



Legal advisement on procurement, conclusion and implementation of contracts in Ukraine

Oleh Storchous

Kyiv, December 2022



About the Project “Sustainable Forestry Implementation” (SFI)

The project “Technical Support to Forest Policy Development and National Forest Inventory Implementation” (SFI) is a project established in the framework of the Bilateral Cooperation Program (BCP) of the Federal Ministry of Food and Agriculture of Germany (BMEL) with the Ministry of Environment and Natural Resources of Ukraine (MENR). It is a continuation of activities started in the forest sector within the German-Ukrainian Agriculture Policy Dialogue (APD) forestry component.

The Project is implemented based on an agreement between GFA Group, the general authorized executor of BMEL, and SFRA since October 2021. On behalf of GFA Group, the executing agencies - Unique land use GmbH and IAK Agrar Consulting GmbH - are in charge of the implementation jointly with SFRA.

The project aims to support sustainable forest management planning in Ukraine and has a working focus on the results in the Forest Policy and National Forest Inventory.

Author

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Disclaimer

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1. Summary

This final report describes the content of the services provided in accordance with the terms of reference for the provision of consulting services with unique land use GmbH during the term of the contract (December 2022).

The report includes summary information on the content of the consultancy services provided in the following areas:

- PROVISION OF TARGETED NON-REFUNDABLE FINANCIAL AND IN-KIND ASSISTANCE
- PREPARATION OF A CONTRACT FOR THE EXECUTION OF WORKS
- / PROVISION OF SERVICES
- PROCUREMENT PROCEDURE FOR GOODS IN UKRAINE
- REGISTRATION OF PROJECTS OF INTERNATIONAL TECHNICAL ASSISTANCE

In addition to written advice, verbal legal advice was also provided on registration of cars, compliance with customs procedures, the procedure for transferring goods to the Ukrainian side, etc.

2. LEGAL ADVICE ON CONCLUDING AN AGREEMENT ON THE PROVISION OF TARGETED NON-REFUNDABLE FINANCIAL AND IN-KIND ASSISTANCE

The following remarks and recommendations were made with regard to the agreement between GFA and the State Enterprise "Ukrderzhlisproekt" on the provision of targeted non-refundable financial and in-kind assistance:

An essential feature of this agreement is that legal cooperation under this agreement is governed by German law. It is logical that the parties have chosen Germany as the country where court disputes (in case of their occurrence) are considered. This is absolutely reasonable, as the donor is a resident of Germany. I do not have any knowledge of German civil law, so I cannot say what mandatory terms and conditions are required for contracts of this category in Germany. In my opinion, the presented draft reflects all the important conditions for its actual implementation and achievement of the expected results in the domestic legal field. With a few exceptions, the structure of this agreement is typical of Ukrainian business custom for such transactions.

According to Ukrainian law, if the parties agreed on the three essential terms of the contract (usually for most contracts): subject matter, price and term, and signed it, the parties' respective obligations arise. All other additional terms and conditions in the agreements are usually determined by the parties for the safe, convenient and understandable implementation of the subject matter of the agreements, liability measures, risk reduction, etc. Anything not yet regulated in the agreement is determined by law when interpreting such an agreement. As a rule, the parties specify as many conditions in the text as they consider necessary to achieve their interests and avoid risks.

Under Ukrainian law, parties may enter into any type of contract, as long as it is not prohibited by law. Agreements may not violate the applicable law, otherwise they will be declared invalid or worthless, etc.

I would like to draw your attention to the fact that the agreements between the Donor and the SE "Ukrderzhlisproekt" are not considered foreign economic activity. The scope of foreign economic activity includes only agreements with foreign business entities (i.e., those established for profit).

In this case, the Law of Ukraine "On Private International Law" applies, according to which (Article 5) the parties may, at their discretion, determine the law of the country under which the contract will be governed and determine the court that will consider possible disputes.

