement/simplified procurement procedure (hereinafter referred to as the bidder) shall mean an individual, individual entrepreneur or legal

entity (being a Ukrainian resident or non-resident), including bidders' associations, that submitted a bid/offer or took part in negotiations in case of the negotiated procurement procedure.

For purposes of the present Law, the bidders' association shall include:

a separate legal entity established through the merger of resident legal entities;

a separate legal entity established through the merger of legal entities (resident and non-resident);

an association of incorporated or unincorporated non-resident legal entities;

38) centralised procurement organisations shall mean state-owned or municipal legal entities defined by the Cabinet of Ministers of Ukraine, the Council of Ministers of the Autonomous Republic of Crimea, and/or local authorities as customers organising and conducting tenders and procurement under framework agreements for the customers' benefits hereunder;

39) part of the scope of procurement (a lot) shall mean a part of goods, works or services determined by the customer, for which the bidders may submit bids/offers or proposals in negotiations in case of negotiated procurement procedure within the framework of the single procurement/simplified procurement procedure.

Article 2. Customers

1. Customers procuring hereunder shall include:

1) central government authorities (legislative, executive and judicial authorities), as well as law enforcement agencies of the state, authorities of the Autonomous Republic of Crimea, local authorities, and amalgamated territorial communities;

2) the Pension Fund of Ukraine, special-purpose insurance funds for insurance against temporary incapacitation, accidents at work and occupational diseases, health insurance and unemployment insurance (hereinafter referred to as social insurance agencies);

3) legal entities being enterprises, institutions, organisations (other than those defined in [clauses 1](#) and [2](#) of this Part) and their associations that meet the needs of the state or a territorial community unless they operate on an industrial or commercial basis, subject to one of the following signs:

the legal entity is the spending unit and the recipient of budget funds;

central government authorities/local authorities or other customers have a majority of votes in the supreme management body of the legal entity;

the state or municipal share of shares (stocks, equity interests) in the legal entity's authorised capital exceeds 50 per cent;

4) legal entities and/or business entities operating in one or more separate areas of business, defined in [Part 2](#) of this Article, and meeting at least one of the following features:

central government authorities, authorities of the Autonomous Republic of Crimea, local authorities or other customers have more than a 50 per cent share in the authorised capital of a legal entity and/or business entity; or such authorities or other customers have a majority of votes in the supreme management body of the legal entity and/or business entity or are entitled to appoint more than half of the executive body or supervisory board of the legal entity and/or business entity;

existence of special or exclusive rights, i.e. the rights granted by a central government authority or a local authority within their competence by virtue of any regulatory act and/or an individual act that restrict the operation in the areas defined by this Law to one or several persons, which significantly affects the ability of others to operate in such areas. The rights granted as a result of bidding (tenders, procurement procedures), information on which accompanied by the selection criteria was previously published and was publicly available, if the opportunity to take part in such bidding (tenders, procurement procedures) was not restricted, and if such rights were granted on the basis of objective criteria, shall not be considered special or exclusive rights.

2. For the purposes of [clause 4](#) of Part 1 hereof, activities in certain business fields shall mean the activities in one or more of the following fields:

1) providing transportation, distribution, storage (injection, extraction) and supply of natural gas for the benefit of third parties (customers), natural gas production and providing LNG unit services;

2) ensuring the production, transportation and supply of thermal energy to consumers;

3) ensuring the production, transmission, distribution, purchase, sale, and supply of electricity to consumers, dispatcher's supervisory control, as well as ensuring the electricity supply to/from the transmission/distribution system, and ensuring the functioning of the "day ahead" electricity market, intraday electricity market and balancing electricity market; organisation of purchase and sale of electricity in such markets;

4) ensuring the production, transportation and supply of drinking water; ensuring the functioning of centralised water disposal;

5) irrigation, drainage or drainage-humidifying melioration measures, if the volume of water to be used for drinking water supply is more than 20 per cent of the total water volume obtained due to irrigation or drainage systems;

6) providing services associated with the use of public railway infrastructure; ensuring the functioning of urban electric transport, including the underground, and operation of its facilities to provide transportation services, as well as to provide

passenger carriage by buses within cities, subject to conditions determined by the relevant executive authorities and local authorities and on the routes determined by them;

7) providing services of bus stations, ports, airports, as well as air navigation services of aircraft flights;

8) providing postal services;

9) developing oil and gas fields, coal and other solid fuel deposits; oil, coal and other solid fuel production.

3. For the purposes of [clause 4](#) of Part 1 hereof, activities in certain business fields shall not include:

1) production and supply of thermal energy and gas to public networks, if such production is a consequence of other production activities of the customer other than activities in the fields defined in this clause. In such a case, the thermal energy is supplied only for cost-effective operation of the customer's production facilities and income from such an activity does not exceed 20 per cent of the average annual income for the previous three years, including current year's income;

2) production, transmission and supply of electricity to public grids, if such production, transmission and supply are required for the customer's consumption to carry out production activities other than activities in the fields defined in this clause, and the electricity supplied by the customer to public grids depends on the level of its own consumption, given that own consumption equals to at least 70 per cent of the total electricity produced by the customer calculated using average annual production indicators for the previous three years, including the current year;

3) production, transmission and supply of drinking water to public networks, if such production, transmission and supply are required for the customer's consumption to carry out production activities other than activities in the fields defined in this clause, and the drinking water supplied by the customer for public use depends on the level of its own consumption, given that own consumption equals to at least 70 per cent of the total drinking water produced by the customer calculated using average annual production indicators for the previous three years, including the current year.

4. Categories of customers to be used herein:

1) central government authorities and local authorities specified in [clause 1](#), Part 1 of this Article;

2) social insurance agencies specified in [clause 2](#), Part 1 of this Article;

3) enterprises, institutions, and organisations specified in [clause 3](#), Part 1 of this Article;

4) legal entities and/or business entities operating in certain business areas specified in [clause 4](#), Part 1 of this Article.

Article 3. Scope of the Law

1. This Law shall apply:

1) to customers specified in [clauses 1—3](#), Part 1 of Article 2 hereof, given that the value of the scope of procurement of goods (products) and service (services) is equal to or exceeds 200 thousand hryvnias, and the value of work is equal to or exceeds 1.5 million hryvnias;

2) to customers specified in [clause 4](#), Part 1 of Article 2 hereof, given that the value of the scope of procurement of goods (products) and service (services) is equal to or exceeds 1 million hryvnias, and the value of work is equal to or exceeds 5 million hryvnias;

2) to customers specified in [Part 1](#) of Article 2 hereof that carry out simplified procurement hereunder and/or enter into contracts beyond the electronic procurement system under [Part 2](#) of this Article.

2. The customers shall carry out simplified procurement by means of the electronic procurement system in the manner prescribed hereby.

3. In the case of procurement of goods, work and services, the value of which does not exceed 50 thousand hryvnias, the customer should comply with the principles of public procurement and may use the electronic procurement system, including electronic catalogues for the procurement of goods. When non-using the electronic procurement system in the course of such procurement, the customer must publish a report on the procurement contract entered into without using the electronic procurement system in the electronic procurement system under [Article 10](#) hereof.

The report on the procurement contract entered into without using the electronic procurement system should contain the following information:

1) date and number of the contract/document (documents) confirming the purchase of goods (products), works and service (services);

2) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

3) name (for a legal entity) or last name, first name and patronymic (if any) (for an individual) of the goods supplier, contractor or service provider being a party to the procurement contract;

4) legal entity's identification code in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations or taxpayer-identification number or passport series and number (for individuals who refuse to accept the taxpayer identification number due to their religious beliefs, have officially notified the relevant controlling authority and have an appropriate mark in the passport) of the goods supplier, contractor or service provider;

5) location (for a legal entity) or place of residence (for an individual) of the goods supplier, contractor or service provider, and their telephone number;

6) the scope of procurement;

7) quantity, place and deadlines for goods delivery, work performance or the rendering of services;

8) price and term of the contract.

The report on the procurement contract entered into without using the electronic procurement system may contain other information.

4. Relations associated with public procurement shall be governed solely by this Law and may not be governed by other laws, except in cases provided for hereby.

This Law may be amended and/or changed solely by the law on amendments and/or changes hereto. If legislative changes to other legislation are required to implement the submitted bill on amendments and/or changes hereto, such changes shall be set out in the “Final Provisions” (transitional provisions) of the bill on amendments and/or changes hereto.

5. This Law shall not apply to the cases when the scope of procurement includes:

1) goods, work and services, the procurement of which is a state secret under the [Law of Ukraine](#) “On State Secrets”, or which require special security measures under the laws of Ukraine;

2) goods, work and services procured by foreign diplomatic missions of Ukraine;

3) financial services rendered in connection with the issue, purchase, sale or transfer of securities or other financial instruments;

4) acquisition and/or lease of land, buildings, other immovable property or property rights to land, buildings and other immovable property;

5) services of international arbitration courts and/or international arbitrations to consider and settle the disputes where the customer is a part;

6) goods, work and services procured under agreements between the central executive body in charge of shaping and implementing the state policy in the field of national security, in the military sector, defence and military construction sector, and specialised procurement organisations. Such goods, work and services shall be procured in accordance with the rules and procedures established by the relevant specialised procurement organisations and accounting;

7) services for scientific, research and technical activities financed on a competitive basis in the manner prescribed by [Articles 58](#) and [59](#) of the Law of Ukraine “On Scientific, Research and Technical Activities”;

8) employment agreements (contracts);

9) services for the production and distribution of audiovisual products and advertising for election campaigning;

10) goods and services related to design development and production of safety paper, banknotes, coins and national awards of Ukraine, their storage, transportation and accounting;

11) services required to make government borrowings as well as to service and redeem the national debt;

12) goods and services related to the transactions of the National Bank of Ukraine to ensure the control of gold and foreign exchange reserves, their placement, purchase and sale on the secondary securities market, as well as foreign exchange interventions through the purchase and sale of currency values on exchange markets;

13) services of financial institutions, including international financial organisations, regarding the granting of loans, guarantees and leasing, as well as services supporting financial services;

14) services procured by banks for the provision of banking services and making banking transactions under the laws of Ukraine [“On Banks And Banking”](#) and [“On The National Bank Of Ukraine”](#);

15) services provided by the National Bank of Ukraine in accordance with the law;

16) forms of identity documents and those confirming the citizenship of Ukraine, passports, forms of identity documents and those confirming the individual's special status, forms of other documents that under law of Ukraine require the use of special security features, ballots from the election of the President of Ukraine and/or People's Deputies of Ukraine, excise tax stamps manufactured by enterprises managed by the central executive authority implementing the state policy in the field of organisation and supervision over the manufacture of securities forms, strictly accountable documents, as well as goods and services required for their manufacture;

17) goods and services required by the Deposit Guarantee Fund to perform its functions and exercise its powers under the [Law of Ukraine](#) “On The Deposit Guarantee System” in terms of withdrawal of insolvent banks from the market;

18) services under contracts on public health care, rendered in accordance with the law;

19) goods and services subject to procurement under procurement contracts entered into by the central executive authority in charge of shaping and implementing the state policy in the field of health care and specialised procurement organisations. Following such procurement, the central executive authority in charge of shaping and implementing the state policy in the field of health care shall publish in the electronic procurement system an information report, the procedure for submission and publication of which shall be determined by the Authorised Body. Such goods and services shall be procured in accordance with the rules and procedures established by

the relevant specialised procurement organisations, subject to the relevant procedure, the list of such goods and services, and the list of the specialised organisations determined by the Cabinet of Ministers of Ukraine;

20) goods, work and services, which are delivered, performed and rendered by a supplier experienced in working in Europe and/or Asia and/or North America and/or South America and/or the Middle East for at least five (5) years (including its associates within the meaning of the [Tax Code of Ukraine](#)), required for research, technical and/or engineering services for geological exploration (geological study, exploration), drilling, development, extraction, well and hydrocarbon deposits stimulation (fracture stimulation, well workover, cool-tubing), their ground preparation for transmission by main gas and oil pipelines, as well as their processing;

21) haematopoietic stem cells, as well as works and services related to their acquisition. Following such procurement, the customer shall publish in the electronic procurement system a procurement report on the procurement contract entered into without using the electronic procurement system.

The restrictions specified in clauses 1 and 6, Part 5 of this Article shall not apply if the procurement is carried out under the [Law of Ukraine](#) “On Defence Procurement”.

{Part 5 of Article 3 has been supplemented by paragraph 23 under Law [No. 808-IX of 17 July 2020](#)}

6. This Law shall not apply if the customers specified in [clause 4](#), Part 1 of Article 2 of this Law procure the following:

1) goods, work and services manufactured, performed or rendered for the benefit of a customer or group of customers by an affiliate solely to ensure the operation of such a customer or group of customers in certain business areas.

For the purposes of this Law, separate subdivisions of the customer, the property and operations of which are indicated in the customer’s consolidated balance sheet, business entities, on which the customer has decisive influence, or business entities together with the customer under the decisive influence of another customer, shall be considered to be affiliates.

Decisive influence shall mean the cases when:

the customer owns a share in the authorised capital of the legal entity, including business entities, in the amount of more than 50 per cent thereof;

the customer has a majority of votes in the supreme management body of the business entity or is entitled to appoint more than half of the executive body or supervisory board of the business entity;

2) the goods procured for resale to third parties, given that the customer does not occupy a monopoly (dominant) position in the market of such goods, and other business entities are free to sell them on the same terms and conditions as the customer;

3) fuel and energy resources for the production of electric and thermal energy (including nuclear fuel (irradiated or non-irradiated, in particular neutron-absorbing rods) and nuclear materials); geological survey of mineral deposits;

4) crude hydrocarbons, petroleum products for further processing and sale as well as related and necessary services for: processing, production, carriage, freight, insurance, relocation, cargo carriage, storage, discharge/loading, quantity and quality inspection, customs brokerage, information and analytical services regarding market prices and exchange quotations, financial services, as well as services of exchanges, auctions, and electronic trading systems;

5) goods, work and services, if the prices (tariffs) for them are approved by public collegial authorities, other authorities within their competence or are determined in the manner prescribed by such authorities, including if such prices are determined at auctions;

6) goods, work and services under production distribution agreements entered into under the [Law of Ukraine](#) “On Production Distribution Agreements”;

7) goods and services on the “day ahead” market, intraday market and balancing market under the [Law of Ukraine](#) “On Electricity Market”;

8) electricity purchased and sold on the electricity market by a guaranteed customer, market operator, transmission system operator, or a party in charge of the balance of the balancing group, under the [Law of Ukraine](#) “On Electricity Market”;

9) services of the calculation administrator, commercial accounting administrator, market operator, or guaranteed customer under the [Law of Ukraine](#) “On Electricity Market”;

10) services for ensuring public interests in the electricity market operation under the [Law of Ukraine](#) “On Electricity Market”;

11) natural gas procured by the gas transmission system operator from the customer of transmission services in the amount of the positive daily imbalance allowed by such customer;

{Part 6 of Article 3 has been supplemented with clause 11 under Law [No. 1021-IX of 2 December 2020](#)}

11) natural gas procured by the customer of transmission services from the gas transmission system operator in the amount of the negative daily imbalance allowed by such customer;

{Part 6 of Article 3 has been supplemented with clause 12 under Law [No. 1021-IX of 2 December 2020](#)}

12) natural gas procured by the gas transmission system operator, gas-holder operator and gas distribution system operators to ensure their own business activities (including for their own production and technical needs, to cover costs and production

and technological expenses, as well as for balancing actions) under the [Law of Ukraine “On Natural Gas Market”](#), the [gas transmission system code](#), the [gas storage facilities code](#), and the [gas distribution systems code](#), given that such procurement takes place at commodity exchanges complying with the gas transmission code and regulated by the law, which determines the legal conditions for the establishment and operation (activity) of commodity exchanges.

{Part 6 of Article 3 has been supplemented with clause 13 under Law [No. 1021-IX of 2 December 2020](#)}

7. The customer shall purchase the goods, work and services, the value of which is equal to or exceeds 50 thousand hryvnias and is less than the value provided for in [clauses 1](#) and [2](#), Part 1 of this Article 3, without applying the simplified procurement procedure specified hereby, if:

1) the simplified purchase has been cancelled twice due to the absence of bidders. In such a case the scope of procurement, its technical and qualitative characteristics, as well as requirements to the bidder should not differ from those defined by the customer in the invitation to the simplified procurement;

2) work, goods or services can be performed, delivered or rendered solely by a certain business entity subject to one of the following cases:

the scope of procurement is the creation or acquisition of a work of art or artistic performance;

entering into a procurement contract with the winner of an architectural or artistic competition;

no competition for technical reasons;

the need to protect intellectual property rights;

entering into a procurement contract with a “last resort” supplier for electricity or natural gas;

3) there is an urgent need for procurement due to:

the emergence of external circumstances that make it impossible for customers to observe the simplified procurement deadlines;

challenging the customer’s decisions, actions or omissions after the evaluation of bidders’ bids, in the amount not exceeding 20 per cent of the expected value of the tender challenged;

termination of the procurement contract through the bidder’s fault for a period sufficient for the tender, in the amount not exceeding 20 per cent of the amount specified in the procurement contract terminated through the fault of such a bidder;

4) after entering into the procurement contract, the customer needs a supply of additional goods from the same supplier, if in case of a supplier change the customer

would have to purchase goods with other technical characteristics, which would lead to operation- and maintenance-related incompatibilities. Additional goods shall be purchased from the same supplier within three (3) years after the procurement contract date, unless the total value of such a supply exceeds 50 per cent of the procurement contract price;

5) after entering into the procurement contract, the customer needs to purchase additional similar work or services from the same bidder. The possibility and terms of such additional work or services may be provided for in the master procurement contract entered into following the tender/simplified procedure. Additional similar work or services shall be purchased from the same bidder within three (3) years after the procurement contract date unless the total value of such work or services exceeds 50 per cent of the price of the master procurement contract entered into following the tender/simplified procedure;

6) legal services are procured;

7) the goods are procured using an electronic catalogue;

8) goods and services are purchased from the enterprises of public organisations of persons with disabilities;

9) services required for fitness and sports events, physical culture and sports rehabilitation and to support the training and participation of national sports teams of Ukraine in international sports events, included in the Unified Schedule of Physical Culture and Sports Events of Ukraine, are procured.

{Part 7 of Article 3 has been supplemented with a new paragraph under Law [No. 1026-IX of 2 December 2020](#)}

When making procurement in cases provided for by this Part, the customer must publish a report on the procurement contract entered into without using the electronic procurement system in the electronic procurement system under [Article 10](#) hereof.

8. Features of procurement procedures defined hereby shall be determined by separate laws in respect of the following goods, works and services:

1) services for the training of specialists, academic personnel, educational research personnel and regular labour force, as well as recurrent training and retraining (postgraduate education) under the government order;

2) goods and services procured under the programs of the Global Fund to Fight AIDS, Tuberculosis and Malaria in Ukraine implemented in accordance with law;

3) energy services.

9. Features of procurement procedures, defined hereby, for guaranteed provision of defence needs (other than goods, work and services subject to procurement in the manner set forth in [clause 5](#), Part 5 of this Article) by the Ministry of Defence of Ukraine and its intelligence agency, the Ministry of Internal Affairs of Ukraine, the

Security Service of Ukraine, the National Guard of Ukraine, the National Police of Ukraine, the State Border Guard Service of Ukraine, the Foreign Intelligence Service of Ukraine, the State Service of Special Communications and Information Protection of Ukraine, the State Special Transport Service, the State Emergency Service of Ukraine, the Department of State Protection of Ukraine and other military units and/or branches during a special period, during a joint forces operation, during an anti-terrorist operation, when introducing a martial law or state of emergency, shall be determined by a separate law.

10. It is prohibited to purchase goods, work and services before/without procurement/simplified procurement procedures determined hereby and before/without entering into procurement contracts that provide for the customer's payment for goods, work and services before/without procurement/simplified procurement procedures determined hereby.

