

PROTOCOL
on the Procedure for Regulating Procurement

I. General Provisions

1. This Protocol has been developed in accordance with Section XXII of the Treaty on the Eurasian Economic Union (hereinafter “the Treaty”) and determines the procedure for procurement regulation.

2. The terms used in Section XXII of the Treaty and this Procedure shall have the following meanings:

"web portal" means a single official website of a Member State on the Internet providing a single point of access to information on procurement;

"customer" means a state authority, a local authority, a budget organisation (including state (municipal) institutions), as well as other persons in cases provided for by the procurement legislation of a Member State, conducting procurement in accordance with this legislation. The procurement legislation of a Member State may provide for the establishment (functioning) of a procurement organiser to act in accordance with this legislation. At that, it shall not be permitted to transfer to the procurement organiser the functions of the customer on the conclusion of procurement agreements (contracts);

"procurement" means public (municipal) procurement, referring to the purchase of goods, work, services and other procurement by the customer using budgetary and other funds in the cases provided for by the procurement

legislation of the Member State, as well as the relations related to the implementation of procurement agreements (contracts);

"information on procurement" means a notice of holding procurement, procurement documentation (including the draft procurement agreement (contract)), changes to such notices and documentation, clarifications of the procurement documentation, protocols drawn up in the procurement process, information on procurement results, details of procurement agreements (contracts) and addenda to such agreements, information on the results of implementation of procurement agreements (contracts), information on the receipt of claims by the authorised regulatory and/or controlling government authorities of the Member State in the sphere of procurement, their content and the action taken on the results of examination of such claims and regulations issued by such authorities. All information on procurement shall be subject to mandatory posting on the web portal;

"national treatment" means treatment providing for that, for the purposes of procurement, each Member State shall provide to goods, works and services originating from the territories of the Member States, to potential suppliers of the Member States and suppliers of the Member States offering the goods, performing works and providing services, a treatment no less favourable than that accorded to goods, works and services originating from the territory of their state, as well as to potential suppliers and suppliers of their state, offering the goods, performing works and providing services. The country of origin of goods shall be determined in accordance with the rules of determining the origin of goods effective on the customs territory of the Union;

"operator of an electronic trading platform (e-platform)" means a juridical person or a natural person carrying out business activities that is in

possession of an electronic trading platform (e-platform), in accordance with the legislation of the Member State, with the soft hardware required for its functioning, and/or ensures its functioning;

"supplier" means a person that is a supplier, executor or contractor under a procurement agreement (contract);

"potential supplier" means any juridical person or any natural person (including an individual entrepreneur);

"electronic trading platform (e-platform)" means an Internet site selected in accordance with the procurement legislation of a Member State for conducting procurement operations in electronic format. In this case, in accordance with the procurement legislation of a Member State may be determined that an electronic trading platform (e-platform) is represented by a web portal, with indication of a limited number of electronic trading platforms (e-platforms);

"electronic format of procurement" means the procedure for organising and conducting procurement using the Internet, a web portal and/or an electronic trading platform (e-platform), as well as soft hardware.

3. In the application of this Protocol, unless otherwise implied in the provisions of the legislation of a Member State, it shall not be required to bring the legislation of the Member State in compliance with this Protocol.

II. Requirements in the Sphere of Procurement

4. Procurement in the Member States shall be conducted using the following:

an open tender, which, among other things, may provide for two-stage procedures and pre qualification of bidders (hereinafter "the tender");

request for pricing (request for quotations);

request for proposals (if provided for by the procurement legislation of the Member State);

open electronic auction (hereinafter “the auction”);

exchange trading (if provided for by the procurement legislation of the Member State);

procurement from a single source or a single supplier (executor, contractor).

The Member States shall ensure that tenders and auctions are held only in the electronic format and tend to convert to the electronic format in the implementation of other methods of procurement.

5. Tender-based procurement shall be conducted taking into account the requirements in paragraphs 1-4 of Annex 1 to this Protocol.

6. Procurement based on request for pricing (quotations) process shall be conducted subject to the requirements provided for by paragraph 5 of Annex 1 to this Protocol.

7. Procurement based on requests for proposals shall be conducted taking into account the requirements provided for by paragraph 6 of Annex 1 to this Protocol in cases provided for by Annex 2 to this Protocol, as well as in cases provided for in paragraphs 10, 42, 44, 47, 59 and 63 of Annex 3 to this Protocol if it is determined by the procurement legislation of the Member State.

8. Auction-based procurement shall be conducted taking into account the requirements provided for in paragraphs 7 and 8 of Annex 1 to this Protocol, in accordance with Annex 4 to this Protocol.