3. Legal support in drafting, concluding and executing a service agreement

3.1. Consulting on the peculiarities of concluding service agreements

In fulfilling the terms of reference, written comments were provided on the draft service agreement and the assessment of foreign economic activity risks.

The text of the clarifications is summarised below:

1. I recommend using the word "Obligations of the ... customer..." instead of "contribution" - In this clause, as well as in the subsequent text of the agreement, I recommend avoiding references to the SFI project as a specific entity. A project is an action plan to achieve a specific goal that unites performers. Therefore, it is stylistically incorrect. It would be appropriate to indicate, for example, "the Customer's representatives under this agreement are the SFI Project consultant Petrenko P.P., who is granted the right to agree with the Contractor on specific technical tasks".
2. I recommend to use the word "Obligations of the ... customer..." instead of "contribution".
3. We are talking about the Resolution of the Cabinet of Ministers of Ukraine No. 392 of 21.04.2021, which approved the "Procedure for conducting a national forest inventory". This is a bylaw that is publicly available information used by all individuals and legal entities. It is inappropriate to mention publicly available information in the transfer agreement, and therefore I recommend excluding it from the text.
4. It is also recommended to exclude the reference to the regulatory legal act.
5. Possibly reworded: "two weeks basis"?
6. It is recommended to set a certain time limit for the Customer to approve the completeness and accuracy of the data.
7. It is recommended to remove the reference to the SFI project as a specific entity. It is not a party to the contract, not an independent entity. See above.
8. Perhaps it would be better to use "Controlling..." checks.
9. It is better to read "and its representatives" instead of "project representatives".
10. I think in this context, it will be unnecessary to mention which experts will participate in the planned event and who will organise it.
11. Obviously, this is an incorrect translation. The planned mission is the purpose of the contract. It is known to the financial institution in advance. Therefore, at the stage of an already concluded agreement, it is illogical to indicate such a possibility (i.e., the right to cancel the agreement at its discretion).
12. The clause is not entirely clear. Please clarify your opinion... Perhaps "withdrawal of the contractor" is an incorrect term or translation difficulties. The contractor is defined in the contract and cannot be withdrawn. The contract is then subject to termination.
13. Information on the state of forests, according to the Law of Ukraine "On Access to Public Information", is classified as open information. In particular, information on the

state of forests. Therefore, the parties cannot restrict access to information on the state of forests under the terms of this Agreement, as this would be contrary to the law. According to Ukrainian law, an agreement cannot contradict the law, otherwise it will be declared invalid in court, and the relevant terms and conditions will be null and void, i.e., will not create legal consequences. In addition, it would contradict the "Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)" as an international treaty ratified by Ukraine and Germany.

There may be restrictions on certain internal information of the contractor and the customer regarding the procedure for conducting surveys, tools, but not on the state of forests.

14. Information that is transferred in Ukraine to executive authorities is automatically classified as open data, unless it relates to national security, pre-trial investigation and other specific cases. Thus, there is no point in restricting access to information in the field of the environment.
15. Obviously, this condition can be applied in German law. If the settlement of disputed relations is carried out in accordance with the requirements of German law, this is allowed. Ukrainian law has a slightly different relationship: the terms of the agreement cannot contradict the terms of the contract if the law contains a direct mandatory regulation (Article 6(3) of the Civil Code of Ukraine - see below).

Article 6 of the Civil Code of Ukraine states the following:

1. The parties have the right to enter into an agreement that is not provided for by acts of civil law but complies with the general principles of civil law.
2. The parties have the right to regulate their relations that are not regulated by these acts in an agreement provided for by acts of civil law.
3. The parties to the agreement may deviate from the provisions of acts of civil legislation and regulate their relations at their own discretion.

The parties to the agreement may not deviate from the provisions of civil legislation if these acts expressly state this, as well as if the binding nature of the provisions of civil legislation arises from their content or the nature of the relations between the parties.