The customer shall not be entitled to divide the scope of procurement into parts in order to avoid an open tender/simplified procurement or application of this Law, in particular [Part 3](#) of Article 10 hereof.

Article 4. Procurement Planning and Other Pre-Requisites Thereof

1. The procurement shall be planned subject to the existing need to purchase goods, work and services. Scheduled procurement shall be included in the annual procurement plan (hereinafter referred to as the annual plan).

The customer shall publish the annual plan and changes thereto free of charge in the electronic procurement system within five (5) business days upon the approval of the annual plan and changes thereto.

The procurement shall be in compliance with the annual plan.

The annual plan must contain the following information:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) the scope of procurement with the code under the Unified Procurement Dictionary (in case the scope of procurement is divided into lots, such information must be indicated in respect of each lot) and the relevant classifiers of the scope of procurement and parts thereof (lots);

3) the budget amount assigned and/or the expected value of the scope of procurement;

4) code of [economic classification of budget expenses](#) (for budget funds);

5) procurement type and estimated start thereof:

procurement procedure — for customers specified in [clauses 1—3](#), Part 1 of Article 2 hereof, if the value of the scope of procurement of goods (products) and

service (services) is equal to or exceeds 200 thousand hryvnias, and the value of work is equal to or exceeds 1.5 million hryvnias;

procurement procedure — for customers specified in [clause 4](#), Part 1 of Article 2 hereof, given that the value of the scope of procurement of goods (products) and service (services) is equal to or exceeds 1 million hryvnias, and the value of work is equal to or exceeds 5 million hryvnias;

simplified procurement — for customers specified in [clauses 1—3](#), Part 1 of Article 2 hereof, if the value of the scope of procurement of goods (products) and service (services) is less than 200 thousand hryvnias, and the value of work is less than 1.5 million hryvnias;

simplified procurement — for customers specified in [clause 4](#), Part 1 of Article 2 hereof, given that the value of the scope of procurement of goods (products) and service (services) is less than 1 million hryvnias, and the value of work is less than 5 million hryvnias;

procurement contract entered into without using the electronic procurement system — for customers specified in [clauses 1—3](#), Part 1 of Article 2 hereof, in case of the procurement under Parts [2](#) and [6](#) of Article 3 hereof;

procurement contract entered into without using the electronic procurement system — for customers specified in [clause 4](#), Part 1 of Article 2 hereof, in case of the procurement under Parts [2](#) and [6](#) of Article 3 hereof;

6) in case a framework agreement is applied, the following information shall be specified:

the framework agreement validity term;

a party to the framework agreement (the customer or a centralised procurement organisation conducting procurement for the customer's benefit).

If the annual plan is published by a centralised procurement organisation, the name, location and identification code of the customer, being the beneficiary in procurement under the framework agreement, in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as its category, shall be additionally specified;

estimated value, taking into account the entire scheduled validity term of the framework agreement.

3. The annual plan shall omit the procurement not subject to this Law in the cases specified in Parts [5](#) and [6](#) of Article 3 hereof.

4. In order to plan the procurement and prepare for them, the customers may have preliminary market consultations for the purpose of market analysis, including may request and obtain advice and information from business entities. The customer may use such advice and information when preparing for the procurement, unless they

violate [Article 5](#) hereof. The market can be consulted through an electronic procurement system by sending questions by the customer and obtaining answers from business entities or by organising open meetings with potential bidders. The customer's preliminary market consultations shall not be deemed the business entities' participation in the preparation of requirements for the bidding documents.

Article 5. Principles of Public Procurement and Non-Discrimination of Bidders

1. Procurement shall comply with the following principles:

- 1) fair competition among the bidders;
- 2) maximum economy, efficiency and proportionality;
- 3) openness and transparency at all procurement stages;
- 4) non-discrimination and equal treatment of the bidders;
- 5) objective and fair selection of the winner of the procurement/simplified procurement procedure;
- 6) prevention of corruption and abuse.

2. Bidders (residents and non-residents) of all forms of ownership and incorporation shall take part in procurement/simplified procurement procedures on equal terms.

3. Customers shall ensure free access of all bidders to the procurement information provided for hereby.

4. Customers shall not be entitled to establish any discriminatory requirements for bidders.

Article 6. Ukraine's International Obligations in the Field of Procurement

1. If an international treaty of Ukraine ratified by the Verkhovna Rada of Ukraine provides for a procurement procedure other than that specified hereby, the provisions of the international treaty of Ukraine shall apply subject to the principles established in [Part 1](#) of Article 5 hereof.

2. The procurement of goods, work and services for the loans, facilities and/or grants provided under international treaties of Ukraine by the International Bank for Reconstruction and Development, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the International Development Association, the European Bank for Reconstruction and Development, the European Investment Bank, Nordic Investment Bank, as well as other international monetary and credit organisations, shall be in compliance with the rules and procedures established by such organisations, subject to the principles established in [Part 1](#) of Article 5 hereof, or in compliance with this Law if there are no such rules and procedures.

3. Procurement of goods, work and services on the terms of co-financing under projects implemented for the loans, facilities and/or grants provided by the

organisations specified in [Part 2](#) of this Article shall be in compliance with the rules and procedures established by such organisations, or in compliance with this Law if there are no such rules and procedures.

Section II

GOVERNMENT REGULATION AND SUPERVISION IN PROCUREMENT

Article 7. Government Regulation and Supervision in the Field of Procurement; Public Control

1. The Authorised Body shall regulate and implement the state policy in the field of procurement within the competence specified hereby.

2. The central executive authority in charge of implementing the state policy in the field of treasury servicing of budget funds, shall take the following measures:

1) before paying under the procurement contract, it shall check the availability of the annual plan, procurement contract and report on the procurement outcomes confirming the procurement/simplified procurement procedure and constituting the grounds for the procurement contract;

2) it shall prevent payments from the customer's account under the financial obligation under the procurement contract in the following cases:

lack of or non-compliance with the legal requirements of the required documents provided for in [clause 1](#) of this Part;

cancellation of the procurement/simplified procurement procedure;

entry into force of a judgment recognising the procurement/simplified procurement procedure as invalid and/or the procurement contract as null and void;

challenging under [Article 18](#) hereof for the period of the procurement procedure suspension;

available relevant decision of the appellate authority under [Article 18](#) hereof.

The availability of documents specified in [clause 1](#) of this Part shall be verified by reviewing the documents placed in the electronic procurement system.

3. When making payments under procurement contracts, banks shall verify the availability of a report on procurement outcomes by reviewing it in the electronic procurement system. In the absence of a report on the procurement outcomes, the payment order shall be deemed to be executed unduly.

4. The Accounting Chamber, the Antimonopoly Committee of Ukraine, and the central executive authority in charge of implementing the state policy in the field of public financial control shall exercise supervision in the field of public procurement within their competence as defined by the [Constitution](#) and Laws of Ukraine.

The authorities authorised to exercise supervision in the field of procurement shall not be entitled to interfere in the procurement procedure.

5. Public control shall be ensured through free access to all information on public procurement subject to disclosure hereunder, in particular by analysing and monitoring the information placed in the electronic procurement system, as well as by informing the authorities authorised to exercise supervision of the signs of procurement law violation (violations) found (such notification to be made through the electronic procurement system or in writing).

The public shall be engaged in supervision in the field of procurement under the Laws of Ukraine [“On Public Associations”](#), [“On Citizens’ Appeals”](#), [“On Access to Public Information”](#), [“On Information”](#), and [“On Open Use of Public Funds”](#).

Citizens, public organisations and their unions shall not be entitled to interfere with the procurement procedure/simplified procurement.

Article 8. Public Procurement Monitoring Procedure

1. The procurement procedure shall be monitored by the central executive authority in charge of implementing the state policy in the field of public financial control, and its interregional territorial bodies (hereinafter referred to as the government financial oversight bodies).

The procurement procedure shall be monitored during the procurement procedure, the conclusion of the procurement contract and the validity term thereof.

The procurement procedure shall not be monitored for compliance of the bidding documents with [Part 4](#) of Article 22 hereof.

Procurement procedures shall be also monitored in respect of procurement procedures, the features of which are provided for in the laws specified in Parts [8](#) and [9](#) of Article 3 hereof.

2. The decision to start the monitoring of the procurement procedure shall be taken by the head/deputy head (or a person authorised by the head) of the government financial oversight body subject to one or several of the following grounds:

1) automatic risk indicators data;

2) information received from central government authorities, people’s deputies of Ukraine and/or local authorities on the signs of violation (violations) of public procurement law;

3) publications in the mass media that contain information on the signs of violation (violations) of public procurement law;

4) signs of violation (violations) of public procurement law found by the government financial oversight body in the information published in the electronic procurement system;

5) information from public associations on the signs of violation (violations) of public procurement law found following the public control in the field of public procurement under [Article 7](#) hereof.

The following information may be used to analyse the data indicating signs of violation (violations) of public procurement law:

information published in the electronic procurement system;

information in unified state registers;

information in databases open for access by the central executive authority in charge of the implementing state policy in the field of public financial control.

3. The government financial oversight body shall publish a notice on the decision to start monitoring of the procurement procedure in the electronic procurement system within two (2) business days upon such a decision, indicating the unique number of the invitation to a competitive procurement procedure assigned by the electronic procurement system and/or the unique number of the notice of intention to enter into a procurement contract (in the case of a negotiated procurement procedure), as well as a description of the grounds for the procurement procedure monitoring.

The notice on the commencement of the monitoring of the procurement procedure shall not cease the procurement procedures defined hereby.

4. The monitoring of the procurement procedure may not exceed fifteen (15) business days from the next business day upon the publication of the notice on the commencement of the monitoring of the procurement procedure in the electronic procurement system.

5. During the monitoring of the procurement procedure, the official of the government financial oversight body in charge of the procurement procedure monitoring shall be entitled to request the customer through the electronic procurement system to provide clarifications (information, documents) on the decisions and/or actions or omissions being monitored during the procurement procedure monitoring. The electronic procurement system shall automatically make all such requests available to the public. Within three (3) business days upon the publication of the request to provide clarifications on decisions and/or actions or omissions being monitored during the procurement procedure monitoring, the customer should provide appropriate clarifications (information, documents) through the electronic procurement system.

Within the period of the procurement procedure monitoring, the customer may on the initiative provide clarifications for the decisions and/or actions or omissions being monitored during the procurement procedure monitoring.

6. Following the monitoring of the procurement procedure, the official of the government financial oversight body shall draw up and sign an opinion on the results of monitoring the procurement procedure (hereinafter referred to as the opinion). Such an opinion shall be approved by the head/deputy head of the government financial

oversight body. Such an opinion shall be published in the electronic procurement system within three (3) business days upon drawing up thereof.

7. The opinion must contain the following information:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations subject to the procurement procedure monitoring;

2) the scope of procurement with the code under the Unified Procurement Dictionary (in case the scope of procurement is divided into lots, such information must be indicated in respect of each lot) and the relevant classifiers of the scope of procurement and parts thereof (lots), as well as its estimated value;

3) a unique number of the invitation to the competitive procurement procedure assigned by the electronic procurement system and/or a unique number of the notice of intention to enter into a procurement contract (in the case of a negotiated procurement procedure);

4) a description of the violation (violations) of public procurement law found following the procurement procedure monitoring;

5) obligations to eliminate violations (violations) of public procurement law.

The opinion may contain additional information determined by the government financial oversight body.

If the monitoring of the procurement procedure finds no violations of public procurement law, the opinion shall contain the information on the absence of violations (violations) of public procurement law.

If the tender was cancelled or recognised as failed during the monitoring resulting in the revealed signs of violation of public procurement law, the government financial oversight body shall indicate the description of the violation without obligation to eliminate such a violation.

If the monitoring of the procurement procedure finds the signs of violation of the law and the measures to eliminate such violations are not within the competence of the government financial oversight body, the relevant authorities shall be notified thereof in writing.

8. The customer shall be entitled to apply to the government financial oversight body once within three (3) business days upon the opinion publication for clarification of the opinion and its obligations specified therein.

Within five (5) business days upon the opinion published by the government financial oversight body, the customer shall publish through the electronic procurement system the information and/or documents evidencing the elimination of the violation (violations) of public procurement law specified in the opinion, reasoned objections to

the opinion, or the information on the reasons for the inability to eliminate the identified violations.

9. In case the government financial oversight body confirms the fact of the customer's elimination of the violation (violations) of public procurement law specified in the opinion, and the government financial oversight body publishes the relevant notice in the electronic procurement system within five (5) business days upon the customer's publication of the corresponding information in the electronic procurement system, an official (officer) of the customer and/or authorised person of the customer shall not be held administratively liable for the violation of procurement law due to the violations that were eliminated by the customer under the opinion.

10. If the customer disagrees with the information specified in the opinion, may challenge the opinion in the court within ten (10) business days upon its publication, which shall be indicated in the electronic procurement system within the next business day upon the challenge date. The customer shall indicate in the electronic procurement system the information on the initiation of proceedings within the next business day upon the receipt of information on the initiation of such proceedings and the number thereof.

11. If the customer fails to eliminate the violation specified in the opinion, which led to the non-compliance with this Law, and the opinion has not been challenged in court, the government financial oversight body following the monitoring shall take actions to bring the customer to administrative liability for violations of public procurement law after the deadline for challenging in a court specified in [Part 10](#) of this Article. The number of the relevant report shall be indicated in the electronic procurement system the next business day upon the report drawing up, together with the date and number of commencement of proceedings to be indicated within the next business day upon receiving information on such proceedings commencement.

12. If the appellate authority accepts the appellant's complaint about consideration in the manner prescribed hereby, the government financial oversight body shall not decide to start monitoring the procurement procedure for those violations, circumstances and/or grounds that were or are subject to consideration by the appellate authority, regardless of the appellate authority's decisions on such violations, circumstances and/or grounds.

13. If the appellate authority accepts the appellant's complaint in the manner prescribed hereby after the decision to start monitoring the procurement procedure or after the opinion publication, then within the next business day upon the complaint publication by the appellant in the electronic procurement system, the head/deputy head of the government financial oversight body shall suspend the decision of the government financial oversight body until the publication of the appellate authority's decision, and the customer shall suspend the fulfilment of obligations to eliminate the violation (violations) of public procurement law specified in the opinion until the publication of the appellate authority's decision, in respect of the violations,

circumstances and/or grounds that were subject to consideration by the appellate authority, with a corresponding notice in the electronic procurement system.

14. After the customer publishes the appellate authority's decision in the manner prescribed by this Article, the violation (violations) of public procurement law specified in the opinion shall be eliminated to the extent not considered by the appellate authority.

15. In the case of challenge in court, the appellate authority shall not decide to start the procurement procedure monitoring in respect of the violations, circumstances and/or grounds that were or are the subject of court proceedings.

16. In case of the grounds specified in [Part 2](#) of this Article, which contain signs of violations and which were not considered by the appellate authority and/or the subject of challenging in a court of the appellate authority's decision, the decision to commence the monitoring of the procurement procedure for other signs of violations shall be taken after the publication of the appellate authority's decision in the electronic procurement system in the manner prescribed by [Article 18](#) hereof, or after the entry into force of the court decision.

17. The government financial oversight body and the customer shall exchange information as provided for by this Article in electronic form through the electronic procurement system.

18. The summary information specified in [clause 3](#), Part 1 of Article 9 hereof shall be submitted by the central executive authority in charge of implementing the state policy in the field of public financial control to the Authorised Body by March 1 of the year following the reporting budget year.

19. The opinion form and the procedure for its completion shall be determined by the central executive authority in charge of implementing the state policy in the field of public financial control.

20. The methods for determining automatic risk indicators, their list and application procedure shall be approved by the central executive authority in charge of implementing the state policy in the field of public financial control, in agreement with the Authorised Body.

Article 9. Authorised Body

1. The main functions of the Authorised Body shall be:

1) development and approval of regulatory acts required to enforce this Law and regulate state policy in the field of procurement;

2) analysis of the public procurement system operation;

3) drafting and submission to the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the Accounting Chamber of the annual report containing the analysis of the public procurement system operation (in terms of quantitative and value

indicators of procurement by procedures and scope of procurement, competition, and the number of complaints) and summarised information on the results of control in the field of procurement. The annual report must be submitted before 1 April of the year following the reporting budget year.

The annual report shall be published by the Authorised Body on its official website;

4) summarising procurement practices, including international ones;

5) study, aggregation and dissemination of best practices in the field of procurement;

6) ensuring the operation of the Authorised Body's web portal and the Authorised Body's information resource;

7) filling in of the Authorised Body's information resource;

8) cooperation with the public on issues related to the public procurement system improvement;

9) organisation of meetings and seminars on procurement issues;

10) international cooperation in the field of procurement;

11) development and approval of:

model bidding documents;

model regulations on the authorised person;

model regulations on the tender committee;

model method for determining the expected value of the scope of procurement;

model methods for determining the life cycle value;

the procedure for determining the scope of procurement;

the procedure for placing information on public procurement;

the features of procurement under framework agreements and the features of conclusion thereof;

forms and requirements for security for the bid/offer;

the procedure for organising testing of authorised persons;

the list of formal errors;

12) providing summarised answers of an advisory nature on the application of procurement law;

13) providing free of charge consultations of an advisory nature on procurement issues on the Authorised Body's information resource;

14) cooperation with central government authorities and public organisations to prevent corruption in the field of procurement;

15) informing the public of the public procurement policy and rules;

16) authorisation of electronic platforms and decision-making on disconnection of authorised electronic platforms from the electronic procurement system;

17) consideration of submissions regarding the determination and/or establishment of centralised procurement organisations;

18) joint development with other authorities of methods regarding the features of procurement in various areas and their publication on the Authorised Body's information resource.

2. The Authorised Body shall be entitled to act and take measures provided for by law to perform the functions assigned to it.

Section III

GENERAL TERMS AND CONDITIONS OF PROCUREMENT

Article 10. Disclosure of Procurement Information

1. The customer shall independently and free of charge publish the information on procurement through authorised electronic platforms in the electronic procurement system in the manner prescribed by the Authorised Body and this Law, as follows:

1) invitation to the competitive procurement procedures, bidding documents and draft procurement contract:

the call for open tender — at least 15 days before the deadline for bids submission, unless the procurement value exceeds the limits set forth in [Part 3](#) of this Article, and at least 30 days before the deadline for bids submission in case of exceeding such limits;

the call for competitive dialogue — at least 15 days before the deadline for bids submission, unless the procurement value exceeds the limits set forth in [Part 3](#) of this Article, and at least 30 days before the deadline for bids submission in case of exceeding such limits;

the call for selective tendering — at least 30 days before the deadline for obtaining the documents submitted for qualification-based selection;

2) the invitation to the simplified procurement and the draft procurement contract — at least six (6) business days before the deadline for bids submission;

3) amendments to the bidding documents and clarifications thereto (if any) in a machine-readable format — within a day upon the decision to amend or provide clarification to the documents.

Amendments to the bidding documents and the deadline for bids submission determined in accordance with each amendment to the bidding documents shall be showed chronologically;

4) amendments to the invitation to the simplified procurement and/or requirements to the scope of procurement — within a day upon the decision to amend them;

5) a notice with information on the framework agreement entered into (in case of procurement under framework agreements) — at least seven (7) days upon the framework agreement date;

6) the qualification-based selection record — within a day upon approval thereof;

7) the protocol of bids consideration — within a day upon approval thereof;

8) a notice of intention to enter into a procurement contract — within a day upon the decision on determining the winner of the procurement/simplified procurement procedure;

9) information on rejection of the bid/offer — within a day upon the decision on rejection;

10) a procurement contract and all annexes thereto — within three (3) business days upon the date of such a contract;

11) a notification of amendments to the procurement contract and amendments thereto in cases provided for in [Part 5](#) of Article 41 hereof — within three (3) business days upon the date of amendments;

12) the report on the procurement contract fulfilment — within 20 business days upon the procurement contract expiration or fulfilment by the parties, or termination thereof;

13) the report on the procurement contract entered into without using the electronic procurement system — within three (3) business days upon the date of the procurement contract.