A Member State shall be entitled to determine in its procurement legislation a wider range of goods, works and services to be procured through the auction procedure.

9. The commodity exchange may be used for procuring exchange commodities (including goods provided for by Annex 4 of this Protocol).

A Member State shall have the right to specify in its legislation the commodity exchanges allowed for procurement purposes.

10. Procurement from a single source or a single supplier (executor, contractor) shall be carried out taking into account the requirements specified in paragraph 10 of Annex 1 to this Protocol, in the cases provided for by Annex 3 to this Protocol.

A Member State may reduce in its procurement legislation the list of goods, works and services provided for by Annex 3 to this Protocol.

11. A Member State may unilaterally determine in its procurement legislation any specific features of the procurement procedure related to the need to maintain confidentiality of information on potential suppliers before the end of the procurement process, as well as, in exceptional cases, for a period not exceeding 2 years, specific features of procurement of certain goods, works and services.

Decisions and actions relating to determining such specific features shall be taken in the procedure stipulated in paragraphs 32 and 33 of this Protocol.

12. Procurement shall be performed by the customer independently or with the participation of the procurement organiser (if the procurement legislation of the Member State provides for the functioning of a procurement organiser).

13. Procurement legislation of a Member State shall provide for the formation and maintenance of a registry of mala fide suppliers, including information on:

potential suppliers avoiding the conclusion of procurement agreements (contracts);

suppliers non-performing or improperly fulfilling their obligations under procurement agreements (contracts);

suppliers with which the customers have unilaterally terminated the procurement agreements (contracts), when in the course of their implementation it was found out that the suppliers did not meet the documented requirements for potential suppliers and suppliers or provided false information about their compliance with such requirements, allowing them to become the successful bidders in the procurement procedure resulting in the conclusion of such agreement.

Procurement legislation of a Member State may provide for inclusion in its registry of mala fide suppliers of the Member State any information on the founders, members of collegial executive authorities and persons performing the functions of the sole executive authority of the person included in such registry.

Mala fide suppliers shall be included in the registry for 2 years upon confirmation of the information (determining the facts) provided for by indents two to four of this paragraph, based on a court decision and/or decision of an authorised regulatory and/or controlling authority of the Member State in the sphere of procurement.

A person included into the registry of mala fide suppliers may appeal against inclusion in the registry in a judicial procedure.

The procurement legislation of a Member State may provide for exceptions regarding inclusion in the register of mala fide suppliers of the potential suppliers and suppliers specified in paragraphs 1 and 6 of Annex 3 to the this Protocol.

14. The procurement legislation of a Member State may provide for the right or obligation of the customer to perform admission to participation in procurement on the basis of information contained in the registry of mala fide suppliers of this Member State and/or in registries of mala fide suppliers of other Member States.

15. The Member States shall limit the participation in procurement:

1) by determining, in accordance with their procurement legislation, any additional requirements to potential suppliers and suppliers in the procurement of certain types of goods, works and services;

2) in other cases determined by this Protocol.

16. Procurement legislation of a Member State shall impose a ban on:

1) inclusion in the procurement conditions of any unquantifiable and/or unmanageable requirements to potential suppliers and suppliers;

2) admission to participation in the procurement of potential suppliers that do not meet the requirements of the procurement documentation;

3) refusal of admission of potential suppliers to participation in the procurement on the grounds not stipulated in a procurement notice and/or procurement documentation.

17. It shall not be allowed to levy from potential suppliers and suppliers any fee for the participation in procurement, except in cases provided for by the procurement legislation of the Member State.

18. Procurement legislation of a Member State may determine requirements to potential suppliers and suppliers regarding the provision of tender security and security for the implementation of the procurement agreement (contract).

Procurement legislation of the Member State shall determine the amount and form of the tender security and security for the implementation

of the procurement agreement (contract). The amount of tender security for participation in the procurement shall not exceed 5 percent of the initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement), and the security for the implementation of the procurement agreement (contract) shall not exceed 30 percent of the initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement), except when the procurement agreement (contract) stipulates an advance payment. In the latter case, the amount of the security for the implementation of the procurement agreement (contract) shall be equal to at least 50 percent of the amount of the advance payment.

The supplier shall be entitled to refuse a procurement agreement (contract) containing a requirement for the provision of an advance payment to the supplier.

Procurement legislation of a Member State shall determine at least 2 ways (types) of tender security and security for the implementation of the procurement agreement (contract).

The tender security and security for the implementation of the procurement agreement (contract) may be represented, in particular, by the following:

- a guarantee monetary contribution made to the bank account of the customer or, if it is determined by the procurement legislation of the Member State, to the bank account of the procurement organiser or operator of an electronic trading platform (e-platform);

- a bank guarantee.