4. Legal support of the procurement of goods in Ukraine

4.1. Drafting a contract for the procurement of goods in Ukraine

In fulfilment of the terms of reference, a draft agreement on the provision of non-refundable financial assistance was prepared between the Production Association Ukrderzhlisproekt and unique land use GmbH (see Annex 1 for the text of the agreement).

4.2. Legal advice on the specifics of concluding contracts

The Terms of Reference provided written explanations to questions regarding the specifics of entering into sale and purchase agreements and service agreements.

The text of the clarifications is summarised below:

Ukrainian law (Article 628(2) of the Civil Code of Ukraine) allows for the conclusion of mixed contracts. These are contracts that combine elements of different agreements (for example, a sale and purchase agreement and a service agreement).

In forestry, for example, when a forestry enterprise enters into a timber sale and purchase agreement with a processor (on a top logistics basis, where loading is not included in the price of the goods). Moreover, in the text of the agreement, it indicates that it also provides services to the buyer for loading timber onto its transport (determines the price of goods and the price of services in such an agreement).

Therefore, according to Ukrainian law, the parties are allowed to enter into one contract, which may provide for both non-refundable financial assistance (in essence, a donation of funds by one entity to another entity) and a contract for the performance of works (where one entity performs certain works on forest inventory on behalf of another entity, essentially for the public good). The donor (due to its status) does not receive any financial benefit or profit here).

So I would recommend signing two separate agreements, unless it is not a matter of principle for the donor. These agreements will separate the subject matter so as to avoid confusion.

But the donor has the final decision in this case, as the decisive subject of future legal relations.

5. Clarification on registration of international technical assistance projects

The text of the explanations is provided below:

Ukraine defines the procedure for registration of projects of international technical assistance (ITA) in sufficient detail, as well as lists measures for the use of such assistance and even foresees its monitoring.

The state registration of ITA projects (programmes) is MANDATORY. At the same time, the law does not provide for liability for failure to register such projects. The state registration of projects is the basis for accreditation of their implementers, and also gives the right to receive appropriate benefits, privileges, and immunities provided for by the laws and international treaties of Ukraine.

All of this is set out in detail in CMU Resolution No. 153 of 15.02.2002, here is a link to it - <https://zakon.rada.gov.ua/laws/show/153-2002-%D0%BF#Tex>

At the same time, a three-level system has been defined for ITA planning:

- 1) sectoral working groups (the level of local heads of government);
- 2) strategic platforms (the level of the Vice Prime Minister);
- 3) a form of "Partnership for Development" (the level of the Prime Minister).

The Secretariat of the Cabinet of Ministers of Ukraine is responsible for registration of international technical assistance projects (structural unit - Directorate for Coordination of ITA, their email address is ita85@kmu.gov.ua, I did not find a phone number). The Directorate must consider the documents submitted for state registration within 10 working days from the date of submission. The state registration is confirmed by issuing a Registration Card (in the prescribed form) by the Secretariat.

A copy of the registration card is submitted to the relevant state body in Ukraine/ that is the project beneficiary, which subsequently provides its coordinator for the registration of the ITA project.

By the way, the list of registered (active) ITA projects as of September 2022 is available on the Government website - <https://www.kmu.gov.ua/diyalnist/mizhnarodna-dopomoga-pereliki-zareyestrovanih-proektiv-z-planami-zakupiv-el>

In order to register the Project in Ukraine, the Recipient and the Development Partner must submit the following documents to the Secretariat (in electronic and paper form):

1. Application (with certain information specified by the CMU resolution.
2. A copy of the contract concluded between the development partner and the implementer, or a part of it, certified by the development partner or the implementer, which specifies - goals, - objectives of the project (programme), - types and amounts of international technical assistance provided for the purposes of the project (programme), - estimated cost, term and stages of the project (programme), - a letter from the beneficiary on support and interest in

the results of the project (programme) and - consent to carry out the activities specified in the contract. The beneficiary's letter shall also contain information on the compliance of the project (programme) with the tasks and measures set out in the Action Programme of the Cabinet of Ministers, the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand.