2. The report on the outcomes of procurement using the electronic procurement system shall be published under [Article 19](#) hereof.

3. Invitation to competitive procurement procedures should be additionally published in the electronic procurement system in English within the period specified in [Part 1](#) of this Article if the expected procurement value exceeds the amount equivalent to:

for goods and services — 133 thousand euros;

for work — 5,150 thousand euros.

The euro exchange rate shall be determined in accordance with the official exchange rate set by the National Bank of Ukraine as of the date of publication of the

Invitation to a competitive procurement procedure in the electronic procurement system.

4. The customer may also publish the information specified in [Part 1](#) of this Article in other mass media, on the customer's website (if any) or on the websites of the relevant central government authorities and local authorities.

5. Tender/simplified procurement may not be conducted before/without publication of the invitation to a competitive procurement/simplified procurement procedure in the electronic procurement system under [Part 1](#) of this Article.

6. Access to information published in the electronic procurement system shall be free and gratuitous. Procurement information defined hereby shall be posted in the electronic procurement system free of charge through authorised electronic platforms.

Procurement information specified in [Part 1](#) of this Article shall be published in accordance with the requirements of the [Law of Ukraine](#) "On Access to Public Information", including in the form of open data.

Information other than that specified in [Part 1](#) of this Article may be published in the electronic procurement system.

Article 11. Organisation of the Customer's Procurement Activity

1. The authorised person determined or appointed by the customer by one of the following methods shall be liable for the organisation and conduct of the procurement/simplified procurement procedure:

1) by entrusting to the full-time employee (employees) the functions of the authorised person as additional work with the corresponding additional payment under the law;

2) by introducing a separate position (separate positions) into the staff list, which will perform the functions of an authorised person (authorised persons);

3) by signing an employment agreement (contract) in accordance with law.

2. When using the electronic procurement system, the authorised person shall enter the personal data into the electronic procurement system, give consent to their processing and update such data in case they change. Personal data entered by the authorised person into the electronic procurement system shall not be made publicly available.

3. The customer shall be entitled to appoint several authorised persons, given that each of them will be responsible for organising and holding specific procurement procedures/simplified procurement.

4. The person engaged by the customer (in case of such engagement) under the service contract for procurement/simplified procurement procedures may not be determined to be the authorised person.

5. The determining or appointment of an authorised person should not create a conflict between the interests of the customer and the bidder or between the interests of the bidders in the procurement/simplified procurement procedure, which may affect the objectivity and fairness of decisions on the winner of the procurement/simplified procurement procedure selection.

For the purposes of this Law, a conflict of interest shall mean a private interest of the customer's employee or any person or body acting on behalf of the customer and taking part in the procurement/simplified procurement procedure or may affect the results of such a procurement/simplified procurement procedure, which may affect the objectivity or fairness of its decisions-making or the acts or omissions during the procurement/simplified procurement procedure; and/or a conflict of interest shall mean a conflict between the private interest of the customer's employee or any person or body acting on behalf of the customer and taking part in the procurement/simplified procurement procedure and official or representative powers, which affects the objectivity or fairness of decision-making or the acts or omissions during the procurement/simplified procurement procedure.

6. When organising and holding the procurement/simplified procurement procedure, the authorised person must ensure the objectivity and fairness of the organisation and holding of procurement/simplified procurement procedures for the customer's benefit.

7. The authorised person shall act by virtue of an employment agreement (contract) with the customer or the customer's administrative decision and the relevant regulations. The authorised person must have a university degree (usually in law or in economy). If several authorised persons are determined/appointed, the customer shall decide on the distributions of their powers and responsibilities.

Officials and representatives of bidders, members of their families, as well as people's deputies of Ukraine, deputies of the Verkhovna Rada of the Autonomous Republic of Crimea and deputies of municipal, district, regional or oblast councils may not be determined or appointed as authorised persons.

8. Authorised persons may be trained in the organisation and implementation of public procurement, including remote online training.

To perform functions set forth herein, the authorised person shall confirm the required (basic) knowledge in the field of public procurement on the web portal of the Authorised Body by passing a free test. The procedure for organising testing of authorised persons shall be determined by the Authorised Body.

9. The model regulations on the authorised person shall be approved by the Authorised Body.

10. The authorised person shall:

1) plan procurement and shape an annual procurement plan in the electronic procurement system;

- 2) choose the procurement procedure;
- 3) conduct procurement/simplified procurement procedures;
- 4) provide equal conditions for all bidders, as well as objective and fair selection of the winner of the procurement/simplified procurement procedure;
- 5) ensure the drafting, approval and storage of relevant documents on public procurement determined hereby;
- 6) ensure the publication of information necessary to comply with this Law in the electronic procurement system;
- 7) perform other actions stipulated hereby.

The authorised person's decisions shall be formalised by a record indicating the decision date, to be signed by the authorised person.

11. The authorised person may engage other customer's employees to the preparation of bidding documents and/or invitation to the simplified procurement and requirements for the scope of procurement by the decision of the customer.

12. A working group consisting of the customer's employees may be created by the customer's decision to consider the bids/offers. In case of a working group creation, the authorised person shall be its chairperson and shall organise its work. The requirements of [paragraph 2](#), Part 7 of this Article shall apply to the composition of the working group. The working group shall take part in the consideration of bids/offers, in negotiations in case of a negotiated procedure. The decisions of the working group shall be advisory.

13. The customer may purchase goods (products) and/or services (services) through a centralised procurement organisation.

The centralised procurement organisation shall have all the rights and obligations of customers determined hereby, and shall be liable in accordance with the laws of Ukraine.

The customer shall enter into a procurement contract for goods (products) and/or service (services) with the winner of the procurement procedure following the tender and/or with the winner of the selection/competitive selection of procurement under a framework agreement, carried out for the benefits by the centralised procurement organisation.

Customers shall provide the centralised procurement organisation with the required information on the need for a tender (bidding) and/or procurement under framework agreements in accordance with the law.

The decision on the determining of a centralised procurement organisation may stipulate the mandatory procurement through a centralised procurement organisation for a certain list of customers and/or may specify a list of goods and/or services mandatory for procurement through a centralised procurement organisation.

Peculiarities of creation and operation of centralised procurement organisations shall be established by the Cabinet of Ministers of Ukraine.

14. The choice of a centralised procurement organisation by the customer for the organisation and conduct of procurement for the benefit shall not constitute public procurement within the meaning of this Law.

15. If electronic catalogues are created, they shall be generated and supported solely by the centralised procurement organisations.

The structure, [procedure](#) for the creation and use of electronic catalogues shall be determined by the Cabinet of Ministers of Ukraine.

Article 12. Electronic Procurement System

1. The electronic procurement system must be publicly available and guarantee non-discrimination and equal rights for all interested parties during registration, as well as equal access to information for all persons. Information and documents should be stored and exchanged subject to the guaranteed integrity of data on bidders and their bids/offers during the procurement/simplified procurement procedure, as well as guaranteed confidentiality until the opening of bids/offers.

2. When receiving the bids/offers, the electronic procurement system shall ensure:

1) recording of the date and exact time of bids/offers receipt;

2) no access of any persons to the received bids/offers (parts thereof) before the date and time of the submission deadline;

3) opening of the received bids/offers specified in the invitation to the competitive procurement/simplified procurement procedure.

3. When using the electronic procurement system in order to submit bids/offers and evaluate them, documents and data shall be created and submitted subject to the Laws of Ukraine [“On Electronic Documents and Electronic Document Management”](#) and [“On Electronic Trust Services”](#).

4. The electronic procurement system shall provide storage and proper security of all procurement information under the Law of Ukraine [“On Protection of Information in Information and Telecommunications Systems”](#), the possibility to cooperate with other information systems and networks that constitute the state’s information resources and access to such information to customers, bidders, bodies authorised to exercise supervision in the field of procurement, the appellate authority, the Authorised Body and other persons hereunder.

5. The electronic system shall meet the requirements for:

1) the ability to exchange information using the Internet;

2) the availability of publicly available means of telecommunications not restricting participation in procurement/simplified procurement procedures;

3) the availability of a system for electronic exchange of documents using identification methods, the requirements for which are determined by the Cabinet of Ministers of Ukraine;

4) the ability to identify bidders and determine the exact time and date of receipt of bids/offers (parts thereof), given that nobody has access to such data before the bids/offers submission deadline, as well as the time and date of their opening;

5) the availability of a data storage system that stores all the documents received from customers, bidders, the appellate authority, as well as bodies authorised to exercise supervision in the field of procurement for at least 10 years, was created during the bids/offers evaluation, and provides automatic data backup and recovery;

6) the ability to ensure the uninterrupted procurement process.

6. In case of opening and evaluation of bids/offers, the electronic procurement system should provide input/output of the data, reception of commands and display of results of their execution in an interactive online mode.

During the electronic auction, authorised electronic platforms must ensure compliance with the requirements set out in this article, equal and free access of all bidders to such platforms, and the ability for all interested parties to monitor the progress of the electronic auction in real time.

7. The procedure for authorisation of electronic platforms, disconnection of authorised electronic platforms and requirements for their operation, as well as requirements for the operation of the electronic procurement system, provision of online services, the procedure for providing access to them and the relevant fee shall be established by the Cabinet of Ministers of Ukraine.

8. The information shall be submitted during the procurement/simplified procurement procedure in electronic form through the electronic procurement system. Customers may not demand the bidders to submit the hardcopy of the information provided by them during the procurement/simplified procurement procedure.

9. During procurement/simplified procurement procedures, all documents drafted by the customer shall be in Ukrainian. At the same time, by decision of the customer, all documents may be accompanied by an authentic translation into another language. The text in Ukrainian shall prevail.

Article 13. Procurement Procedures

1. The competitive procedures for procurement may include:

open tender;

selective tendering;

competitive dialogue.

2. As an exception and in accordance with the conditions specified in [Part 2](#) of Article 40 hereof, customers may apply the negotiated procurement procedure.

3. The customer shall hold procurement procedures provided for in [Part 1](#) of this Article using the electronic procurement system.

Article 14. Simplified Procurement

1. The customer shall apply the simplified procurement using an electronic auction under [Article 30](#) hereof.

2. Simplified procurement shall include the following consecutive stages:

- 1) publication of the invitation to the simplified procurement;
- 2) clarification of the information specified by the customer in the invitation to the simplified procurement;
- 3) bids submission by the bidders;
- 4) an electronic auction under [Article 30](#) hereof;
- 5) consideration of the bid compliance with the terms of the invitation to the simplified procurement and the requirements for the scope of procurement;
- 6) selecting of the winner of the simplified procurement and entering into the procurement contract;
- 7) publishing of a report on the procurement outcomes under [Article 19](#) hereof.

3. The invitation to the simplified procurement published by the customer under [Article 10](#) hereof must contain the following information:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) the scope of procurement with the code under the Unified Procurement Dictionary (in case the scope of procurement is divided into lots, such information must be indicated in respect of each lot) and the relevant classifiers of the scope of procurement and parts thereof (lots);

3) information on technical, qualitative and other characteristics of the scope of procurement;

4) quantity and site for the goods delivery or scope and site for the performance of work or rendering of services;

5) the deadline for the goods delivery, performing works and/or providing services;

6) terms of payment;

7) expected value of the scope of procurement;

8) the period for clarifying the procurement information (at least three (3) business days);

9) the deadline for bids submission (the deadline for bids submission should be at least in five (5) business days upon the publication of the invitation to the simplified procurement in the electronic procurement system);

10) list of criteria and bid evaluation methods, indicating the ratio of criteria;

11) the amount and conditions for providing security for bids (if required by the customer);

12) the amount and conditions for providing security for the procurement contract (if required by the customer);

13) the minimum decrement of the price during the electronic auction within the range from 0.5 per cent to 3 per cent or in monetary units of the expected procurement value.

The invitation to simplified procurement may contain the following additional information:

4. Requirements to the scope of procurement determined by the customer may be indicated by uploading separate files to the invitation to the simplified procurement or in electronic form with separate fields in the electronic procurement system.

The customer may specify analogues and/or equivalents accepted in the bids in the requirements for the scope of the procurement, which contain references to a specific trademark or firm, patent, design or type of the scope of procurement, its source or manufacturer.

5. Invitation to the simplified procurement and requirements for the scope of the procurement must not contain requirements restricting competition and discriminating bidders.

6. The customer shall determine the requirements for providing security for the bid under [Article 25](#) hereof and security for the procurement contract under [Article 27](#) hereof.

7. During the information clarification period, the bidders in the simplified procurement may request the customer through the electronic procurement system to provide clarification on the information specified in the invitation to the simplified procurement, on the requirements for the scope of procurement and/or request the customer to eliminate a violation during the simplified procurement.

All requests for clarifications and/or requests to eliminate the violation shall be automatically published in the electronic procurement system without identifying the person requesting the customer to do so.

Within one business day from the date of their publication, the customer should provide clarification in response to the request of bidders in the simplified procurement

published in the electronic procurement system, and/or amend the invitation to the simplified procurement and/or requirements for the scope of procurement.

In case of amendments to the invitation to the simplified procurement, the customer shall extend the deadline for bids submission in the electronic procurement system for at least two (2) business days.

The customer shall be entitled to amend on the initiative the invitation to the simplified procurement and/or requirements for the scope of procurement before the deadline for the submission of the bid. Amendments made by the customer shall be posted and displayed in the electronic procurement system as new versions of the documents.

8. At least two (2) bids must be submitted for a simplified procurement using an electronic auction.

In case a single bid is submitted, after the deadline for bids submission, the electronic procurement system shall automatically proceed to the consideration of the bids for compliance with the conditions specified in the invitation to the simplified procurement and the requirements for the scope of procurement.

9. Bidders shall submit their bids following the period for clarification of the information specified by the customer in the invitation to the simplified procurement. The bids shall be submitted electronically by filling in electronic forms with separate fields indicating price information and other evaluation criteria (if established by the customer), and by downloading the necessary documents, confirming the compliance with the requirements specified by the customer, through the electronic procurement system.

The electronic procurement system shall automatically generate and send the bidder a notification of the receipt of the bid, indicating the date and time.

Each bidder may submit only one bid, including for the part of the scope of procurement (a lot) specified in the invitation to the simplified procurement.

The bids submitted after the submission deadline will not be accepted by the electronic procurement system.

The bid must contain a confirmation of the bidder's provision of the security for the bid, if such security is provided for in the invitation to the simplified procurement.

The bidder shall be entitled to amend or withdraw the bid before the submission deadline without losing security for the bid.

Such amendments or a statement of withdrawal shall be taken into account if they have been received by the electronic procurement system before the bid submission deadline.

10. The bids shall be opened in the manner provided for in paragraphs [1](#) and [2](#), Part 1 of Article 28 hereof.

11. The Customer shall consider the bidder's bid found the most economically advantageous following the electronic auction (if any) for compliance with the conditions specified in the invitation to the simplified procurement and the requirements to the scope of procurement.

The consideration term of the most economically advantageous bid should not exceed five (5) business days upon the electronic auction completion.

12. Following the bid evaluation and consideration, the customer shall select the winner.

The customer shall publish the notice of intention to enter into a procurement contract in the electronic procurement system.

If the most economically advantageous bid is rejected under [Part 13](#) of this Article, the customer shall consider the next bid of the bidder who submitted the next most economically advantageous bid based on the evaluation.

The next most economically advantageous bid shall be automatically selected by the electronic procurement system.

13. The customer shall reject the bid if:

1) the bid does not meet the conditions specified in the invitation to the simplified procurement and the requirements for the scope of procurement;

2) the bidder failed to provide the security for the bid if such security was required by the customer;

3) the bidder selected as the winner of the simplified procurement refused to enter into a procurement contract;

4) the bidder within one year before the date of publication of the invitation to the simplified procurement refused to sign the procurement contract with the customer conducting such simplified procurement (including due to the bidder's failure to enter into the contract) more than twice.

14. Information on the bid rejection within one day upon the relevant customer's decision shall be published in the electronic procurement system and shall be automatically sent to the bidder, whose bid was rejected through the electronic procurement system.

The bidder, whose bid was rejected, may request the customer to provide additional arguments on the reasons for the bid non-compliance with the terms and conditions specified in the invitation to the simplified procurement and the requirements for the scope of procurement. The customer must provide a response thereto within three (3) business days upon the receipt of such a request through the electronic procurement system.

15. The customer shall enter into a procurement contract with the bidder recognised as the winner of the simplified procurement within 20 days upon the decision on intention to enter into a procurement contract.

The procurement contract shall be entered into under [Article 41](#) hereof.

16. The report on the procurement outcomes shall be published in the manner provided for in [Articles 10](#) and [19](#) hereof.

17. The customer shall cancel the simplified procurement in the following cases:

- 1) no further need to purchase goods, work and services;
- 2) inability to eliminate violations that have arisen due to identified violations of the legislation on public procurement;
- 3) reduction of costs for the procurement of goods, work and services.

18. Simplified procurement shall be automatically cancelled by the electronic procurement system in the following cases:

- 1) rejection of all bids under [Part 13](#) of this Article;
- 2) no bids to participate in it.

Simplified purchase can be cancelled in part (to the extent of a lot).

19. The notice of the procurement cancellation shall be published in the electronic procurement system:

by the customer within one (1) business day upon the relevant customer's decision;

by the electronic procurement system within one (1) business day upon the automatic cancellation of the simplified procurement due to the rejection of all bids under [Part 13](#) of this Article or the absence of bids to participate in it.

Notice of the procurement cancellation shall be automatically sent to all the bidders by the electronic procurement system on the day of publication thereof.

20. In order to protect their rights and legal interests, the bidder in the simplified procurement may apply to the customer and/or to the customer controlling authority, or to the court.

The bidder in the simplified procurement may challenge customer's decisions and actions in court.

Article 15. Framework Agreements

1. Framework agreements shall be entered into following open tenders subject to this Article.

2. To enter into a framework agreement, the invitation to procurement must contain the following information:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) the scope of procurement with the code under the Unified Procurement Dictionary and the relevant classifiers of the scope of procurement and parts thereof (lots) (if any);

3) quantity and site for the delivery of goods or rendering of services;

4) expected value of the scope of procurement;

5) bid submission deadlines;

6) terms of payment;

7) language (languages) in which the bids should be drafted;

8) the amount, type and conditions for providing security for bids (if required by the customer);

9) bid opening date and time;

10) the minimum decrement of the price during the electronic auction in per cent or monetary units and the mathematical formula to be applied during the electronic auction to determine the indicators of other evaluation criteria;

11) list of criteria and bid evaluation methods, indicating the ratio of each criterion;

12) the term of the framework agreement, which may not exceed four (4) years;

13) the number of bidders to enter into a framework agreement;

14) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, for the benefit of which the procurement under the framework agreement takes place (in case of procurement under the framework agreement by a centralised procurement organisation for the customer's benefit).

The invitation to procurement to enter into a framework agreement must contain the following information:

3. The deadline for bids submission shall be set under [paragraph 2](#), Part 3 of Article 20 hereof; the bids shall be opened in the manner prescribed by [paragraph 3](#), Part 1 of Article 28 hereof; the bids shall be considered and evaluated in the manner prescribed by Parts [2](#) and [12](#) of Article 29 hereof.

4. A framework agreement shall be entered into with several bidders recognised as winners of the open tender, given that at least three (3) bidders participate therein.

In case the number of bids received is less than the declared number of bidders, or in case of rejection of received bids on the grounds provided for hereby, the customer

shall be entitled to enter into a framework agreement with the bidders whose bids have not been rejected, but at least with three (3) of them.