Requirements for bank guarantees for the procurement purposes shall be determined by the legislation of the Member State.

Procurement legislation of a Member State shall determine a requirement for the timely repayment of the tender security and security for the implementation of the procurement agreement (contract) to potential suppliers and suppliers in the cases provided for by this legislation.

19. The procurement documentation and other documents in the procurement procedure shall not include any requirements or instructions as to any trademarks, service marks, trade names, patents, utility models, industrial designs, appellations of origin of goods, names of manufacturers or suppliers, except in cases when no other method of precise specification of the object of procurement is available (in such cases the customer shall include in the procurement documentation the words “or their equivalent (analogue)”). This provision shall not apply to the cases of incompatibility of goods procured with any goods used by the customer when it is required to ensure the compatibility of such goods (including resupply, upgrades and retrofitting of the main (fixed) equipment).

The customer shall be entitled to determine standard features, requirements, symbols and terminology relating to the technical and qualitative characteristics of the object of procurement as defined in accordance with the technical regulations, standards and other requirements provided for by international treaties and acts constituting the law of the Union and/or the legislation of the Member State.

20. Members of the committee (including tender, auction and bidding committees) may not be represented by natural persons personally interested in the results of the procurement (including natural persons having submitted applications for participation in the tender, auction, request for pricing (requests for quotation) or requests for proposals), employees of potential suppliers having applied for participation in the tender, auction, request for

pricing (request for quotations) or request for proposals, or natural persons who may be influenced by potential suppliers (including natural persons who are participants (shareholders) of the potential suppliers, employees of their management authorities and creditors of the potential suppliers), as well as officials of authorised regulatory and/or controlling authorities of the Member State in the sphere of procurement directly controlling the procurement process.

21. A procurement agreement (contract) shall contain the following mandatory conditions:

1) liability of the parties for non-fulfilment or improper fulfilment of their obligations under the procurement agreement (contract);

2) the payment procedure, as well as the procedure for acceptance of the results of procurement by the customer for assessing their compliance (including with regard to the quantity (volume), completeness, and quality) with the requirements determined by the procurement agreement (contract).

22. Procurement legislation of a Member State shall provide for a ban on:

1) determining any terms and conditions of the procurement agreement (contract) entailing any limitation of the number of potential suppliers and suppliers in cases not covered by this legislation;

2) unilateral waiver of any contractual obligations by the customers and suppliers in case of proper fulfilment by the other party of its obligations under the procurement agreement (contract) and in cases not covered by this legislation;

3) changes in the terms of contractual obligations, including changes in the price of the procurement agreement (contract), except as provided for in this legislation. It shall not be allowed to reduce the quantity of goods, the

volume of works and services without a proportional reduction in the price of the procurement agreement (contract).

23. It shall be permitted to conclude procurement agreements (contracts) with several suppliers in cases provided for by the legislation of a Member State.

24. Procurement legislation of a Member State may require conclusion of a procurement agreement (contract) providing for procurement of goods or works, subsequent maintenance, operation within service lifetime, repairs and disposal of goods supplied or an object created as a result of work performance (a life cycle agreement (contract)).

25. Procurement legislation of a Member State may provide for a particular procurement process the requirement to include in the draft procurement agreement (contract), forming an integral part of the respective procurement documentation, any additional terms of its implementation (including those not related to the object of procurement).

26. Procurement legislation of a Member State may provide for mandatory presentation by the potential supplier and/or supplier to the customer of information on all co-contractors and subcontractors under the procurement agreement (contract).

27. Procurement legislation of a Member State may provide for banking support of procurement agreement (contract).

28. The Member States shall seek to have fully converted to the conclusion of procurement agreements (contracts) in electronic format by 2016.

29. The Member States shall ensure information openness and transparency of procurement, including by:

- 1) the creation of a web portal by each Member State;

2) publications (posting) on the web portal of procurement-related information and the registry of mala fide suppliers (including in the Russian language);

3) publication (posting) on the web portal of regulatory legal acts of the Member State in the sphere of procurement (including in the Russian language);

4) identification of a limited number of electronic trading platforms (e-platforms) and/or a web portal as a single point of access to information on procurement in electronic format and electronic services related to such procurement, if provided for by the procurement legislation of the Member State;

5) organising free of charge and unhindered access to procurement-related information, the registry of mala fide suppliers and regulatory legal acts of the Member State in the sphere of procurement published (posted) on its website, as well as ensuring the widest possible search possibilities for such information, registry and acts.