3. A procurement plan certified by the development partner or the contractor, prepared in the form according to Annex 5 to this Procedure (in case of need to exercise the right to tax benefits provided for by the legislation and international treaties of Ukraine).
4. a document (memorandum, statement of intent, action plan, terms of reference, partnership agreement, etc.) confirming the agreement on the goals, objectives, activities of the project (programme) between the development partner or implementer and the recipient (beneficiary)
5. a recipient that has entered into a grant agreement with a development partner or implementer, instead of the document specified in subparagraph 3 of paragraph 14 of this Procedure, shall submit a copy of such grant agreement certified by it.
6. a report on the results of the project (programme) implementation in case of submission of documents for state registration of the project (programme) within a period exceeding six months from the start of the project (programme) implementation.

I am attaching a sample of the documents required for state registration of the ITA project for this explanation. It will help you quickly understand the registration requirements.

Monitoring of ITA projects

The same resolution provides for a concise system of project monitoring, which is entrusted to the CMU Secretariat and the Beneficiary (i.e. the authorised Ukrainian authority).

Ongoing monitoring

The person implementing the ITA project in Ukraine (receiving the funds) submits a project implementation report to the beneficiary every six months and minutes of project supervisory board meetings.

Final monitoring

The recipient must submit a report on the final monitoring in the prescribed form to the authority (beneficiary).

If these monitoring reports are not submitted, the Ukrainian authorities will officially consider the results of the project unsatisfactory.

The CMU Resolution No. 153 obliges recipients to use the money for its intended purpose and to credit their balance sheet with the inventory received under ITA projects within 10 days. The recipient must publish the information on its website.

In case of detection of misuse of funds, the Beneficiary may raise the issue with the recipient to eliminate such violations.

A government document defines the procedure for registering a representative of a donor institution in Ukraine (a list of documents for registration is defined, and a certificate is issued upon registration).

Tax exemption for ITA projects.

Importantly, if it is necessary to exercise the right to tax exemptions provided for by domestic legislation and international agreements, the CMU Secretariat shall submit copies of the registration card to the State Tax Service and Customs within 5 days from the date of registration of the registration card (to inform about the availability of tax exemptions for a particular project).

There are also separate explanations on the exemption of certain transactions for the supply of goods through customs clearance from VAT and other tax benefits. The link is here - <http://yefimov.com.ua/?p=4728>, and here - <https://ch.tax.gov.ua/media-ark/news-ark/614348.html>

6. Consulting on request

At the request, provided oral legal advice on registration of cars, compliance with customs procedures, and the procedure for transferring goods to the Ukrainian side.

Annex1. DRAFT AGREEMENT ON THE PROVISION OF TARGETED NON-REFUNDABLE FINANCIAL ASSISTANCE FOR PROCUREMENT

CONTRACT **on the provision of targeted non-refundable financial assistance**

Irpın

05. November 2022

The Ukrainian State Forest Management Planning Association (USREOU code 00968167) (hereinafter referred to as the "Beneficiary"), represented by the General Director Viktor Anatoliyovych Melnychenko, acting on the basis of the Statute on the one hand and
and
unique land use GmbH (hereinafter referred to as the "Donor"), represented by
..... acting on the basis of the Statute, on the other hand,
(hereinafter together referred to as the "Parties" and each individually as a "Party")
have entered into this Targeted Non-Refundable Financial Assistance Agreement (hereinafter referred to as the "Agreement") as follows:

1. GENERAL PROVISIONS

- 1.1. The Donor provides the Beneficiary with targeted non-refundable financial assistance (hereinafter referred to as financial assistance), namely, transfers to the Beneficiary's ownership the funds in the amount specified in clause 1.3 of this Agreement solely for the purchase of property and payment for services specified in clause 1.2 of this Agreement:
- 1.2. Targeted non-refundable financial assistance is provided to the Beneficiary solely for the purchase/payment of
 - (four) off-road vehicles specified in Appendix 1 of this Agreement, which is an integral part of this Agreement, for an estimated amount of EUR;
 - equipment, tools and materials necessary for conducting the national forest inventory (abbreviated - NFI), as specified in Annex 2 to this Agreement, which is an integral part of it, for an estimated amount of ... EUR;
- 1.3. The approximate total amount of financial assistance provided under this Agreement (including the Beneficiary's expenses for payment of tax liabilities, bank fees, related and other additional expenses, etc. The transfer of funds shall be made in non-cash form by transferring to the foreign currency account of the Beneficiary.
- 1.4. This Agreement is not a loan agreement or a gift agreement within the meaning of the provisions of the Civil Code of Ukraine. The terms of this Agreement do not provide for the return of funds received by the Beneficiary (except as provided for in clauses 3.7, 4.5 of the Agreement).
- 1.5. The funds transferred under this Agreement to the Beneficiary are the exclusive property of the Donor and are not public funds within the

meaning of the Law of Ukraine "On Openness of Use of Public Funds". At the decision of the Donor, the funds transferred to the Beneficiary are not subject to the requirements of the Law of Ukraine "On Public Procurement". Procurement under this Agreement shall be carried out in accordance with the principles of transparency, rational use and competition, under the control of the Donor, within the framework of the procedures of the Project "Technical Support to Forest Policy Development and National Forest Inventory" (SFI).

- 1.6 Financial assistance under this Agreement is provided on a voluntary and non-profit basis, within the framework of the project "Technical Support to Forest Policy Development and National Forest Inventory" (SFI), and is also due to the need for humanitarian assistance to overcome the consequences of hostilities caused to the Beneficiary by hostilities that took place in February-April 2022 in Irpin, Kyiv region.

2. RIGHTS AND OBLIGATIONS OF THE PARTIES

2.1. The Recipient undertakes the following obligations:

- 2.1.1 Open a separate foreign currency account in a commercial bank to receive the Donor's funds transfer;
- 2.1.2 Use the financial assistance exclusively for the purposes specified in clause 1.2 of this Agreement. The financial assistance may not be used for other purposes than those provided for in this Agreement.
- 2.1.3 During the term of the Agreement, to purchase 4 (four) off-road vehicles to ensure the national forest inventory and further use in its own economic activities. For this purpose, the Beneficiary:
- Proposes to the Donor three economic offers of car dealers or other sellers for the purchase of vehicles with the characteristics specified in Annex 1 to this Agreement. In this case, the cost of the purchase, including tax costs and other additional purchase costs, may not exceed the amount specified in clause 1.2 of this Agreement;
 - after agreeing with the Donor on the most favourable offer, submit an application in any form, receive the funds transferred by the Donor, conclude a car purchase agreement with the relevant Seller (third party) of the vehicles under the agreed offer. Subsequently, it shall make payment to the Third Party on the basis of the agreement, conduct state registration of the purchased cars at the territorial service centres of the Ministry of Internal Affairs, and register the acquired property in its own accounting and tax records (on the right of economic management).
- 2.1.4 After taking ownership of the vehicles, the company shall fully fund the costs of insurance, operation and maintenance of the vehicles;
- 2.1.5 Guarantees the use of vehicles, including for the purposes of the national forest inventory during ... years (project implementation period ... ???...) and ensures their careful and proper use during further operation;
- 2.1.6 During the term of the Agreement, purchase equipment, tools and materials necessary to ensure the national forest inventory and further use in its own economic activities. For this purpose, the Beneficiary:

- offers the Donor ?? three ?? economic proposals (invoices) from sellers for the purchase of equipment, tools and materials specified in Annex 2 to this Agreement, which is an integral part of it. The specified goods may be combined into procurement packages. In this case, the cost of procurement, including tax expenses and other additional procurement costs, may not exceed the amount specified in clause 1.2 of this Agreement;
 - after agreeing with the Donor on a specific proposal, submits an application in any form, receives the funds transferred by the Donor to a foreign currency account, and concludes the relevant agreements with the Seller/Sellers (third parties). Further, it shall make payment to the Third Party on the basis of the agreement, perform its own accounting and tax accounting as the property acquired in ownership (on the right of economic management).
- 2.1.7 In the event of circumstances that may make it impossible to fully or partially fulfil the terms of this Agreement, notify the Donor in writing within 3 calendar days of changes in the terms or scope of use of financial assistance.
- 2.1.8 Provide interim reports with a set of documentation to confirm the proper use of funds under this Agreement, in accordance with the oral and written requirements of the Donor. Supporting documents provided by the Beneficiary together with the reports shall include proof of expenditure, proof of provision of purchased works or services, proof of registration and state registration, vehicle accounting, proof of procurement, proof of payment, etc. Payment documents shall be certified by the relevant official of the Beneficiary.
- 2.1.9 Provide oral and written explanations at the request of the Donor regarding the fulfilment of the terms of this Agreement;
- 2.1.10 At the request of the Donor, provide him/her, including his/her contact persons, with the opportunity to inspect the acquired tangible assets;
- 2.1.11 Provide the Donor with a final report in any form, which shall contain full information on the use of financial assistance received from the Donor under this Agreement.
- 2.1.12 Must keep all supporting documentation for ... years after the termination of the Agreement.
- 2.1.13 Use all possible means to promote the Project for which financial assistance is provided. For this purpose, vehicles, tools and materials, etc. purchased in the course of implementation of this Agreement shall contain information on the fact that they were implemented with the financial support of the Donor and the Project "Technical Support to Forest Policy Development and National Forest Inventory Implementation (SFI)" using the Project symbols.
- 2.2 The Donor undertakes the following obligations:
- 2.2.1 Transfer funds in the form of financial assistance to the account of the Beneficiary in the manner, terms and for the purposes specified in this Agreement;
- 2.2.2 Establishes the application and reporting form to be submitted by the Beneficiary under this Agreement;

- 2.2.3 Agree on a specific economic offer for the purchase of vehicles in accordance with clause 2.1.3 of this Agreement, as well as equipment, materials and tools;
- 2.2.4 Verify the accuracy of the calculation of costs for applications submitted by the Beneficiary, copies of documentation confirming the intended use of funds;
- 2.2.5 Receives interim and final reports of the Beneficiary on the funds used;
- 2.2.6 Control and verify the intended use of the financial assistance by the Beneficiary in the manner prescribed by this Agreement;
- 2.2.7 Facilitate the fulfilment of the Beneficiary's obligations;

3. FINANCING PROCEDURE

- 3.1 The Financial Assistance shall be transferred in cashless form by payment order by transferring the relevant funds to the foreign currency account of the Beneficiary specified in this Agreement.
- 3.2 The financial assistance shall be considered transferred at the moment of crediting the funds to the foreign currency account of the Beneficiary.
- 3.3 The Donor shall transfer the financial assistance to the Beneficiary in instalments in accordance with the procedure set out in Section 2 of this Agreement within three banking days after the Donor has approved the application, economic proposal for the purchase of vehicles/invoice for payment of equipment, materials and expenses of the Beneficiary. The amount of the payment transferred by the Donor to the foreign currency account shall be in the equivalent amount of UAH (at the interbank foreign exchange market rate or the commercial rate of the Beneficiary's bank). The relevant information on the planned amount of funds shall be reflected by the Beneficiary in the application to the Donor;
- 3.4. Upon receipt of the funds to the foreign currency account, the Beneficiary shall sell the currency within two banking days at the most appropriate rate (at the commercial rate of the Beneficiary's bank or in the interbank foreign exchange market), after which the funds credited in national currency shall be transferred to the current account of the Beneficiary and shall be considered as financial assistance funds;
- 3.5 At the expense of the funds credited to the current account, the Beneficiary shall perform the contracts concluded by it, pay bills to third parties for the purposes specified in clause 1.2 of the Agreement.
- 3.6. All transfers of funds by the Donor that will take place in the course of the Parties' performance of this Agreement shall be made to the details specified in this Agreement. After the Recipient has transferred funds from the foreign currency account to its current account in the national currency, the Recipient shall make payment in the national currency.
- 3.7. The Recipient shall, within five banking days from the date of completion of the procurement under clause 1.2 of this Agreement, if there are any remaining funds, return to the Donor all unused financial assistance fund.