The framework agreement shall be concluded:

in the case of the customer's procurement under a framework agreement — by this customer and the winning bidders;

in the case of the centralised procurement organisation's procurement under a framework agreement — by this centralised procurement organisation, all customers interested in the procurement under the framework agreement, and all the winning bidders.

5. One customer may be a party to one or more framework agreements. Within seven (7) business days upon the framework agreement date, the customer shall publish a notice in the electronic procurement system with the information on the concluded framework agreement under [Article 10](#) hereof.

6. The notice with the information on the concluded framework agreement must contain the following information:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) the scope of procurement with the code under the Unified Procurement Dictionary and the relevant classifiers of the scope of procurement and parts thereof (lots) (if any);

3) preliminary quantity and site for the delivery of goods or rendering of services;

4) price per unit of goods;

5) reference number of the procurement procedure in the electronic procurement system;

6) the framework agreement date;

7) the framework agreement validity term;

8) each bidder's identification code in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations or taxpayer identification number or passport series and number (for individuals who refuse to accept the taxpayer identification number due to their religious beliefs, have officially notified the relevant controlling authority and have an appropriate mark in the passport) of the goods supplier or service provider being a party to the framework agreement;

9) location (for a legal entity) or place of residence (for an individual) of bidders being parties to the framework agreement, as well as their telephone numbers.

The notice with the information on the concluded framework agreement may contain other information.

7. The customer may to enter into a procurement contract for the relevant goods and services only with the bidders, with whom a framework agreement has been concluded.

A procurement contract shall be entered into under a framework agreement based on the results of selection or competitive selection.

8. The customer shall conduct selection and competitive selection using an electronic auction under [Article 30](#) hereof.

If all the essential terms of the procurement contract are specified in the framework agreement, the customer shall enter into the procurement contract following the selection among the bidders being parties to the relevant framework agreement. In such a case, the only selection criterion shall be the lowest price.

If the framework agreement contains not all the essential terms of the procurement contract, the customer shall enter into the procurement contract with the winner of the competitive selection conducted by the customer among the bidders being parties to the relevant framework agreement. The bids shall be evaluated, and the competitive selection winner shall be determined according to the lowest price and criteria, which are essential terms not specified in the framework agreement.

9. In order to determine the winner of the selection or competitive selection, the customer shall send an invitation to all participants being parties to the framework agreement to submit their bids for the conclusion of the procurement contract. The customer must set a deadline sufficient for the bidders to prepare their proposals.

Invitations to bidders and their bids may not provide for the change of the material terms of the procurement contract and the characteristics of the relevant scope of the procurement defined by the framework agreement.

Any decisions, actions or omissions of the customer and/or the centralised procurement organisation that violate the rights and legitimate interests of the bidder (bidders) following the selection or competitive selection shall be resolved in court.

10. Peculiarities of procurement under framework agreements and their conclusion shall be determined by the Authorised Body.

Article 16. Procurement Procedure Qualification Criteria

1. The customer shall require the bidders in the procurement procedure to submit documented information about their compliance with the qualification criteria.

2. The customer shall establish one or more of the following qualification criteria:

1) the bidder's possession of equipment, material and technical resources and technologies;

2) the bidder has appropriately qualified employees with the required knowledge and experience;

3) the availability of documented experience of performing a contract (contracts) on the similar scope of procurement;

4) financial solvency confirmed by financial statements.

3. In case of establishing the financial solvency qualification criterion, the customer may not require the proof of annual income (revenue) in excess of the expected value of the scope of procurement (pro rata to the expected value of the scope of procurement (a lot) of the scope of procurement is divided into parts).

If the customer establishes a qualification criterion for the procurement of work or services, such as the availability of equipment, material and technical resources and technology and/or the availability of employees with the necessary knowledge and experience, the bidder may use the capacity of other business entities as sub-contractors/co-contractors to confirm the compliance with such criteria.

4. During the selective tendering, the customer shall apply all the qualification criteria provided for by [Part 2](#) of this Article.

5. In case of participation of a bidders' association, the compliance with the qualification criteria shall be confirmed taking into account the generalised combined indicators of each member of such an association subject to the information provided by the association.

Article 17. Grounds for Rejection of Participation in the Procurement Procedure

1. The customer shall decide to reject the bidder's participation in the procurement procedure and shall be obliged to reject the bidder's bid or reject the participation in the negotiated procurement procedure (except for the cases specified in [clauses 2, 4, and 5](#), Part 2 of Article 40 hereof) if:

1) the customer has incontrovertible evidence that the bidder offers, gives or agrees to give, directly or indirectly, the remuneration in any form (a job offer, an item of value, services, etc.) to any official (officer) of the customer or another national authority in order to influence the decision on selection of the procurement procedure winner or the application of a certain procurement procedure by the customer;

2) information on the bidder-legal entity is entered into the Unified State Register of Persons that Committed Corruption or Corruption-Related Offences;

3) the bidder's official (officer) authorised by the bidder to be represented in the procurement procedure or an individual bidder has been brought to liability under the law for committing a corruption or corruption-related offence;

4) a business entity (bidder) has been brought to liability during the last three (3) years for violation provided for by [clause 4, Part 2 of Article 6](#), and [clause 1, Article 50](#) of the Law of Ukraine "On Protection of Economic Competition", in the form of anti-competitive concerted actions relating to misrepresentation of tender results;

5) an individual bidder has been convicted of a criminal offence committed for reasons of greed (in particular, related to bribery and money laundering), whose criminal record has not been expunged or removed in the manner prescribed by law;

{Clause 5, Part 1 of Article 17 as amended by Law [No. 954-IX of 3 November 2020](#)}

6) the bidder's official (officer) who has signed a bid (or a person authorised to sign a contract in the case of a negotiated procurement procedure) has been convicted of a criminal offence committed for reasons of greed (in particular, related to bribery, fraud and money laundering), whose criminal record has not been expunged or removed in the manner prescribed by law;

{Clause 6, Part 1 of Article 17 as amended by Law [No. 954-IX of 3 November 2020](#)}

7) the bid has been submitted by the bidder of the competitive procurement procedure or a bidder associated with other bidders and/or with an authorised person (persons) and/or with the customer's head takes part in the negotiated procedure;

8) the bidder has been recognised bankrupt in the manner prescribed by law, and the liquidation procedure has been initiated;

9) the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations lacks the information provided for by [clause 9](#), Part 2 of Article 9 of the Law of Ukraine "On State Registration of Legal Entities, Individual Entrepreneurs and Public Associations" (other than non-residents);

10) a bidder-legal entity (other than non-residents) lacks an anti-corruption programme or a person authorised to implement an anti-corruption programme if the value of purchasing goods (products), services (services) or work equals to or exceeds 20 million hryvnias (including for a lot);

11) a bidder is a person subject to a sanction in the form of a ban on public procurement of goods, work and services under the [Law of Ukraine](#) "On Sanctions";

3) the bidder's official (officer) authorised by the bidder to represent in the procurement procedure or an individual bidder has been brought to liability under the law for committing an offence related to child labour or any forms of human trafficking;

13) the bidder has arrears of taxes and fees (mandatory payments), unless such bidder has taken measures to install and defer such arrears in the manner and on conditions specified in the legislation of the country of incorporation of such a bidder.

2. The customer may decide to refuse the bidder to participate in the procurement procedure and may reject the bidder's bid if the bidder has failed to fulfil its obligations under the previous procurement contract with the same customer, which led to its early termination, and if sanctions in the form of fines and/or indemnification were applied within three (3) years upon the early termination of such a contract.

A bidder under the circumstances specified in [Part 2](#) of this Article may provide confirmation of the measures taken to prove the reliability, despite the availability of appropriate grounds for rejection of participation in the procurement procedure. To do this, the bidder (a business entity) must prove that he has paid or has agreed to pay the relevant obligations and compensation for damages.

If the customer considers such proof to be sufficient, the bidder's participation in the procurement procedure may not be rejected.

3. The bidder in the electronic procurement system when submitting the bid shall confirm the absence of the grounds provided for in [clauses 5, 6, 12 and 13, Part 1](#) and [Part 2](#) of this Article. The customer shall determine the legal documentary method to confirm the absence of the grounds provided for in clauses 5, 6, 12 and 13, Part 1 and Part 2 of this Article for submission of such documents only by the winner of the procurement procedure through electronic procurement system.

4. The customer shall not request the bidders to provide documents confirming the absence of the grounds specified in [clauses 1 and 7, Part 1](#) of this Article.

5. The customer shall not require documentary evidence of public information published as open data under the [Law of Ukraine](#) "On Access to Public Information" and/or recorded in public unified state registers with free access, or public information available in the electronic procurement system.

6. The winner of the procurement procedure must provide the customer with the documents, confirming the absence of the grounds provided for by [clauses 2, 3, 5, 6, 8, 12 and 13, Part 1](#) and [Part 2](#) of this Article, by publishing them in the electronic procurement system. The winner shall provide such documents within a period not exceeding ten (10) days upon the publication of the notice of intention to enter into a procurement contract in the electronic procurement system.

7. If the bidder intends to engage other business entities as sub-contractors/co-contractors in the scope of at least 20 per cent of the value of the procurement contract in case of procurement of work or services to confirm the compliance with the qualification criteria under [Part 3](#) of Article 16 hereof, the customer shall check such business entities for the absence of the grounds specified in [Part 1](#) of this Article.

Article 18. Appellate Authority and the Manner of Challenging Procurement Procedures

1. The Antimonopoly Committee of Ukraine as an appellate authority aiming at fair and effective protection of the rights and legitimate interests of persons engaged in procurement procedures shall establish a permanent administrative board (boards) to consider complaints of violations of public procurement law. The permanent administrative board (boards) shall make decisions on behalf of the Antimonopoly Committee of Ukraine.

The permanent administrative board (boards) of the Antimonopoly Committee of Ukraine for complaints of violation of public procurement law shall operate through

three (3) state commissioners of the Antimonopoly Committee of Ukraine. The chairman of the permanent administrative board (boards) of the Antimonopoly Committee of Ukraine must have a university degree.

A member of the permanent administrative board (boards), who is an associate of the appellant or the customer, may not participate in the consideration and adoption of decisions on such a complaint, and must be replaced by another state commissioner of the Antimonopoly Committee of Ukraine, appointed by the Chairman of the Antimonopoly Committee of Ukraine, for the period of consideration and adopting decisions on such a complaint.

The procedure of a permanent administrative board (boards) shall be established under the [Law of Ukraine](#) “On the Antimonopoly Committee of Ukraine”, unless otherwise provided for hereby.

2. The complaint to the appellate authority shall be submitted by the appellant as an electronic document through the electronic procurement system.

The complaint submitted to the appellate authority shall be subject to a fee charged through the electronic procurement system on the day of the complaint. After that the complaint shall be automatically recorded in the register of complaints and its registration card is formed, which together with the complaint shall be automatically published in the electronic procurement system.

If the customer determines parts of the scope of procurement (lots) within the single procurement procedure, when filing a complaint against a separate lot (separate lots), registration cards shall be created for each lot individually.

3. If a complaint is entered in the register of complaints and formalised by a registration card, it may not be withdrawn.

4. The complaint registration card must contain the following information:

1) the date and time of the appellant's filing the complaint in the electronic procurement system;

2) the complaint number assigned in the electronic procurement system when filing thereof;

3) a unique number of the invitation to the competitive procurement procedure published in the electronic procurement system or a unique number of the notice of intention to enter into a procurement contract (in the case of a negotiated procurement procedure);

5. A complaint must contain the following information:

1) the name of the customer, decisions, actions or omissions of which are challenged;

2) the appellant's name (title) and place of residence (location);

3) the grounds for filing a complaint, reference to violations of the procurement procedure or customer's decisions, actions or omissions, and the factual circumstances that may confirm this;

4) substantiation of the existence of violated rights and legally protected interests regarding the customer's decision, action or omissions, which contradict public procurement law and which result in the violation of the rights or legitimate interests of such a person;

5) appellant's claims and rationale thereof.

The complaint shall be accompanied by documents and materials (if any) in electronic form (including pdf-files), evidencing the violation of the procurement procedure or the illegality of the customer's decisions, actions or omissions.

Immediately after entering into the register of complaints, the complaint with accompanying documents and its registration card shall be automatically sent to the appellate authority and the customer.

6. If the appellate authority decides to satisfy or partially satisfy such a complaint following its consideration, dismisses it if the customer eliminates the violations specified in the complaint hereunder, or decides to terminate the complaint if the customer eliminates the violations specified in the complaint hereunder, the fee for filing a complaint shall be returned to the appellant, and in other cases it shall be transferred to the State Budget of Ukraine.

7. The fee amount, fee payment [procedure](#) and the procedure for its repayment to the appellant in the cases provided for in this Article shall be determined by the Cabinet of Ministers of Ukraine.

8. Complaints concerning the bidding documents and/or customer's decisions, actions or omissions, which occurred before the deadline for bids submission, may be filed with the appellate authority upon the publication of the invitation to the competitive procurement procedure, but at least four (4) days before the date set for the submission of bids.

Complaints concerning customer's decisions, actions or omissions, which occurred after the evaluation of the bids, shall be filed within ten (10) days upon the day when the appellant learned or should have learned of the violation of the rights due to the customer's decisions, actions or omissions, but before concluding the procurement contract.

Complaints concerning customer's decisions, actions or omissions, which occurred after bids consideration, the procedure of which is provided for by [Parts 2](#) and [12](#) of Article 29 hereof, shall be filed within five (5) days upon the publication of the bid consideration report in the electronic procurement system, if the invitation to the competitive procurement procedure is published under [Part 3](#) of Article 10 hereof.

If the customer amended the bidding documents after the deadline for submission of the bids specified in the invitation to the competitive procurement procedure, the unamended provisions of the bidding documents shall not be subject to challenge.

If a complaint (complaints) was (were) filed with the appellate authority to challenge the provisions of the bidding documents, and therefore the appellate authority made one or more decisions on the merits, then after the deadline specified for submission of bids in the invitation to the competitive procurement procedure, the provisions of the bidding documents uncovered by the complaint (complaints) before the expiration of this term shall not be subject to challenge.

In case of violation of the deadlines specified in the [paragraphs 1—3](#) of this Part, complaints shall not be automatically accepted by the electronic procurement system.

9. Following the deadlines established for the bids submission in the invitation to the competitive procurement procedure, complaints can be submitted only in respect of the amendments to the bidding documents made by the customer.

10. Complaints regarding concluded procurement contracts and their invalidity hereunder, including claims for damages to the appellant due to violation of this Law, shall be considered in court.

11. Within a period not exceeding three (3) business days upon the complaint recording in the register of complaints, the appellate authority must place in the electronic procurement system a decision to accept the complaint for consideration, indicating the date, time and place of the complaint consideration or a reasoned decision to dismiss the complaint, or a decision to terminate the complaint. The electronic procurement system shall automatically publish the decisions made by the appellate authority and shall send notifications to the appellant and the customer.

12. The appellate authority shall dismiss the complaint if:

1) the appellant files a complaint regarding the same violation, in the same procurement procedure and on the same grounds that have already been the subject of consideration of the appellate authority, and in respect of which the appellate authority has delivered a decision;

2) the complaint does not meet the requirements of Parts [2—5](#) and [9](#) of this Article;

3) the customer has eliminated the violations specified in the complaint as provided for herein;

4) before the complaint filing, the customer has decided to cancel the tender or to recognise it as failed, or to cancel the negotiated procurement procedure, except in the case of appeal against any of these decisions.

13. The appellate authority shall decide to terminate the complaint consideration if the appellate authority establishes the circumstances specified in [clauses 1—3](#), Part 12 of this Article after the complaint acceptance for consideration.

14. The date of the complaint consideration commencement shall be the date of publication of the complaint registration card in the electronic procurement system.

The term for complaint consideration by the appellate authority shall be 10 business days upon the complaint consideration commencement. This term can be reasonably extended by the appellate authority up to 20 business days.

15. Decisions following the consideration of complaints shall be taken at a meeting of the permanent administrative board (boards) of the Antimonopoly Committee of Ukraine for complaints of violations of public procurement law.

The appellant and/or the customer may take part in the complaint consideration, including through the use of telecommunications systems in real time mode. Consideration of the complaint shall be open. Anyone can attend the procedure. Persons present during the consideration may use photo, video and audio recording equipment. The operative part of the decision made by the appellate authority shall be announced in public.

16. The appellate authority shall consider the complaint and make a decision on its basis within the scope of information received on the complaint and the data posted in the electronic procurement system. The appellate authority shall take decisions on the complaints solely at its meetings.

The appellate authority may engage representatives of national authorities (in agreement with the heads of national authorities), as well as experts and specialists, who cannot be associates and have special knowledge necessary for professional and fair consideration of the complaint, to obtain advice and expert opinions. The appellant and the customer may provide the opinions of experts and specialists possessing specialised knowledge. The opinion of such representatives of national authorities, experts and specialists shall be published in the electronic procurement system and attached to the complaint case file.

To consider complaints, the appellate authority may request and receive electronically the relevant information, documents and materials on procurement procedures from customers, bidders, regulatory authorities, the Authorised Body, and other persons. The procedure for organising such requests and obtaining information through the electronic procurement system shall be determined by the appellate authority.

Customers, bidders, regulatory authorities, the Authorised Body, and other persons must send electronically to the appellate authority the relevant information, documents and materials on the procurement procedures within three (3) business days upon the receipt of the relevant request.

Materials that the appellant and/or the customer deems necessary to attach to the complaint must be submitted through the electronic procurement system within three (3) business days before the complaint consideration by the permanent administrative

board (boards) of the Antimonopoly Committee of Ukraine for consideration of complaints on the violation of public procurement law.

17. After the appellant files a complaint to the appellate authority, the electronic procurement system shall automatically suspend the commencement of the electronic auction and shall not publish the customer's decision to cancel the tender or recognise it as failed, to cancel the negotiated procurement procedure, procurement contract and report on the outcomes of procurement.

The Customer shall be prohibited from taking any action and making any decisions regarding the procurement procedure, including decisions to cancel the tender or recognising it as failed, to cancel the negotiated procurement procedure and/or to enter into a procurement contract, except for actions aimed at eliminating violations specified in the complaint.

If the customer eliminates the violations specified in the complaint, the customer must notify the appellate authority thereof and place the relevant proof in the electronic procurement system within one (1) business day upon the violation elimination.

It is prohibited to enter into a procurement contract during the challenging procedure.

The complaint consideration shall suspend the running of the periods established by [Part 6 of Article 33](#) and [Part 7 of Article 40](#) hereof.

The duration of such periods shall continue from the day following the day of the decision made by the appellate authority following the complaint consideration, i.e. the decision to terminate the complaint or the decision to dismiss the complaint.

Following the appellate authority's decision made following the consideration of the complaint on refusal to satisfy the complaint, the decision to terminate the complaint or the decision to dismiss the complaint, the electronic procurement system shall automatically, not earlier than two days upon posting of such a decision in the electronic procurement system, determine the date and time of the electronic auction and shall send notifications to all persons who have submitted their bids.

18. Following the complaint consideration, the appellate authority shall be entitled to take the following decisions:

1) on the presence or absence of violations of the procurement procedure (including violation of the procedure for disclosure or non-disclosure of information on procurement procedures provided for hereby);

2) on the measures to be taken to eliminate violations, in particular, to oblige the customer to cancel the decisions in full or in part, provide the required documents, clarifications, eliminate any discriminatory conditions (including those specified in the datasheet, which is an integral part of the bidding documents), bring the bidding documents in compliance with the law or if it is impossible to correct the violations, cancel the procurement procedure.

19. Following the complaint consideration, the appellate authority shall take a reasoned decision specifying:

1) the appellate authority's opinion on the presence or absence of a violation of the procurement procedure;

2) the appellate authority's opinion on the full or partial satisfaction of the complaint on the dismissal thereof;

3) the grounds and rationale for the decision;

4) if the complaint is satisfied in full or in part — the obligation for the customer to eliminate the violation of the procurement procedure and/or resume the procurement procedure upon the previous legal decision or lawful action of the customer.

20. The decision of the appellate authority shall contain the following information:

1) the name of the appellate authority;

2) a summary of the complaint;

3) the statement of reasons of the decision;

4) the operative part of the decision;

5) the period for appealing the decision.

21. Within one (1) business day after the decision following the complaint consideration, the appellate authority shall provide information in the electronic procurement system on the operative part of the decision; within three (3) business days upon delivering the decision, the appellate authority shall publish the decision in the electronic procurement system. Immediately after placement in the electronic procurement system, the decision following the complaint consideration shall be automatically published in the electronic procurement system and shall be sent to the appellant and the customer.

22. Appellate authority's decisions shall come into force upon their delivery and shall be binding on customers and persons they relate to.

If an appellate authority's decision delivered following the appellate authority's consideration has not been challenged in court, such a decision must be enforced within 30 days upon its delivery by the appellate authority.

23. An appellate authority's decision may be challenged by the appellant or the customer in the district administrative court, the territorial jurisdiction of which extends to Kyiv, within 30 days upon its publication in the electronic procurement system.

24. The right to challenge shall not limit the appellant's right to challenge in the court without prior appeal to the appellate authority.

Article 19. Report on the Outcomes of Procurement Using the Electronic Procurement System

1. The report on the outcomes of procurement using the electronic procurement system must contain:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) the scope of procurement with the code under the Unified Procurement Dictionary (in case the scope of procurement is divided into lots, such information must be indicated in respect of each lot) and the relevant classifiers of the scope of procurement and parts thereof (lots);

3) quantity and site for the goods delivery or scope and site for the performance of work or rendering of services under the concluded procurement contract, including relevant codes under the Unified Procurement Dictionary. In case the procurement contract is divided into lots, such information must be provided for each lot;

4) type of procurement;

5) evaluation criteria applied;

6) the number of bidders and the name and location of the bidder being the party to the procurement contract;

7) bids/offers prices (bid price at negotiations in case of the negotiated procurement procedure) and the amount specified in the procurement contract;

8) the date of publication of the notice with the information on the concluded framework agreement, under which the procurement contract is entered into (in case of procurement under framework agreements), published in the electronic procurement system under [Article 10](#) hereof;

9) the date of publication of the notice of intention to enter into a procurement contract published in the electronic procurement system under [Article 10](#) hereof;

10) the date of publication of the invitation to a competitive procurement/simplified procurement procedure in the electronic procurement system under [Article 10](#) hereof;

11) the grounds for decision not to enter into a procurement contract, if no procurement contract was entered into following the tender/simplified procurement;

12) procurement contract date;

13) availability/lack of the grounds provided for in [Article 17](#) hereof (in case of procurement procedures);

14) summary of the availability and compliance with the requirements of the documents provided for by law confirming the bidders' compliance of bidders with the qualification criteria under [Article 16](#) hereof (in case of procurement procedures);

15) full name and location of each business entity that will be engaged by the winner, being a party to the procurement contract, to the rendering of services as a co-contractor or to work performance as a sub-contractor, to the extent of at least 20 per cent of the procurement contract (in case of procurement of work or services).

2. The report on the outcomes of procurement shall be automatically generated by the electronic procurement system and published within a day following the publication by the customer of the procurement contract in the electronic procurement system, cancellation of the tender/simplified procurement or recognition of the tender as failed.

Section IV OPEN TENDER

Article 20. Open Tender Application Conditions

1. Open tender shall be the main procurement procedure.
2. All interested parties may submit their bids during the open tender. At least two bids must be submitted for the open tender to be hold.
3. The deadline for bids submission may not be less than fifteen (15) days upon the publication of the call for open tender in the electronic procurement system.

If the call for open tender is published under [Part 3](#) of Article 10 hereof, the deadline for bids submission may not be less than 30 days upon the date of its publication.

Article 21. Notification of the Open Tender

1. The call for open tender shall be published free of charge in the electronic procurement system under [Article 10](#) hereof.
2. The call for open tender must contain the following information:
 - 1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;
 - 2) the scope of procurement with the code under the Unified Procurement Dictionary (in case the scope of procurement is divided into lots, such information must be indicated in respect of each lot) and the relevant classifiers of the scope of procurement and parts thereof (lots);
 - 3) quantity and site for the goods delivery, scope and site for the performance of work or rendering of services;
 - 4) expected value of the scope of procurement;
 - 5) the deadline for the goods delivery, performing works and/or providing services;
 - 6) bid submission deadlines;

7) terms of payment;

8) language (languages) in which the bids should be drafted;

9) the amount, type and conditions for providing security for bids (if required by the customer);

10) the date and time of bids opening, if the call for open tender is made publicly available under [Part 3](#) of Article 10 hereof;

11) the minimum decrement of the price during the electronic auction within the range from 0.5 per cent to 3 per cent of the expected procurement value or in monetary units.

12) mathematical formula to calculate netback price (if applicable);

The call for open tender may contain the following additional information:

The date and time of bids opening, other than in the case provided for by clause 10, Part 1 of this Article, and the date and time of the electronic auction shall be automatically determined by the electronic procurement system on the day of the customer's publication of the call for open tender in the electronic procurement system.

Article 22. Bidding Documents

1. Bidding documents shall be made publicly available by the customer free of charge together with the call for open tender in the electronic procurement system by filling in the fields in the electronic procurement system. Bidding documents shall not be subject to copyright and/or related rights.

Bidding documents shall contain the following information:

1) guidelines on preparing the bids;

2) one or more qualification criteria under [Article 16](#) hereof, the grounds established by [Article 17](#) hereof, and information on the method of confirming the bidders' compliance with the established criteria and requirements in accordance with the law. The Customer shall not require documented evidence of compliance with the grounds provided for by Article 17 hereof if such information is publicly available and published as open data under the [Law of Ukraine](#) "On Access to Public Information", and/or is in open unified state registers with free access.

For the association of bidders, the customer shall specify the conditions for providing information and the method to confirm the compliance of such bidders with the established qualification criteria and grounds provided for by [Article 17](#) hereof;

3) information on the required technical, qualitative and quantitative characteristics of the scope of procurement, including the relevant data sheet (and/or plans, drawings, pictures or description of the scope of procurement if required). Technical and qualitative characteristics of the scope of procurement, as well as the data sheets for

the scope of procurement, must be determined by the customer subject to [Part 4](#) of Article 5 hereof;

4) information on markings, test reports or certificates confirming the compliance of the scope of procurement with the customer's requirements (if required);

5) goods quantity and the site for their delivery;

6) the site where the work is to be performed or services are to be rendered, as well as the scope of relevant work and/or services;

7) the deadlines for the goods delivery, performing works and/or providing services;

8) draft procurement contract with mandatory indication of the procedure for changing its terms and conditions;

9) a description of a separate part or parts of the scope of procurement (a lot), which may be the subjects of the bids, if bidders are allowed to submit bids in respect of a part of the scope of procurement (a lot). The customer may provide for the possibility of concluding one procurement contract with one and the same bidder in case it is selected as a winner for several lots;

10) list of criteria and bid evaluation methods, indicating the ratio of each criterion;

If a life cycle cost criterion is applied, the bid evaluation methods should include a description of all cost components and a list of documents and information to be provided by bidders to confirm the cost of the life cycle components. The Customer may apply the current discount rate of the National Bank of Ukraine if it is necessary to discount the deferred life cycle costs. The life cycle cost can be calculated as the sum of all life cycle costs or the sum of all life cycle costs divided by the unit of account of the scope of the procurement operation;

11) the bid validity term, during which the bids are deemed to be valid, but at least 90 days upon the deadline for bids submission;

12) currency, in which the bid price must be indicated;

13) language (languages) in which the bids should be drafted;

14) bid submission deadlines;

15) the amount and conditions for providing security for bids (if required by the customer);

16) the amount, type, period and conditions for providing, returning and non-returning of the security for the procurement contract (if required by the customer);

17) last name, first name and patronymic, position and e-mail address of one or more customer's officials authorised to communicate with the bidders;

18) requirement for the bidder to indicate the information (full name and location) in the bid for each business entity the bidder plans to engage in the performance of work or rendering of services as a sub-contractor/co-contractor, to the extent of at least 20 per cent of the procurement contract (in case of procurement of work or services);

19) description and examples of formal (insignificant) errors by the bidder, which will not result in the rejection of their bids. Formal (insignificant) errors shall mean the errors associated with the execution of a bid, which do not affect the bid content, namely clerical errors and misprints.

3. The bidding documents may contain other information provided for by law, which the customer deems necessary to include in the bidding documents.

The bidding documents may contain the rules for indicating of cash equivalent in national or foreign currency in the procurement contract at the official exchange rate set by the National Bank of Ukraine as of the date of the electronic auction.

4. The bidding documents should not contain any requirements restricting competition and discriminating against bidders, as well as requirements for documentary confirmation of information on compliance with the bidding documents requirements, if such information is public, published as open data under the [Law of Ukraine](#) “On Access to Public Information” and/or can be found in open unified state registers with free access.

5. Customers are prohibited from requiring bidders to certify the documents (materials and information) submitted as part of the bid with the seal and signature of the authorised person, if such documents (materials and information) have been submitted in electronic form through an electronic procurement system with a qualified electronic signature.

Article 23. Data Sheets, Markings, Certificates, Test Reports and Other Conformity Attestation Methods

1. A data sheet must contain a description of all the necessary characteristics of the goods, work or services to be procured, including their technical, functional and qualitative characteristics. The characteristics of goods, work or services may contain a description of a specific process operation or production technology or the procedure for supply of goods (products), the performance of required work and/or the rendering of a service (services).

The data sheets may contain information on the transfer of intellectual property rights in the scope of procurement.

2. If the scope of procurement is further used by individuals, the data sheets shall be tailored to the needs of persons with disabilities or design specifications in order to meet the needs of all categories of users.

3. The data sheets may be in the form of a list of operational or functional requirements, including environmental characteristics, given that such requirements

are accurate enough for the scope of procurement to be clearly understood by the customer and the bidders.

If it is impossible to provide a comprehensive description of the characteristics, the data sheets may contain references to standard characteristics, technical regulations and conditions, requirements, symbols and terminology related to the goods, work or services to be procured, provided for by the effective international standards, European standards, other common technical European standards, other technical reference systems recognised by European standardisation bodies, or national standards, rules and regulations. Each reference must be followed by the expression “or equivalent”.

4. The data sheets should not contain references to a specific brand or manufacturer or to a specific process that characterises a product or service of a particular business entity, or to trademarks, patents, types or a specific place of origin or production method. If such a reference is required, it must be substantiated and contain the expression “or equivalent”.

5. The customer may require bidders to confirm that the environmental or other characteristics of goods, services or work they offer comply with the requirements set out in the bidding documents. In case of detecting any environmental or other characteristics of the goods, work or services, the customer must indicate in the bidding documents, which markings, test reports or certificates may confirm the compliance of the scope of procurement with such characteristics.

Markings, test reports and certificates must be issued by conformity assessment bodies, the competence of which is confirmed by accreditation or in another way provided for by law.

6. If the bidder lacks appropriate markings, test reports or certificates and is unable to obtain them before the deadline for the submission of the bid for reasons beyond control, he/it may submit a technical passport to confirm compliance with the same objective criteria. The customer must review the technical passport and determine whether it really confirms compliance with the established requirements. The customer should justify such a decision.

If the customer refers in the bidding documents to specific markings, test reports or certificates, he/it shall be obliged to accept markings, test reports or certificates confirming compliance with equivalent requirements and issued by conformity assessment bodies, whose competence is confirmed by accreditation or in another way provided for by law.

Article 24. Providing Clarifications on the Bidding Documents and Amendments Thereto

1. An individual/legal entity shall be entitled to request the customer through the electronic procurement system to provide clarifications on the bidding documents and/or request the customer to eliminate the violation during the tender. Such requests should be submitted at least ten (10) days before the bid submission deadline. All

requests for clarifications and those for elimination of violations shall be automatically published in the electronic procurement system without identifying the requesting person. Within three (3) business days upon the request publication, the customer must provide a clarification thereto and publish it in the electronic procurement system under [Article 10](#) hereof.

2. The customer shall be entitled to amend the bidding documents on their own initiative or in case of elimination of violations of public procurement law, set out in the opinion of the government financial oversight body under [Article 8](#) hereof or based on requests or by virtue of the appellate authority's decision. In case of amendments to the bidding documents, the customer shall extend the deadline for bids submission in the electronic procurement system so that there are at least seven (7) days from the amendments to the bidding documents to the deadline for the bids submission.

Amendments made by the customer to the bidding documents shall be posted and displayed in the electronic procurement system as a new version of the bidding documents in addition to the original version thereof. Together with the amendments to the bidding documents, the customer shall publish a separate document containing the list of amendments made.

If the customer fails to provide timely clarifications on the bidding documents, the electronic procurement system shall automatically suspend the tender.

To resume the tender, the customer must publish clarifications on the bidding documents in the electronic procurement system while extending the deadline for the bids submission for at least seven (7) days.

The customer shall publish the information specified in this Part under [Article 10](#) hereof.

Article 25. Security for the Bid/Offer

1. The customer shall be entitled to specify the requirement for the provision of the security for the bid/offer in the invitation to the competitive procurement procedure and in the bidding documents/invitation to the simplified procurement.

If the customer requires the security for the bid/offer, the bidding documents/invitation to the simplified procurement must contain the terms for the relevant security provision, in particular, the amount, validity term and reservations for cases where the security for the bid/offer is not returned to the bidder. In such a case, when submitting the bid/offer, the bidder shall simultaneously provide the security for the bid/offer.

The amount of the security for the bid/offer in monetary terms may not exceed 0.5 per cent of the expected procurement value in case of tender for/simplified procurement of work and 3 per cent in case of tender for/ simplified procurement of goods or services on terms and conditions specified in the bidding documents/invitation to simplified procurement.

2. In case the bids/offers are submitted for a part of the scope of procurement (a lot), the amount of security of the bid/offer shall be established by the customer proceeding from the expected value of the scope of procurement in terms of each part thereof (a lot).

3. The security for the bid/offer shall not be returned in the following cases:

1) the bid/offer withdrawal by the bidder after the expiration of the submission period thereof, but before the expiration of the period when the bids are deemed valid;

2) non-signing of the procurement contract by the bidder, which became the winner of the tender/simplified procurement;

3) the procurement procedure winner's failure to provide the documents confirming the absence of grounds established by [Article 17](#) hereof (except for the negotiated procurement procedure) within the period specified in [Part 6](#) of Article 17 hereof;

4) the failure of the winner of the procurement (except for the negotiated procurement procedure)/simplified procurement procedure to provide the security for the procurement contract after receiving the notice of intention to enter into a procurement contract, if such security is stipulated by bidding documents/invitation to the simplified procurement.

4. The security for the bid/offer shall be returned to the bidder in the following cases:

1) expiration of the bid and security for the bid/offer specified in the bidding documents/invitation to the simplified procurement procedure;

2) concluding a procurement contract with the bidder, which won the procurement (except for the negotiated procurement procedure)/simplified procurement procedure;

3) the bid/offer withdrawal by the bidder before the expiration of the submission period thereof;

4) termination of the tender/simplified procurement in case of non-conclusion of the procurement contract with any of the bidders who submitted their bids/offers.

5. At the request of the bidder that provided the security for the bid/offer, the customer shall notify the institution that issued a guarantee to the relevant bidder of the grounds for returning the security for the bid/offer within five (5) days upon the occurrence of one of the grounds specified in [Part 4](#) of this Article.

6. If the funds received as security for the bid/offer are not returned to the bidder in the cases specified hereby, they shall be transferred to the relevant budget, and in case the customers procure not for budget funds, they shall be transferred to such customers.

Article 26. Bid/Offer Submission Procedure

1. The bid shall be submitted electronically through the electronic procurement system by filling in electronic forms with separate fields, where the information on the price, other evaluation criteria (if provided by the customer), bidder's information on its compliance with qualification criteria (criterion), the presence/absence of the grounds provided for by [Article 17](#) hereof and in the bidding documents are indicated, and by downloading the necessary documents required by the customer in the bidding documents.

The electronic procurement system shall automatically generate and send the bidder a notification of the receipt of the bid, indicating the date and time. The electronic procurement system must ensure the equal possibility to submit a bid/offer to all persons.

2. Each bidder may submit only one bid (including for the part of the scope of procurement (a lot) specified in the bidding documents).

3. The bid/offer received shall be automatically recorded in the register of the received bids/offers, where the information on the submitted bids/offers is displayed, namely:

1) a unique number of the invitation to the competitive procurement/simplified procurement procedure assigned by the electronic procurement system;

2) the bidder's name and identification code in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations;

3) date and time of the bid/offer submission.

4. The price of the bid/offer may not exceed the expected value of the scope of procurement specified in the invitation to the competitive procurement/simplified procurement procedure.

5. The bid must contain confirmation of the bidder's provision of the security for the bid, if such security is provided for by the invitation to the competitive procurement procedure.

6. The electronic procurement system shall not accept the bids/offers after the deadline for submission thereof or bids/offers, the price of which exceeds the expected value of the scope of procurement.

7. The bids shall remain valid within the period specified in the bidding documents.

Prior to the expiration of this period, the customer may require the bidders to extend the validity term of the bids. The bidder shall be entitled to:

reject such a requirement without losing the provided security for the bid;

agree to the request and extend the validity of the submitted bid and the security for the bid provided.

8. The bidder shall be entitled to amend the bid or withdraw it before the deadline for its submission without losing security for the bid. Such amendments or a statement of the bid withdrawal shall be taken into account if they have been received by the electronic procurement system before the bid submission deadline.

9. The bidder shall correct the discrepancies in the information and/or documents submitted in the bid found by the customer after the opening of the bids, by unloading updated or new documents in the electronic procurement system through the electronic procurement system within 24 hours of the customer's request to eliminate such discrepancies published in the electronic procurement system.

The customer shall consider the submitted bids taking into account the correction or non-correction of the identified discrepancies by the bidders.

10. If a bid/offer is submitted by a bidders' association, it must include a document on the establishment of such an association.

Customers may not require a bidders' association to be of a specific form of incorporation in order to submit a bid/offer or to participate in negotiations in the case of a negotiated procurement procedure.

11. The bidders being legal entities, individuals, including individual entrepreneurs, shall not submit the documents not provided for by law for such bidders as part of their bid/offer. Such documents cannot be required during negotiations with bidder (in the case of negotiated procurement procedure).

The lack of the documents not provided for by law for the bidders being legal entities, individuals, including individual entrepreneurs, as part of the bid/offer, cannot constitute the grounds for rejection of the bid/offer by the customer.

Article 27. Security for the Procurement Contract

1. The customer shall be entitled to require the winner of the procurement/simplified procurement procedure to provide security for the performance of such a contract no later than the date of the relevant procurement contract if such security is provided for by the bidding documents or in the invitation to the simplified procurement.

2. The customer shall return the security for the procurement contract:

1) after the winner of the procurement/simplified procurement procedure fulfils the procurement contract;

2) by a court decision on the return of the security for the contract in case of recognising the outcomes of the procurement/simplified procurement procedure as invalid or the procurement contract as null and void;

3) in cases provided for in [Article 43](#) hereof;

4) in accordance with the terms and conditions specified in the procurement contract, but not later than within five (5) banking days upon occurrence of such circumstances.

3. The amount of security for the procurement contract may not exceed 5 per cent of the procurement contract value.

4. If the funds received as security for the procurement contract are not returned to the bidder in the cases specified hereby, they shall be transferred to the relevant budget, and in case the customers procure not for budget funds, they shall be transferred to such customers.