4. RESPONSIBILITY OF THE PARTIES

- 4.1. In case of an obligation breach arising out of this Agreement (hereinafter referred to as the "Agreement Breach"), the Party shall be liable as defined by this Agreement and/or the legislation in force in Ukraine.
- 4.2. A breach of the Agreement shall be its non-performance or improper performance, i.e. performance in violation of the terms and conditions specified in the content of this Agreement.
- 4.3. A Party shall not be liable for breach of the Agreement if it occurred through no fault of its own.
- 4.4. A Party shall be deemed innocent and shall not be liable for breach of the Agreement if it proves that it has taken all measures in its power to properly perform this Agreement.
- 4.5. The Beneficiary shall be independently liable to third parties for the fulfilment or non-fulfilment of their obligations under other transactions arising in connection with the performance of this Agreement.
- 4.6. The Beneficiary shall be fully liable for tax liabilities arising from the receipt of financial assistance and the use of targeted non-repayable financial assistance under this Agreement.
- 4.7. In case of misuse of funds by the Beneficiary within the terms established by this Agreement, the Donor has the right to suspend all payments until they are fulfilled or terminate the Agreement unilaterally, with a notice to the Beneficiary.
- 4.8. In the event of early termination of this Agreement due to the misuse of any part of the funds, the Beneficiary shall, within 10 calendar days from the date of receipt of the Donor's notice of termination of this Agreement, unilaterally return the funds transferred by the Donor (in the currency of payment) to the account specified in this Agreement.

5. DISPUTE RESOLUTION

- 5.1. All disputes arising out of or related to this Agreement shall be resolved through negotiations and/or written claims between the Parties.
- 5.2. The pre-trial procedure for settlement of disputes under this Agreement shall be mandatory.
- 5.3. If the relevant dispute cannot be resolved through negotiations, it shall be resolved in the economic proceedings of Ukraine, according to the established jurisdiction and jurisdiction of such dispute in accordance with the legislation in force in Ukraine.

6. CONTRACT EFFECTIVENESS

- 6.1. This Contract shall be considered concluded and shall enter into force from the date of its signing by the Parties and its sealing by the Parties.
- 6.2. The term of this Contract shall commence on the date of its signing by the Parties and shall expire on 31 December 2022. The expiry of the Contract shall not terminate the fulfilment of the obligations hereunder.

- 6.3. The expiry of this Contract shall not relieve the Parties from liability for its violation that occurred during the term of this Contract.
- 6.4. Unless otherwise expressly provided by this Contract or the legislation in force in Ukraine, this Contract may be amended only by agreement of the Parties, which shall be formalised by a respective annex to this Contract.
- 6.5 Neither the Donor nor the Recipient may transfer their rights and obligations under this Contract to a third party without the prior written consent of the other Party.
- 6.6. Amendments to this Contract shall enter into force upon the proper execution by the Parties of the relevant additional agreement to this Contract.
- 6.7. This Contract may be terminated unilaterally by the Donor with simultaneous termination of its obligations, which the latter shall notify the Beneficiary in writing at least 5 calendar days prior to the date of termination by sending a relevant notice.