Article 28. Opening of Bids/Offers

1. The information on bids/offers prices/netback prices shall be automatically disclosed prior to the start of the electronic auction.

The bids/offers with information and documents confirming the bidder's compliance with the qualification criteria/conditions specified in the invitation to the simplified procurement and requirements for the scope of procurement, as well as with the information and documents containing technical description of the scope of procurement shall be opened automatically by the electronic procurement system immediately following the electronic auction.

If the invitation to the competitive procurement procedure is published under [Part 3](#) of Article 10 hereof, on the day and at the time of the deadline for bids submission specified in the invitation, the electronic procurement system shall automatically open all bid files, except for the information on the bid price/netback price.

2. When the bids/offers are being opened, all information specified in the bids/offers shall be automatically disclosed, except for the information specified in [paragraph 2](#) of this Part, and a list of bidders shall be formed in the order from the lowest to the highest price/netback price proposed.

Information that is reasonably identified by the bidder as confidential, including the information containing personal data, shall not be subject to disclosure. Information on the proposed price, other evaluation criteria, technical conditions, data sheets and documents confirming compliance with the qualification criteria under [Article 16](#) hereof, as well as documents confirming the absence of grounds provided for by [Article 17](#) hereof, may not be defined as confidential.

The customer, the appellate authority and the central executive body in charge of implementing the state policy in the field of public financial control shall have access in the electronic procurement system to information defined by the bidder as confidential.

3. The record of the bids/offers opening shall be automatically generated and published by the electronic procurement system on the day of opening of the bids/offers.

4. The record of the bids/offers opening should contain the information on:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) the customer's contact person authorised to communicate with the bidders;

3) a unique number of the invitation to the competitive procurement/simplified procurement procedure assigned by the electronic procurement system;

4) the scope of procurement;

5) date and time of the bid/offer opening;

6) name (for a legal entity) or last name, first name, patronymic (if any) (for an individual) of the bidders;

7) information and documents confirming the bidder's compliance with the qualification criteria/conditions specified in the invitation to the simplified procurement and requirements for the scope of procurement, as well as the information and documents containing technical description of the scope of procurement;

8) information on the bid/offer price before and after the auction.

The record of the bids/offers opening may contain other information.

Article 29. Consideration and Evaluation of Bids/Offers

1. The bids/offers shall be evaluated automatically by the electronic procurement system based on the evaluation criteria and methods specified by the customer in the bidding documents/invitation to the simplified procurement by means of an electronic auction.

The date and time of the electronic auction shall be automatically determined by the electronic procurement system.

2. If the invitation to the competitive procurement procedure is published under [Part 3](#) of Article 10 hereof, only the bids that have not been rejected hereunder shall be evaluated.

3. The evaluation criteria shall include:

1) price; or

2) life cycle cost; or

3) price/life cycle together with other evaluation criteria, in particular: terms of payment, term of performance, warranty maintenance, transfer of know-how and training of managerial, research and production personnel, as well as environmental and/or social protection measures related to the scope of procurement.

4. In case the criterion of a life cycle cost evaluation is applied, in addition to the price of the goods (work, services), this criterion may include one or several customer's expenditures during the life cycle of the goods (products), work (works) or service (services), namely the expenditures related to:

1) the use of goods (products), work (works) or service (services), in particular the consumption of energy and other resources;

2) maintenance;

3) collection and disposal of goods (products);

4) the impact of external environment during the life cycle of goods (products), work (works) or service (services), if their monetary value can be determined, in particular the impact of greenhouse gas emissions and other pollutants, as well as other expenditures associated with the reduction of the environmental impact.

In case the criterion of a life cycle cost evaluation is applied, all its components should not contain requirements that restrict competition and discriminate against bidders.

5. Prior to the electronic auction commencement, the electronic procurement system shall automatically disclose price information and a list of all prices of bids/offers, arranged in the order from the lowest to the highest price without specifying the bidders' names and information.

6. If in addition to the price the customer establishes other evaluation criteria in accordance with the evaluation methods, then before the electronic auction the electronic procurement system shall automatically determine the indicators of other evaluation criteria and the netback price, after which the information on the netback price and a list of all netback prices of bids/offers shall be disclosed, arranged in order from lowest to highest price and without indicating the bidders' names and information.

7. During the electronic auction, the prices of the bid/offer and the netback price shall be displayed in the electronic procurement system.

8. If the customer applies other evaluation criteria to determine the most economically advantageous bid/offer, other than the price or life cycle cost, the bidding documents/invitation to the simplified procurement shall determine their cost equivalent or the ratio of these criteria in the overall evaluation of the bids/offers. The ratio of the price criterion/life cycle cost may not be less than 70 per cent, except in cases of application of the competitive dialogue procedure.

9. Following the evaluation of bids/offers, the customer shall consider the bid/offer, determined to be the most economically advantageous, for compliance with the requirements of the bidding documents/invitation to the simplified procurement.

10. The term for consideration of the bid/offer determined as the most economically advantageous following the evaluation should not exceed five (5)

business days upon selecting of the most economically advantageous offer. The customer may reasonably extend such a period up to twenty (20) business days. In case of extension, the customer shall publish the appropriate notice in the electronic procurement system within one (1) day upon the relevant decision.

11. In case of rejection of the bid/offer determined as the most economically advantageous one following the evaluation, the customer shall consider the next bid/offer in the list of the bids qualified by the results of their evaluation, starting with the best one, in the manner and within the period specified by this Article.

12. If the invitation to a competitive procurement procedure is published under [Part 3](#) of Article 10 hereof, the customer shall consider the bids for compliance with the requirements of the bidding documents before evaluating the bids within the period not exceeding 20 business days.

Following the consideration, a protocol of all bids consideration shall be drawn up and published by the customer in the electronic procurement system under [Article 10](#) hereof.

The protocol of bids consideration must contain the information on:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) a unique number of the invitation to the competitive procurement procedure assigned by the electronic procurement system;

3) the list of bids;

4) name (for a legal entity) or last name, first name, patronymic (if any) (for an individual) of the bidders;

5) the result of consideration of each bid (rejection of the bid/admission to the auction);

6) the grounds for the bid rejection (in case of rejection) under [Article 31](#) hereof.

After the customer publishes the protocol of bid consideration through the electronic procurement system, notifications thereof shall be automatically sent to all bidders, and a list of bidders whose tender proposals are not rejected hereunder shall be published. The date and time of the electronic auction shall be automatically determined by the electronic system, but it may be not earlier than five (5) days after the publication of the protocol of bids consideration.

The protocol of bids consideration may contain other information.

13. The customers and bidders may not initiate any negotiations on changes to the content or price of the bid/offer submitted.

14. The bidder who submitted the most economically advantageous bid, which is abnormally low, must provide a rationale in any form regarding the prices or value of relevant goods, works or services within one (1) business day upon the selection of the most economically advantageous bid.

The Customer may reject an abnormally low bid, unless the bidder provided adequate rationale for the price or value specified therein, and shall reject an abnormally low bid in the absence of such rationale within the period specified in [paragraph 1](#) of this Part.

The rationale of an abnormally low bid may contain information on:

- 1) savings due to the applied process of production of goods, the procedure for rendering services or construction technology;
- 2) favourable conditions, under which the bidder may deliver goods, render services or perform work, in particular a special price offer (discount) of the bidder;
- 3) receiving a state aid by the bidder in accordance with the law.

15. Following the consideration and evaluation of the bid/offer, the customer shall select the winner of the procurement procedure and decide on the intention to enter into a procurement contract hereunder.

The customer shall be entitled to request the confirmation of the information provided by the bidder from central government authorities, enterprises, institutions and organisations in accordance with their competence.

In case of obtaining reliable information on the winner's non-compliance with the qualification criteria, grounds established by [Part 1](#) of Article 17 hereof, or in case of factual indicating in the bid of any incorrect information essential when determining the results of the procurement procedure, the customer shall reject the bid of such a bidder.

If the bidder becomes the winner for several or all lots, the customer can enter into a single procurement contract with the winner, combining the lots.

16. If during the bid consideration the customer finds discrepancies in the information and/or documents submitted by the bidder and/or submission of which was required by the bidding documents, the customer shall post a notice in the electronic procurement system demanding to eliminate such discrepancies. Such a notice should be posted at least two (2) business days before the expiry of the bids consideration period.

The customer shall post a notice demanding to eliminate the discrepancies in the information and/or documents:

- 1) confirming the bidder's compliance with the qualification criteria under [Article 16](#) hereof;
- 2) to confirm the right to sign the bid and/or procurement contract.

The notice demanding to eliminate the discrepancies must contain the following information:

- 1) the list of discrepancies found;
- 2) reference to the requirement (requirements) of the bidding documents where discrepancies have been found;
- 3) the list of information and/or documents to be submitted by the bidder to eliminate the discrepancies found.

The customer may not post a notice demanding to eliminate the discrepancies in the information and/or documents submitted by bidder in the bid more than once, except in cases related to the implementation of the appellate authority's decision.

Article 30. Electronic Auction

1. An electronic auction is a repetitive procedure of reduction of prices or netback prices. The procedure includes three interactive stages in a real-time mode. Netback prices shall be determined considering the values ??of other evaluation criteria by a mathematical formula defined in the evaluation method.

2. To hold an electronic auction, the prices/netback prices of all bids/offers are placed in the electronic procurement system in the order from the highest to the lowest without specifying the bidders' names. The highest price/netback price shall be the starting price. A new starting price shall be defined before each subsequent stage of the auction based on the results of the previous auction stage.

3. If bidders submitted bids/offers with the same price/netback price, the bidder that submitted the bid/offer later than other bidders with a similar value of the bid/offer will be the first to reduce the price in the electronic auction.

4. The bidder may reduce the price/netback price of the bid at least one step from the previous price/netback price per stage of the auction.

5. The electronic procurement system shall automatically calculate abnormally low prices/netback prices of the bids at all stages of the electronic auction and shall inform the bidder and the customer thereof.

6. The information on the value of the minimum price or netback price reduction step during the electronic auction shall be indicated in per cent or monetary units.

7. All bidders shall have access to the electronic auction at each stage thereof, in particular to the information on the position of their prices or netback prices in the electronic procurement system in the list from highest to lowest at each stage of the auction and the information on the number of bidders at the current stage of an electronic auction without indication of their names.

Article 31. Rejection of Bids

1. The customer shall reject the bid indicating the reasons therefor in the electronic procurement system if:

1) the bidder:

does not comply with the qualification criteria (criterion) established by [Article 16](#) hereof and/or there are the grounds provided for by [Part 1](#) of Article 17 here;

does not comply with the legal requirements for the bidder provided for by [paragraph 1](#), Part 3 of Article 22 hereof;

provided in the bid inaccurate information essential when determining the results of the procurement procedure, which the customer found under [Part 15](#) of Article 29 hereof;

failed to provide security for the bid, if such security was required by the customer, and/or the security for the bid does not comply with the terms and conditions for such security specified by the customer in the bidding documents;

failed to correct the discrepancies, found by the customer after the bids opening in the information and/or documents submitted in the bid, within 24 hours upon the customer's publishing of the request to eliminate such discrepancies in the electronic procurement system;

failed to provide a rationale for the abnormally low price of the bid within the period provided for in [Part 14](#) of Article 29 hereof;

marked the information, that cannot be defined as confidential under [Part 2](#) of Article 28 hereof, as confidential;

2) the bidder's bid:

does not comply with the data sheet and other requirements of bidding documents for the scope of procurement;

is drafted in a language (languages) other than the language (languages) required by the bidding documents;

has expired;

3) the winner of the procurement procedure:

refused to sign the procurement contract under the bidding documents or refused to enter into a procurement contract;

failed to submit in the manner specified in the bidding documents the documents confirming the absence of grounds provided for by [Article 17](#) hereof;

failed to submit a copy of the licence or permit (if any) under [Part 2](#) of Article 41 hereof;

failed to provide security for the procurement contract, if such security was required by the customer.

2. Information on the bid rejection, including the grounds for such rejection (with reference to the relevant provisions of this Law and the terms and conditions of the bidding documents, which such bid and/or the bidder do not meet, and specifying the discrepancy), shall be published within a day upon the relevant decision in the electronic procurement system and shall be automatically sent to the bidder/winner of the procurement procedure, whose bid was rejected, through the electronic procurement system.

3. If the bidder whose bid is rejected considers the arguments specified in the notice and the protocol of bids consideration to be insufficient, such a bidder may request the customer to provide additional information on the reasons for the bid non-compliance with the bidding documents, including data sheets, and/or the bid non-compliance with the qualification criteria. In such a case, the customer must provide the bidder with such information within five (5) days upon receipt of such a request through the electronic procurement system.

Article 32. Tender Cancellation or Recognition as Failed

1. The customer shall cancel the tender in the following cases:

1) no further need to purchase goods, work and services;

2) inability to eliminate violations that have arisen due to identified violations of the legislation on public procurement, with a description of the violations that cannot be eliminated.

2. A tender shall be automatically cancelled by the electronic procurement system in the following cases:

1) submission:

of less than two (2) bids (in an open tender);

of less than three (3) bids (in a competitive dialogue);

of less than three (3) bids (in an open tender for the conclusion of framework agreements);

of less than four (4) bids (in the qualification-based selection at the first stage of selective tendering);

2) admission of less than two bids in the open tender for evaluation, if the call for open tender has been published under [Part 3](#) of Article 10 hereof, and in the case of competitive dialogue, the second stage of selective tendering or procurement under framework agreements with several bidders — admission of less than three (3) bids;

3) rejection of all the bids hereunder.

3. The cancellation of the tender on the grounds specified in [Parts 1 and 2](#) of this Article must be clearly specified in the bidding documents.

4. The tender may be cancelled in part (by lot).

5. The customer shall be entitled to recognise the tender as failed in the following cases:

- 1) if the procurement has become impossible due to force majeure;
- 2) reduction of costs for the procurement of goods, work or services.

5. The customer shall be entitled to recognise the tender as failed in part (by lot).

7. If the tender is cancelled by the customer or recognised as failed, the customer shall indicate in the electronic procurement system the grounds for such a decision within one (1) business day upon the relevant decision.

In case the tender is cancelled on the grounds provided for in [Part 2](#) of this Article, the electronic procurement system shall automatically publish information on the tender cancellation.

Article 33. Decision on the Intention to Enter into a Procurement Contract

1. The customer shall decide on the intention to enter into a procurement contract on the day when a bidder is selected as the winner of the procurement/simplified procurement procedure.

Within one (1) day upon such a decision, the customer shall publish a notice of intention to enter into a procurement contract in the electronic procurement system.

2. The notice of intention to enter into a procurement contract must contain the following information:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) the scope of procurement with the code thereof and the relevant classifiers of the scope of procurement and parts thereof (lots) (if any);

3) quantity, place and deadlines for goods delivery, work performance or rendering of services;

4) name of the winner of the procurement/simplified procurement procedure (for a legal entity) or last name, first name and patronymic (if any) (for an individual);

5) the bid/offer price.

The notice of intention to enter into a procurement contract may contain the following additional information:

3. The information on the winner of the procurement/simplified procurement procedure with the indication of name and location shall be automatically sent by the electronic procurement system on the day of selecting the bidder as the winner of the procurement/simplified procurement procedure. Such information shall be sent to the winner of the procurement/simplified procurement procedure and other bidders.

4. A bidder who is not recognised as the winner of the procurement/simplified procurement procedure following the evaluation and consideration of the bid/offer may request the customer through the electronic procurement system to provide information on the relevant winner's bid/offer, including the indication of its advantages compared to the bid/offer of the requesting bidder. The customer must respond to the requesting bidder within five (5) upon such a request.

5. In order to ensure the right to challenge the customer's decisions, the procurement contract may not be entered into earlier than 10 days upon the publication of the notice of intention to enter into a procurement contract in the electronic procurement system.

6. The customer enters into the procurement contract with the bidder who is recognised as the winner of the procurement procedure during the term of validity of their offer, no later than 20 working days from the date of the decision on the intention to enter into a procurement contract following the requirements of the bidding documents and the bid of the winning bidder. In case of the reasoned necessity, the period for entering into the contract may be extended up to 60 days.

In the case of filing a complaint to the appellate authority after the publication of the notice of intention to enter into a procurement contract in the electronic procurement system, the period for concluding a procurement contract shall be suspended.

7. If the winner of the procurement/simplified procurement procedure refuses to sign the procurement contract under the bidding documents/invitation to the simplified procurement, in case of failure to enter into the procurement contract through the bidder's fault, in case of failure to provide the customer with the signed contract within the period provided for hereby or the winner's failure to provide the documents confirming the absence of grounds established by [Article 17](#) hereof, the customer shall reject the bid/offer of such a bidder, select the winner of the procurement/simplified procurement procedure among the bidders with the then valid bids, and decide on the intention to enter into a procurement contract in the manner and on terms and conditions specified in this Article.

Section V

COMPETITIVE DIALOGUE

Article 34. Competitive Dialogue Procedure Application Conditions

1. The customer may apply competitive dialogue if it is impossible to determine the necessary technical, qualitative characteristics (specifications) of work or to determine the type of services, and it is necessary to negotiate with bidders in order to decide on procurement.

2. The customer may apply competitive dialogue subject to one of the following conditions:

1) the customer is unable to determine the requirements for the scope of procurement due to its nature and/or complexity, in particular in the case of procurement of legal services, development and implementation of information systems, software products, research, experiments or developments;

2) the fulfilment of the procurement contract provides for the development of a project for the performance of works (rendering of services) or the use of new innovative technologies;

3) the customer is unable to determine the accurate data sheet using the technical standards available.

3. Competitive dialogue shall not apply in case of the procurement of work and services with the existing project of their performance or rendering.

4. Competitive dialogue procedure shall consist of two stages.

Article 35. Competitive Dialogue Procedure

1. The call for competitive dialogue shall be published in the electronic procurement system under [Article 10](#) hereof.

The call for competitive dialogue must contain the following information:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) the scope of procurement with the code under the Unified Procurement Dictionary (in case the scope of procurement is divided into lots, such information must be indicated in respect of each lot) and the relevant classifiers of the scope of procurement and parts thereof (lots);

3) the grounds for the competitive dialogue application under [Article 34](#) hereof;

4) expected value of the scope of procurement;

5) first-stage bid submission deadlines;

6) language (languages) in which the bids should be drafted;

7) the amount, type and conditions for providing security for bids (if required by the customer);

8) date and time for first-stage bids opening.

The call for competitive dialogue may contain the following additional information:

12. At the first stage of the competitive dialogue, all bidders are invited to submit a bid containing the information on the bidder's compliance with the qualification criteria and requirements specified by the customer in the bidding documents, as well as a description of the procurement decision without indicating the price.

Information describing the decision on procurement for the first stage of a competitive dialogue shall be provided in a separate file in a bid.

The bidding documents shall include the following information:

- 1) the scope of procurement, with a description of their needs and the required characteristics of the work or services to be procured;
- 2) minimum requirements for the scope of procurement, that are not subject to negotiations;
- 3) qualification criteria for the bidders under [Article 16](#) hereof;
- 4) the grounds established by [Article 17](#) hereof;
- 5) technical, qualitative and other characteristics of the scope of procurement;
- 6) time and site where work will be performed or services will be rendered;
- 7) evaluation criteria.

The deadline for submission of the bids for participation in the first stage of the competitive dialogue shall be at least 30 days upon the publication of the call for the competitive dialogue in the electronic procurement system under [Article 10](#) hereof.

When opening the bids for participation in the first stage of the competitive dialogue, all the information specified in the bids shall be automatically disclosed, except for the information describing the procurement decision, which is open only to the customer.

Following the bids opening, the customer shall consider the bids for compliance with the requirements set forth in the bidding documents for the first stage.

The customer shall invite all bidders, whose bids were not rejected, to negotiation. However, the number of bidders invited should be at least three (3).

The customer shall negotiate with each bidder separately. Moreover, joint meetings with all the bidders can be held. All aspects of procurement may be discussed during negotiations in order to determine the ways and decide on the works or services to be procured. During the negotiations, the customer may not apply a discriminatory approach to different bidders and to disclose to other bidders the proposed solutions or other confidential information received from the bidder, participating in the negotiations, without such bidder's consent.

The minimum requirements for the scope of procurement and evaluation criteria shall not be subject to negotiations.

Following the negotiations, the customer shall amend the bidding documents in terms of technical requirements and requirements for the quality of the scope of procurement (without changing the evaluation criteria) and shall invite all bidders that participated in the negotiations to take part in the second stage of the competitive dialogue.

3. At the second stage of the competitive dialogue, the bidders must submit final bids indicating the price. The deadline for the bids submission at the second stage of the competitive dialogue shall be at least 15 days upon the receipt of the call for the second stage of the competitive dialogue. The bids at the second stage of the competitive dialogue shall be considered and evaluated under [Article 29](#) hereof.

4. The customer shall enter into a procurement contract hereunder with the bidder selected as the winner of the procurement procedure.

Section VI

SELECTIVE TENDERING PROCEDURE

Article 36. Selective Tendering Application Conditions

1. Selective tendering shall be applied in case of need for preliminary verification of the bidders' qualification through a qualifications-based selection, and if the call for selective tendering is published under [Part 3](#) of Article 10 hereof.

2. Selective tendering shall include two (2) stages.

Article 37. Call for Selective Tendering

1. The call for selective tendering shall be published free of charge in the electronic procurement system under [Article 10](#) hereof.

The call for selective tendering must contain the following information:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) the scope of procurement with the code thereof and the relevant classifiers of the scope of procurement and parts thereof (lots) (if any);

3) quantity and site for the goods delivery, scope and site for the performance of work or rendering of services;

4) expected value of the scope of procurement;

5) the deadline for the goods delivery, performing works and/or providing services;

6) all qualification criteria under [Article 16](#) hereof and information on the method of documentary confirmation of the bidders' compliance with the established criteria, as well as minimum permissible values ??for each established qualification criterion, the ratio of each criterion and method for estimation of the values ??exceeding the minimum permissible level, to select the bidders in the qualification-based selection, who will be invited to submit their bids for participation in the second stage of the selective tendering;

7) the number of bidders who will be invited to participate in the second stage of the tendering based on the results of qualification-based selection;

8) the deadline for submission of the bids for participation in the qualification-based selection;

9) date and time of opening the bids for participation in the qualification-based selection;

10) terms of payment;

11) language (languages) in which the bids should be drafted;

12) the amount, type and conditions for providing security for bids (if required by the customer);

13) the minimum decrement of the price during the electronic auction in per cent or monetary units and the mathematical formula to be applied during the electronic auction at the second stage of selective tendering to determine the indicators of other evaluation criteria.

2. The customer shall specify other information, required for participation in the selective tendering, in the bidding documents. Such information shall be published together with the call for selective tendering.

3. When publishing the call for selective tendering, the customer may send through the electronic procurement system an invitation to participate in the selective tendering, which content is similar to that of the call for selective tendering. Such an invitation shall be sent to the bidders, which may comply with bidding documents requirements.

Article 38. Qualification-Based Selection of Bidders in the Selective Tendering

1. The qualification-based selection of the bidders shall take place at the first stage of the selective tendering.

If less than four (4) bidders submitted documents for participation in the qualification-based selection, selective tendering will be automatically cancelled by the electronic procurement system.

2. In response to the call for selective tendering and the invitation (if sent by the customer) to participate in the selective tendering, the bidders are invited to submit only the documents required for participation in the qualification-based selection. Such documents must contain the information on the bidder's compliance with all qualification criteria under [Article 16](#) hereof and on the absence of the grounds provided for by [Article 17](#) hereof.

Failure to receive the invitation shall not deprive other bidders of the right to submit documents for participation in the qualification-based selection.

3. The deadline for submission of the documents for participation in the qualification-based selection at the first stage shall be at least 30 days upon the publication of the call for selective tendering in the electronic procurement system.

4. All the information in the documents submitted by the bidders for participation in the qualification-based selection will be disclosed the next day after the deadline for submission of the documents for participation in the qualification-based selection at the first stage.

5. After the disclosure of the documents submitted by the bidders for qualification-based selection at the first stage of the selective tendering, the customer shall consider them for compliance with the requirements set forth in the bidding documents for the first stage and shall evaluate the qualification of the bidders complying with the established requirements. Such evaluation shall be in accordance with the value estimating method and shall be carried out within 20 business days.

6. Following the consideration and evaluation of the bidders' qualification, the customer shall draw up a qualification-based selection record.

The qualification-based selection record must contain the following information:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) the scope of procurement with the code under the Unified Procurement Dictionary (in case the scope of procurement is divided into lots, such information must be indicated in respect of each lot) and the relevant classifiers of the scope of procurement and parts thereof (lots);

3) all qualification criteria under [Article 16](#) hereof and information on the method of documentary confirmation of the bidders' compliance with the established criteria;

4) minimum permissible values ??for each established qualification criterion, the ratio of each criterion and method for estimation of the values ??exceeding the minimum permissible level, to select the bidders in the qualification-based selection, who will be invited to submit their bids;

5) a list of the bidders that have submitted their bids for participation in the qualification-based selection;

6) a list of bidders, the bids of which for participation in the qualification-based selection were rejected due to non-compliance with the minimum permissible values ??of qualification criteria and/or grounds provided for by [Article 17](#) hereof, indicating the reasons for rejection;

7) list and results of evaluation of the bidders, whose bids for participation in the qualification-based selection were not rejected, ranked according to the results of qualification of bidders, based on comparison and juxtaposition of information provided by them in terms of each qualification criterion under the method for assessing values exceeding the minimum permissible level;

8) a list of bidders admitted to the second stage.

7. The customer shall publish the qualification-based selection record in the electronic procurement system within one day upon approval thereof. The qualification-based selection record shall be automatically sent to all bidders by the electronic procurement system after its publication in the electronic procurement system.

8. If less than four (4) bidders submitted documents for participation in the qualification-based selection, selective tendering will be automatically cancelled by the electronic procurement system.

Article 39. The Second Stage of Selective Tendering

1. The second stage of selective tendering shall take place if the number of bidders of the procurement procedure specified in the call for selective tendering is admitted to the second stage of selective tendering, or if the number of bidders admitted to the second stage equals to at least three (3) bidders following the qualification-based selection.

2. The customer shall invite all bidders admitted to the second stage to submit a bid containing the information on compliance with technical, qualitative and other characteristics of the scope of procurement, delivery terms, as well as time and site where work will be performed or services will be rendered. In the second stage, the bids submitted shall contain the price. Information describing the technical, qualitative and other characteristics of the scope of procurement for the second stage shall be provided in a separate file.

3. During the opening of the bids for participation in the second stage, all information shall be automatically disclosed, except for the price information, which is opened during the auction.

4. The deadline for submission of the bids in the second stage shall be at least 25 days upon receipt of the invitation to submit final bids.

5. The bids shall be considered and evaluated under [Article 29](#) hereof, except for the Parts [2](#) and [12](#) of Article 29 hereof.

6. The customers and bidders may not initiate any negotiations on changes to the content or price of the bid submitted.

Section VII NEGOTIATED PROCUREMENT PROCEDURE

Article 40. Negotiated Procurement Procedure Application Conditions

1. The customer shall apply the negotiated procurement procedure as an exception. According to such a procedure, the customer enters into a procurement contract after negotiating the price and other terms of the procurement contract with one or more bidders.

2. The customer shall apply the negotiated procurement procedure as an exception in the following cases:

1) if the open tender has been cancelled twice, including partially (by lots), due to the lack of a sufficient number of bids provided for hereby. In such a case, the scope of procurement, its technical and qualitative characteristics, as well as the requirements for the bidder should not differ from the requirements specified by the customer in the bidding documents;

2) work, goods or services can be performed, delivered or rendered solely by a certain business entity subject to one of the following cases:

the scope of procurement is the creation or acquisition of a work of art or artistic performance;

entering into a procurement contract with the winner of an architectural or artistic competition;

no competition for technical reasons;

the need to protect intellectual property rights;

entering into a contract with a “last resort” supplier for electricity or natural gas;

3) if the customer has an urgent need for the procurement in case of:

occurrence of special economic or social circumstances associated with the immediate mitigation of the consequences of emergencies that make it impossible for the customer to meet the tender deadlines;

Ukraine’s humanitarian assistance to other states in compliance with the established procedure;

termination of the procurement contract through the bidder’s fault for a period sufficient for the tender, in the amount not exceeding 20 per cent of the amount specified in the procurement contract terminated through the fault of such a bidder. The negotiated procurement procedure shall be applied in this case by the decision of the customer in respect of each tender;

challenging the customer’s decisions, actions or omissions with regard to the ongoing tender after the evaluation of bidders’ bids, in the amount not exceeding 20 per cent of the expected value of the tender challenged;

procurement of goods, works and services to meet the needs of defence during the legal regime of martial law in Ukraine or in certain localities by the customers specified in the [Law of Ukraine](#) “On Defence Procurement”;

{Paragraph 6, clause 3, Part 2 of Article 40 as amended by Law [No. 808-IX of 17 July 2020](#)}

4) after entering into the procurement contract, the customer needs a supply of additional goods from the same supplier, if in case of a supplier change the customer

would have to purchase goods with other technical characteristics, which would lead to operation- and maintenance-related incompatibilities. Additional goods shall be purchased from the same supplier within three (3) years after the procurement contract date, unless the total value of such a supply exceeds 50 per cent of the procurement contract price;

5) after entering into the procurement contract, the customer needs to purchase additional similar work or services from the same bidder. The possibility and terms of such additional work or services may be provided for in the master procurement contract entered into following the tender. Additional similar work or services shall be purchased from the same bidder within three (3) years after the procurement contract date, unless the total value of such work or services exceeds 50 per cent of the price of the master procurement contract entered into following the tender;

6) procurement of goods under the procedure of restoring the debtor's solvency in accordance with law;

7) procurement of legal services related to the protection of the rights and interests of Ukraine, including to protect its national security and defence, during the settlement of disputes concerning the consideration of cases in foreign jurisdictions with the participation of a foreign entity and Ukraine, by virtue of the decision Cabinet of Ministers of Ukraine or decisions of the National Security and Defence Council of Ukraine put into effect in the manner prescribed by law, as well as the procurement of goods, work and services in case of the customer's participation in international exhibitions by virtue of the decision of the Cabinet of Ministers of Ukraine.

3. The customer (except for the cases specified in [clauses 2, 4, and 5](#), Part 2 of this Article) requires the bidder (bidders) during the negotiations to provide confirmation of the lack of grounds for the rejection to participate in the procurement procedure under [Part 1](#) of Article 17 hereof.

4. Following the negotiations with the bidder (bidders), the customer shall decide on the intention to enter into a procurement contract.

5. The notice of the intention to enter into a procurement contract must be published free of charge in the electronic procurement system within one (1) day after the relevant decision.

6. The notice of intention to enter into a procurement contract must contain the following information:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) the scope of procurement with the code thereof and the relevant classifiers of the scope of procurement and parts thereof (lots) (if any);

3) quantity, place and deadlines for goods delivery, work performance or rendering of services;

4) the bidder's name and identification code in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations or taxpayer identification number or passport series and number (for individuals who refuse to accept the taxpayer identification number due to their religious beliefs, have officially notified the relevant controlling authority and have an appropriate mark in the passport) of the goods supplier, contractor or service provider;

5) name, location and contact phone numbers of the bidder (bidders) with whom the negotiations were held;

6) the agreed bid price of the bidder;

7) the condition for application of the negotiated procurement procedure under [Part 2](#) of this Article;

8) rationale for the application of the negotiated procurement procedure with reference to expert, regulatory, technical and other documents confirming the existence of conditions for the application of the negotiated procurement procedure.

The notice of intention to enter into a contract may contain the following additional information:

7. The customer shall be entitled to enter into a procurement contract following the negotiated procurement procedure not earlier than within 10 days (five (5) days — in the case of a negotiated procurement procedure on the grounds specified in [clause 3](#), Part 2 of this Article, and in the case of the procurement of oil, crude oil products, electricity, its transmission and distribution services, central thermal energy supply, central hot water supply, central heating, telecommunications services, including broadcasting of radio and television signals, central water supply and/or sewerage and public railway transport services) upon the publication of the notice of intention to enter into a procurement contract in the electronic procurement system.

The features of entering into a procurement contract following the negotiated procurement procedure on the grounds specified in [paragraph 6](#), clause 3, Part 2 of this Article shall be governed by the [Law of Ukraine](#) “On Defence Procurement”.

{Paragraph 2, Part 7 of Article 40 as amended by Law [No. 808-IX of 17 July 2020](#)}

8. The customer shall cancel the negotiated procurement procedure in the following cases:

1) if the customer has committed a violation that affected the objectivity when selecting the winner of the procurement procedure;

2) inability to eliminate violations that have arisen due to identified violations of the legislation on public procurement;

3) no further need to purchase goods, work or services;

4) reduction of budget costs for the procurement of goods, work or services;

5. non-signing of the procurement contract within 35 days (20 days — in the case of a negotiated procurement procedure on the grounds specified in [clause 3](#), Part 2 of this Article, and in the case of the procurement of oil, crude oil products, electricity, its transmission and distribution services, central thermal energy supply, central hot water supply, central heating, telecommunications services, including broadcasting of radio and television signals, central water supply and/or sewerage and public railway transport services) upon the publication of the notice of intention to enter into a procurement contract in the electronic procurement system.

The customer may cancel the negotiated procurement procedure in part (by a lot).

Section VIII

PROCUREMENT CONTRACT

Article 41. Basic Requirements to the Procurement Contract and Amendments Thereto

1. The procurement contract shall be entered into under the [Civil](#) and [Commercial](#) Codes of Ukraine, subject to the features defined hereby.

2. When entering into the procurement contract, the winner of the procurement procedure must provide:

1) the relevant information on the right to sign a procurement contract;

2) a copy of the licence or permit (if any) for a certain type of economic activity, if obtaining a permit or licence for such activity is provided for by law and if it was specified in the bidding documents/invitation to the simplified procurement or required by the customer during the negotiations in case of the negotiated procurement procedure.

If the winner of the procurement/simplified procurement procedure is a bidders' association, a copy of the licence or permit shall be provided by one of the bidders of such an association.

It is prohibited to enter into procurement contracts that provide for the customer's payment for goods, work and services before/without procurement/simplified procurement procedures, except as provided for hereby.

4. The terms and conditions of the procurement contract shall not differ from the post-electronic auction data of the bid/offer (including price per unit of goods) of the winner of the procurement/simplified procurement procedure or the agreed price of the bidder in case of negotiated procedure, except for the determination of the monetary equivalent of liabilities in foreign currency and/or for cases of recalculation of the price following the electronic auction towards the reduction of the bid/offer price without reducing the volume of procurement.

5. The essential terms and conditions of the procurement contract may not be changed after its signing until the complete fulfilment of obligations by the parties thereto, except in the following cases:

1) reduction of procurement volumes, in particular taking into account the actual customer's expenditures;

2) an increase of the unit price of goods up to 10 per cent pro rata to the increase in the price of such goods on the market in the event of fluctuations in the market price of such goods, given that such change shall not increase the amount specified in the procurement contract (not more than once per 90 days upon the signing of the procurement contract). Restrictions on the periods for changes in the unit price of goods shall not apply in cases of amendments to the terms and conditions of a procurement contract for petrol, diesel fuel, gas and electricity;

3) improvement of the quality of the scope of procurement, given that such improvement do not increase the amount specified in the procurement contract;

4) extension of the procurement contract and the term for fulfilment of obligations to transfer goods, perform work and/or render services in case of documented objective circumstances that caused such extension, including force majeure and/or delays in financing the customer's expenditures, given that such changes do not increase the amount specified in the procurement contract;

5) approval of price changes in the procurement contract towards reduction (without changing the quantity (volume) and quality of goods, work and services), including in case of fluctuations of market prices of the goods;

6) changes of the price in the procurement contract due to the change in the rates of taxes and duties and/or changes in the conditions for granting tax benefits — pro rata to the change in such rates and/or tax benefits;

7) changes in the consumer price index established under the law by state statistics authorities, changes in the foreign exchange rate, changes in exchange quotations or Platts, ARGUS regulated prices (tariffs) and standards applied in the procurement contract, if the procedure for the price change is stipulated in the procurement contract;

8) changes in terms and conditions due to the application of [Part 6](#) of this Article.

Due to the need to meet the needs of defence during the legal regime of martial law in Ukraine or in some of its localities, the essential terms of the procurement contract (after its signing and until the parties' complete fulfilment of their obligations) may be amended by the customer being an entity defined in [Part 1](#), Article 2 of the Law of Ukraine "On the Features of Procurement of Goods, Work and Services for Ensuring of the Defence Needs", namely: volume of procurement, contract value, contract validity term and fulfilment of obligations to transfer goods, perform work and/or render services.

6. The procurement contract may be extended for a period sufficient for the procurement/simplified procurement procedure at the beginning of the next year in the scope not exceeding 20 per cent of the amount specified in the initial procurement contract entered into in the previous year if the costs for this purpose have been approved in the prescribed manner.

7. In case of any amendments to the essential terms of the procurement contract in the cases provided for in [Part 5](#) of this Article, the customer must publish a notice of amendments to the procurement contract.

8. The notice of amendments to the procurement contract must contain the following information:

1) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

2) a unique number of the invitation to the competitive procurement/simplified procurement procedure assigned by the electronic procurement system; or a unique number of the notice of intention to enter into a procurement contract (in the case of a negotiated procurement procedure);

3) date and number of the procurement contract;

4) name (for a legal entity) or last name, first name and patronymic (if any) (for an individual) of the bidder being a party to the procurement contract;

5) the customer's identification code in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations/taxpayer identification number of the bidder being a party to the procurement contract;

6) location (for a legal entity) or place of residence (for an individual) of the bidder is a party to the procurement contract, as well as the telephone number;

7) the date of amendments to the procurement contract;

8) cases for amending the essential terms and conditions of the contract under this Article;

9) description of amendments made to the essential terms and conditions of the contract.

The notice of amendments to the procurement contract must contain other information.

9. In case of the procurement contract expiration, fulfilment or termination, the customer must publish a report on the fulfilment of the procurement contract.

Article 42. Report on the Procurement Contract Fulfilment

1. The report on the procurement contract fulfilment must contain the following information:

1) a unique number of the invitation to the competitive procurement procedure assigned by the electronic procurement system; or a unique number of the notice of intention to enter into a procurement contract (in the case of a negotiated procurement procedure);

2) date and number of the procurement contract;

3) price specified in the procurement contract;

4) name, location and identification code of the customer in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, as well as customer's category;

5) name (for a legal entity) or last name, first name and patronymic (for an individual) of the bidder being a party to the procurement contract;

6) the bidder's identification code in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations or taxpayer identification number or passport series and number (for individuals who refuse to accept the taxpayer identification number due to their religious beliefs, have officially notified the relevant controlling authority and have an appropriate mark in the passport) of the goods supplier, work performer or service provider being a party to the procurement contract;

7) location (for a legal entity) or place of residence (for an individual) of the bidder is a party to the procurement contract, as well as the telephone number;

8) the scope of procurement with the code under the Unified Procurement Dictionary (in case the scope of procurement is divided into lots, such information must be indicated in respect of each lot) and the relevant classifiers of the scope of procurement and parts thereof (lots);

9) quantity, place and deadlines for goods delivery, work performance or rendering of services;

10) the validity term of the procurement contract;

11) the amount to be paid under the procurement contract;

12) the reasons for termination of the procurement contract, if any.