7. INFORMATION EXCHANGE

- 7.1. Information shall be exchanged between the Parties by any possible and acceptable means of communication, including by electronic messages to the e-mail addresses specified in this Contract and the e-mail addresses of the contact persons.
- 7.2 The Parties, including their contact persons, undertake to check the e-mail specified in this Contract on a daily basis (on business days). An electronic message shall be deemed received by the receiving Party on the day of its successful sending. The sending Party shall be deemed unsuccessful if the sending Party receives a notification that it has not been received. In this case, the Party sending the notice shall immediately send it again to any other known and pre-determined addresses specified in this Contract.
- 7.3 Contacts of the Parties hereunder are as follows:

1) contact person of the Donor:

Name of the person/status; Vitaliy Storozhuk ..., Chief Project Coordinator

location:

telephone: e-mail:

2) contact person of the Beneficiary: Full name of the person/status

location:

telephone: e-mail:

8. FINAL PROVISIONS AND OTHER TERMS AND CONDITIONS

- 8.1. All legal relations arising out of or related to this Contract, including those related to the validity, conclusion, execution, amendment and termination of this Contract, interpretation of its terms, determination of the consequences of invalidity or breach of the Contract, shall be governed by this Contract and the relevant provisions of the legislation in force in Ukraine, as well as by the business practices applicable to such legal relations on the basis of the principles of good faith, reasonableness and fairness.
- 8.2 The Parties shall be released from liability for full or partial failure to fulfil their obligations under this Contract if such failure is the result of force majeure circumstances that arose after the Parties signed this Contract.
- 8.3 For the purposes of this Contract, the Parties understand the term "force majeure" to mean extraordinary events or circumstances that could not have been foreseen and/or prevented by the Parties by means available to them, namely: natural disasters (fires, floods, earthquakes, landslides, etc.); adverse weather conditions of a natural nature (hurricanes, etc.); road incidents; riots and disturbances, military manoeuvres and/or hostilities in the territory of Kyiv region; mobilisation of the Beneficiary's authorised persons; epidemics; vandalism; terrorist acts; regulations issued by state and local authorities; accidents in the power grids and/or prolonged absence of electricity (more than one day) in such grids for other reasons not related to the Parties, if such circumstances prevent the fulfilment of the terms of this Contract, all other events that will be recognised as force majeure. The declaration of martial law in Ukraine as of the period of performance of this Contract shall not be deemed to be a force majeure event. The occurrence of force majeure shall be confirmed by a certificate of the competent state authority or institution (or applicable laws or regulations of Ukraine).
- 8.4. After signing this Contract, all previous negotiations, correspondence, preliminary agreements, protocols of intent and any other oral or written agreements of the Parties on issues related to this Contract shall become null and void, but may be taken into account when interpreting the terms of this Contract.
- 8.5 The Parties shall be solely responsible for the accuracy of the details specified by them in this Contract and shall promptly notify the other Party in writing of any changes thereto, and in case of failure to do so shall bear the risk of adverse consequences thereof.
- 8.6 The Parties confirm that at the time of signing this Contract both they and their representatives authorised to sign this Contract on behalf of the Parties are not suspended from their duties and their powers are duly confirmed.
- 8.7 The Beneficiary shall immediately notify the Donor in writing of any case that contains or may lead to a conflict of interest in the performance of this Contract to third parties.
- 8.8 This Contract is drawn up in full understanding of its terms and terminology by the Parties, and is concluded and signed in two copies in Ukrainian.
- 8.9 Additional agreements and annexes to this Contract shall be its integral parts and shall be legally binding if they are in writing, signed by the Parties and sealed by their seals.

8.10 All amendments to the text of this Contract shall be valid and may be taken into account only if they are dated, signed by the Parties and sealed with their seals, or signed with a qualified electronic signature in each case.

Location and details of the parties:

Beneficiary:

Donor:

Name:

**«Ukrainian State Forest Management
Planning Association»**

.....

General director

-----**V.A.Melnychenko**-----
Place of seal

Place of seal (signature)