The report on the procurement contract fulfilment may contain other information.

Article 43. Nullity of the Procurement Contract

1. The procurement contract shall be null and void in the following cases:

1) if the customer has entered into a procurement contract before/without the procurement/simplified procurement procedure hereunder;

2) if the contract is entered into in violation of [Part 4](#) of Article 41 hereof;

3) if the contract is entered into during the period of challenging the procurement procedure under [Article 18](#) hereof;

4) if the contract is entered into in violation of the deadlines provided for in [Parts 5 and 6 of Article 33](#) and [Part 7 of Article 40](#) hereof, except in cases of suspension due to the consideration of the complaint by the appellate authority under [Article 18](#) hereof.

Section IX

LIABILITY IN PROCUREMENT

Article 44. Liability for violation of the requirements of this Law

1. For violation of this Law and regulatory acts adopted for the implementation of this Law, authorised persons, officials (officers) of customers, officials (officers) and members of the appellate authority, officials (officers) of the Authorised Body, officials (officers) of the central executive authority in charge of implementing the state policy in the field of public financial control, and officials (officers) of the bodies that provide treasury servicing of budget funds (servicing bank) shall be liable in accordance with the laws of Ukraine.

2. For the purchase of goods, work and services before/without procurement/simplified procurement procedures subject to this Law, and for concluding contracts providing for the customer's payment for goods, work and services before/without procurement/simplified procurement procedures specified herein, as well as for violation of this Law, officials (officers), as well as an authorised person of the customer and the heads of customers shall be liable in accordance with the laws of Ukraine.

Section X

FINAL AND TRANSITIONAL PROVISIONS

1. This Law shall enter into force on the day following the day of its publication and shall be enacted six (6) months after its publication, except for [Section VI](#), which shall be enacted twelve (12) months after its publication.

2. To recognise the following documents invalid from the date of enactment of this Law:

1) the [Law of Ukraine](#) “On the Features of Procurement of Non-Irradiated Fuel Elements (Fuel Rods) for Nuclear Reactors” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2012, No. 28, Article 307);

2) the [Law of Ukraine](#) “On the Features of Procurement of Postal Services, Postage Stamps and Stamped Envelopes for State Funds” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2013, Nos. 19—20, Article 185).

3. [Clause 19](#), Part 5 of Article 3 of this Law shall be valid until 31 March 2022.

3¹. To establish that this Law shall not apply to the cases where the scope of procurement is represented by goods, work or services necessary to implement measures aimed at preventing the occurrence and spread, as well as aimed at localisation and elimination of outbreaks, epidemics and pandemics of coronavirus

disease (COVID-19). The list of such goods, work or services and the procedure for their procurement shall be approved by the Cabinet of Ministers of Ukraine.

Following such procurement, the customer shall publish in the electronic procurement system the report on the procurement contract entered into without using the electronic procurement system, the procurement contract and all annexes thereto, as well as a report on the procurement contract fulfilment under [Article 10](#) of this Law.

In case of non-compliance with the requirements for publication of such reports, the guilty persons shall be brought o liability under the law.

{Section X has been supplemented with clause 3⁻¹ under Law [No. 530-IX of 17 March 2020](#), subject to amendments introduced by Law [No. 540-IX of 30 March 2020](#)}

4. To establish that by 1 January 2022:

1) the customer may create a tender committee (committees) to organise and hold procurement procedures.

The customer may appoint an authorised person (persons) and a tender committee (committees), provided that each of them will be liable for the organisation and conduct of specific procurement procedures.

For the purposes of this Law, the tender committee shall mean officials (officers) and other persons of the customer, appointed by the person in charge of the organisation and conduct of procurement procedures in accordance with this Law.

The tender committee shall operate on the basis of collegiality and impartiality principles.

Membership in the tender committee should not create a conflict between the interests of the customer and the bidder or between the interests of the bidders, which may affect the objectivity and fairness of decisions on the winner of the procurement procedure.

The composition of the tender committee and the regulations on the tender committee in case of its creation shall be approved by the customer's decision.

The tender committee consists of at least five people. If the number of the customer's full-time officials (officers) is less than five, the tender committee should include all officials (officers) of the customer.

The tender committee shall be managed by its chairperson.

The chairperson of the tender committee shall be appointed by the customer and organise the work of the committee and be personally liable for the performance of the functions assigned to the committee.

Officials and representatives of bidders, members of their families, as well as people's deputies of Ukraine, deputies of the Verkhovna Rada of the Autonomous

Republic of Crimea and deputies of municipal, district, regional or oblast councils may not be members of a tender committee and/or be appointed as authorised persons.

The Tender Committee shall plan procurement, draw up and approve the annual procurement plan, select the procurement procedure, conduct procurement procedures, provide equal conditions for all bidders and objective and fair selection of the winner, ensure the drafting, approval and storage of relevant public procurement documents specified herein, ensure the publication of information and report on public procurement hereunder, as well as perform other actions provided for by this Law.

The decision of the tender committee shall be recorded by the minutes indicating the date of the decision. The decision shall reflect the results of roll-call voting of the committee members present at the meeting of the tender committee on each issue. The minutes shall be signed by all members of the committee present at the relevant meeting. If a tender committee member refuses to sign the minutes, this shall be indicated in the protocol with the justification of the reasons for refusal.

The model regulations on the tender committee shall be approved by the Authorised Body;

2) authorised persons shall confirm their proficiency in the field of public procurement subject to [paragraph 2](#), Part 8 of Article 11 hereof.

5. Procurement procedures for goods, work and services initiated before the enactment of this Law shall be completed in the manner in force before the enactment hereof.

6. Procurement contracts entered into in the manner and on terms and conditions established prior to the enactment of this Law shall be fulfilled in full before the expiration of their validity term. Such contracts shall be amended in the manner and on terms and conditions established prior to the enactment of this Law.

7. That the following legislative acts of Ukraine be amended:

1) in the [Code of Ukraine on Administrative Offences](#) (The Official Bulletin of the Verkhovna Rada of the Ukrainian SSR, 1984, Annex to No. 51, Article 1122):

[Article 38](#) shall be amended to read as follows:

“Article 38. Terms of Imposing Administrative Penalties

An administrative penalty may be imposed within two (2) months upon the offence, and in case of the ongoing offence — within two (2) months upon its detection, unless the cases on administrative offences hereunder are subject to the jurisdiction of a court (judge).

If the cases of administrative offences under this Code or other laws are subject to the jurisdiction of the court (judge), the penalty may be imposed within three (3) months upon the offence, and in case of the ongoing offence — within three (3) months

upon its detection, except administrative offences specified in Parts 3—5 of this Article.

An administrative penalty for the offence provided for in Parts 3—6 of Article 164⁻¹⁴ hereof may be imposed within six (6) months upon their detection, but not later than two (2) years upon their commission.

An administrative penalty for the offence related to corruption, as well as offences provided for in Articles 212⁻¹⁵ and 212⁻²¹ hereof, may be imposed within six (6) months upon their detection, but not later than two (2) years upon their commission.

An administrative penalty for the offences provided for in Articles 204⁻¹ and 204⁻² hereof, may be imposed within three (3) months upon their detection, but no later than a year upon their commission. If such offences were committed by foreigners or stateless persons, in respect of whom a decision on refoulement or forcible deportation from Ukraine has been made in the manner prescribed by law, an administrative penalty may be imposed within the time required for such persons' departure from Ukraine, but not later than the deadline specified by law for these persons to leave Ukraine or ensuring their forcible deportation from Ukraine.

In case criminal proceeding is ceased, but there are signs of an administrative offence in the actions of the violator, an administrative penalty may be imposed within three (3) months upon the decision to cease the criminal proceeding”;

[Article 164⁻¹⁴](#) shall be amended to read as follows:

“Article 164⁻¹⁴. Violation of the Procurement Law

Violation of the procedure for determining the scope of procurement; the customer's untimely provision or failure to provide clarifications on the content of the bidding documents; bidding documents non-complying with the law; the amount of security for the bid specified in the bidding documents exceeds the limits set by law; non-disclosure or violation of the deadlines for disclosure of information on procurement; non-disclosure or violation of the procedure for disclosure of information on procurement carried out under the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19)”; failure to provide information and/or documents in cases provided for by law; violation of the deadlines for consideration of the bid —

{Paragraph 12, sub-clause 1, clause 7, Section X as revised by Law [No. 530-IX of 17 March 2020](#), subject to amendments introduced by Law [No. 540-IX of 30 March 2020](#)}

shall result in the imposition of a fine on officials (officers), authorised persons of the customer in the amount of one hundred tax-exempt minimum incomes.

Actions provided for by Part 1 of this Article, committed by the person who has already been the subject of administrative penalty for the same offences within the last year, —

shall result in the imposition of a fine on officials (officers), authorised persons of the customer in the amount of two hundred tax-exempt minimum incomes.

Purchase of goods, work and services before/without procurement/simplified procurement procedures in accordance with the law; application of competitive dialogue, selective tendering, or negotiated procurement procedure on terms not provided for by law; non-rejection of the bids subject to rejection in accordance with the law; rejection of bids on grounds not provided for by law or not in accordance with the law (unjustified rejection); entering into a procurement contract with the bidder, who became the winner of the procurement procedure, where the terms and conditions of the contract do not comply with the requirements of the bidding documents and/or the bid of the winner of the procurement procedure; amending the essential terms and conditions of the procurement contract in cases not provided for by law; entering unreliable personal data into the electronic procurement system and failure to update them in case of change; violation of the deadlines for publication of bidding documents —

shall result in the imposition of a fine on officials (officers), authorised persons of the customer in the amount from one thousand five hundred to three thousand tax-exempt minimum incomes.

Actions provided for by Part 3 of this Article, committed by the person who has already been the subject of administrative penalty for the same offences within the last year, —

shall result in the imposition of a fine on officials (officers), authorised persons of the customer in the amount from three to five thousand tax-exempt minimum incomes.

Failure to comply with the decision of the Antimonopoly Committee of Ukraine as an appellate authority following the consideration of appealers' complaints, the submission of which is provided for by law, —

shall result in the imposition of a fine on the head of the customer in the amount of two to five thousand tax-exempt minimum incomes.

Entering into contracts that provide for the customer's payment for goods, work and services before/without procurement/simplified procurement procedures, determined by law, —

shall result in the imposition of a fine on the head of the customer in the amount from two to ten thousand tax-exempt minimum incomes”;

in [Article 221](#), the figures “164⁻⁵—164⁻¹⁹” shall be replaced by the words and figures “164⁻⁵—164⁻¹³, Parts 3—6 of Article 164⁻¹⁴ and Articles 164⁻¹⁵—164⁻¹⁹”;

[Part 1](#) of Article 234⁻¹ shall be supplemented with the words and figures “violation of the procurement legislation (Parts 1 and 2 of Article 164⁻¹⁴)”;

in the paragraph of “government financial oversight bodies (Articles 163⁻¹², 164⁻¹², and 164⁻¹⁴)” of clause 1, Part 1 of Article 255, the figures “164⁻¹⁴” shall be replaced by the words and figures “Parts 3—6 of Article 164⁻¹⁴”;

2) in [clause 10](#), Part 1, Article 4 of the Law of Ukraine “On Sanctions” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2014, No. 40, Article 2018; 2018, No.1, Article 2), the words “state procurement” shall be replaced by the words “public procurement”;

3) [clause 2](#), Part 2, Article 62 of the Law of Ukraine “On Prevention of Corruption” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2014, No. 49, Article 2056) shall be amended to read as follows:

“2) legal entities that are participants of the procurement procedure in accordance with the Law of Ukraine “On Public Procurement”, if the cost of procurement of goods (products) and services is equal to or exceeds 20 million hryvnias”;

4) [Part 2](#), Article 39 of the Law of Ukraine “On Elections of the President of Ukraine” (The Official Bulletin of the Verkhovna Rada of Ukraine, 1999, No. 14, Article 81; 2004, Nos. 20—21, Article 291; 2009, No. 50, Article 754) shall be amended to read as follows:

“2. Procurement of goods, work and services for the preparation and conduct of elections of the President of Ukraine shall be in accordance with the Law of Ukraine “On Public Procurement”;

5) [Part 2](#), Article 51 of the Law of Ukraine “On Elections of People’s Deputies of Ukraine” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2012, Nos. 10—11, Article 73) shall be amended to read as follows:

“2. Procurement of goods, work and services for the preparation and conduct of elections of the People’s Deputies of Ukraine shall be in accordance with the Law of Ukraine “On Public Procurement”;

6) [Part 2](#), Article 73 of the Law of Ukraine “On Local Elections” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2015, Nos. 37—38, Article 366) shall be amended to read as follows:

“2. Procurement of goods, work and services for preparation and conduct of regular local elections, extraordinary, additional and first elections of deputies and village, settlement, city heads, as well as repeat, interim, extraordinary and first elections of leaders shall be in accordance with the Law of Ukraine “On Public Procurement”;

7) in [clause 7](#), Part 1, Article 15 of the Law of Ukraine “On Political Parties in Ukraine” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2001, No. 23, Article 118; 2013, Nos. 49—50, Article 449), the words “by the Law of Ukraine “On State Procurement” shall be replaced by the words “by the Law of Ukraine “On Public Procurement”;

8) in [paragraph 4](#), Part 2, Article 1 of the Law of Ukraine “On Electronic Commerce” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2015, No. 45, Article 410), the words “the Law of Ukraine “On State Procurement” shall be replaced by the words “the Law of Ukraine “On Public Procurement”;

9) in the [Law of Ukraine](#) “On the Features of Procurement of Goods, Work and Services for Ensuring of the Defence Needs” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2016, No. 24, Article 488):

[Part 1](#) of Article 1 shall be supplemented by clauses 4¹ and 7¹ to be read as follows:

“4¹) martial law, in the meaning defined in the [Law of Ukraine](#) “On the Legal Regime of Martial Law”;

“7¹) the period of the joint forces operation shall mean the period during which the measures provided for by the [Law of Ukraine](#) “On the Peculiarities of State Policy to Ensure the State Sovereignty of Ukraine in the Temporarily Occupied Territories in Donetsk and Luhansk Regions” are taken”;

in the text of the [Law](#), the words “during the anti-terrorist operation, during the imposition of a state of emergency” shall be replaced by the words “during a joint forces operation, during an anti-terrorist operation, when introducing a martial law or state of emergency”;

10) [Part 2](#), Article 2 of the Law of Ukraine “On Administrative Services” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2013, No. 32, Article 409; 2016, No. 51, Article 833; 2017, Nos. 27—28, Article 312, No. 31, Article 343) shall be supplemented by clause 16 to be read as follows:

“16) authorisation of electronic platforms, and decision-making on disconnection of authorised electronic platforms from the electronic procurement system provided by the Law of Ukraine “On Public Procurement”;

11) [Part 3](#), Article 2 of the Law of Ukraine “On Medicinal Products” (The Official Bulletin of the Verkhovna Rada of Ukraine, 1996, No. 22, Article 86; 2015, No. 24, Article 164), the words “the Law of Ukraine “On the Implementation of State Procurement” shall be replaced by the words “the Law of Ukraine “On Public Procurement”;

12) in the [Law of Ukraine](#) “On Standardisation” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2014, No. 31, Article 1058):

in [Part 4](#) of Article 29, the words “the Law of Ukraine “On the Implementation of State Procurement” shall be replaced by the words “the Law of Ukraine “On Public Procurement”;

the second sentence, [paragraph 7](#), clause 3, Section VI “Final and Transitional Provisions” shall be amended to be read as follows: “Procurement of such services at

the expense of the State Budget of Ukraine shall be in accordance with the Law of Ukraine “On Public Procurement”;

13) in [clause 10.1](#) of Article 10 of the Law of Ukraine “On the Creation of a Free Economic Zone “Crimea” and on the Peculiarities of Economic Activity in the Temporarily Occupied Territory of Ukraine” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2014, No. 43, Article 2030), the words “bidders, pre-qualified bidders or contractors” shall be replaced by the words “bidders”; the word “state” shall be deleted, and the words “by the Law of Ukraine “On Implementation of State Procurement” shall be replaced by the words “by the Law of Ukraine “On Public Procurement”;

14) in [clause 10, Part 1 of Article 9](#) and in [Part 2 of Article 70](#) of the Law of Ukraine “On the National Bank of Ukraine” (The Official Bulletin of the Verkhovna Rada of Ukraine, 1999, No. 29, Article 238; 2010, No. 49, Article 510; 2015, No. 32, Article 315), the words “by the Law of Ukraine “On Implementation of State Procurement” shall be replaced by the words “by the Law of Ukraine “On Public Procurement”;

15) in [Part 6](#), Article 49 of the Law of Ukraine “On Scientific and Scientific-Technical Activity” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2016, No. 3, Article 28), the words “by the Law of Ukraine “On Implementation of State Procurement” shall be replaced by the words “by the Law of Ukraine “On Public Procurement”;

16) in the [Law of Ukraine](#) “On the Antimonopoly Committee of Ukraine” (The Official Bulletin of the Verkhovna Rada of Ukraine, 1993, No. 50, Article 472 as amended as follows):

in [Part 1 of Article 1](#) and [clause 5 of Article 3](#), the words “in the field of state procurement” shall be replaced by the words “in the field of public procurement”;

in [Article 7](#):

in clauses 17⁻¹ and 18, Part 1, the words “by the Law of Ukraine “On Implementation of State Procurement” and” shall be deleted;

in clause 18, Part 3, the words “and by the Law of Ukraine “On Implementation of State Procurement” shall be deleted;

in [clause 20, Part 1 of Article 16](#) and [clause 20, Part 1 of Article 17](#), the words “and by the Law of Ukraine “On Implementation of State Procurement” shall be deleted;

17) in the [Law of Ukraine](#) “On Basic Principles of Exercising State Financial Control in Ukraine” (The Official Bulletin of the Verkhovna Rada of Ukraine, 1993, No. 13, Article 110; 2014, No. 4, Article 61; 2018, Nos. 6—7, Article 45):

in [Part 3](#) of Article 2, the words “and procurement inspection” shall be deleted;

[Article 5](#) shall be supplemented with a new part following Part 1 to read as follows:

“The procedure and grounds for procurement inspection by the government financial oversight body shall be established by the Cabinet of Ministers of Ukraine”.

In this regard, Parts 2 and 3 shall be deemed to be Parts 3 and 4 respectively;

18) in [clause 1](#) of Section II “Final Provisions” of the Law of Ukraine “On Amendments to Certain Laws of Ukraine on Ensuring Timely Access of Patients to Necessary Medicines and Medical Devices through Public Procurement with the Engagement of Specialised Procurement Organisations” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2015, No. 24, Article 164), the figures “2020” shall be replaced with the figures “2022”;

19) in the [Law of Ukraine](#) “On Ensuring the Functioning of the Ukrainian Language as the State Language” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2019, No. 21, Article 81):

1) [Part 5](#) of Article 30 following the words “in the state language” shall be supplemented with words and figures “subject to the peculiarities specified in Article 33 of this Law”;

2) [Article 33](#) shall be supplemented with Part 6 to read as follows:

“6. Labelling of medicines and medical devices, as well as the texts of patient information leaflets thereof, shall be in the State language. Labelling of medicines and medical devices to be procured by a specialised procurement organisation in pursuance of a procurement contract between the central executive authority in charge of shaping and implementing the state policy in the field of health care and the respective specialised procurement organisation, as well as the texts of patient information leaflets thereof, may be in the original language”.

8. Within six (6) months after the enactment of this Law, the Cabinet of Ministers of Ukraine shall:

bring its regulatory acts in line with this Law;

ensure that ministries and other central executive agencies bring their regulations in line with this Law;

ensure the adoption of regulatory acts required for the implementation of this Law.

President of Ukraine	P. POROSHENKO
City of Kyiv 25 December 2015 No. 922-VIII	