III. National Treatment and Specific Features of its Provision

30. Each Member State shall ensure in respect of goods, works and services originating from the territories of other Member States, as well as for potential suppliers and suppliers of other Member States offering such goods, works and services, the national treatment in the sphere of procurement.

31. In exceptional cases and as determined in its procurement legislation, a Member State may unilaterally introduce exemptions from such national treatment for a period not exceeding 2 years.

32. The authorised regulatory and/or controlling authority of the Member State in the sphere of procurement shall, in advance, but not later than 15 calendar days prior to the date of adoption of the act on the introduction of exemptions under paragraph 31 of this Protocol, notify the Commission and each Member State in writing about adoption of such act, providing a rationale for its adoption.

A Member State having received such a notice may apply to the notifying authority with a proposal to hold respective consultations.

A Member State having sent the aforementioned notice may not refuse to hold such consultations.

33. The Commission shall be entitled to decide on the need to cancel the act establishing any exemptions adopted by the Member State under paragraph 31 of this Protocol within 1 year from the date of its adoption.

If the Commission decides to cancel the above act, the Member State having adopted the act shall ensure the introduction of respective changes into the act (its invalidation) within 2 months.

The Commission shall consider notices on adoption of acts in accordance with paragraph 31 of this Protocol and applications of the Member States regarding their cancellation and shall make decisions as to the cancellation of such acts in the procedure determined by the Commission.

If, within 2 months from the date of entry into force of the Commission's decision on the cancellation of an act adopted in accordance with paragraph 31 of this Protocol, the Member State in respect of which the above decision was delivered fails to enforce it, every other Member State shall be entitled to unilaterally waive national treatment to the Member State. The notice thereof shall be immediately forwarded to the Commission and to each of the Member States.

34. If a Member State fails to fulfil its obligations under Section XXII of the Treaty and this Protocol, other Member States may be entitled to appeal to the Commission. Upon review of the application, the Commission shall take one of the following decisions:

on the absence of a violation;

on recognition of a violation and the need for its elimination by the Member State.

If, within 2 months from the date of the decision on the elimination of such a violation, the Member State in respect of which the above decision was delivered fails to enforce it, every other Member State shall be entitled to unilaterally waive national treatment to that Member State.

The notice thereof shall be immediately forwarded to the Commission and to each of the Member States.

IV. Ensuring the Rights and Legitimate Interests of Persons Participating in Procurement

35. Each Member State shall take measures to prevent, detect and stop violations of its procurement legislation.

36. The amount of the rights and legitimate interests of persons in the sphere of procurement to be ensured shall be determined by Section XXII of the Treaty, this Protocol and the procurement legislation of the Member State.

37. In order to ensure the legitimate rights and interests of persons in the sphere of procurement, as well as to exercise control over compliance with the procurement legislation of the Member State, each of the Member States, in accordance with its legislation, shall ensure the availability of authorised regulatory and/or controlling authorities in the sphere of

procurement. In this case, these functions may be performed by a single authority having the following powers:

- 1) control in the sphere of procurement (including through inspections);
- 2) examination of claims and applications against decisions and actions (omission) of customers, procurement organisers, operators of electronic trading platforms (e-platforms), operators of web portals, commodity exchanges, commissions and other persons in procurement, violating the procurement legislation of the Member State. In this case, the decisions and actions (omission) of customers, procurement organisers, operators of electronic trading platforms (e-platforms), operators of web portals, commodity exchanges, commissions and other persons in procurement adopted (committed) before the deadline for the submission of applications for participation in the procurement may be appealed against not only by any potential supplier, but also by any other person in accordance with the procurement legislation of the Member State;
- 3) prevention and detection of violations of the procurement legislation of the Member State, as well as taking measures to remedy the said violations (including by issuing a binding order to remedy such violations and bringing perpetrators to liability for such violations);
- 4) establishing and maintaining the registry of mala fide suppliers.

V. Ensuring Measures to Improve the Efficiency of Procurement and Aimed at the Fulfilment of Social Functions

38. Procurement legislation of a Member State shall establish a requirement for procurement planning.

39. Procurement legislation of a Member State may provide for the following rules increasing the efficiency of procurement:

- 1) standardisation of procurement by determining requirements for goods, works and services procured (including for the limit price of goods, works and services) and/or standard costs of ensuring customer functions;
- 2) public control and public discussion of procurement;
- 3) application of anti-dumping measures;
- 4) involvement of experts and expert organisations.

40. In the cases and procedure provided for by the procurement legislation of a Member State, benefits in procurement may be determined for institutions and enterprises of the penal enforcement system, disabled people's organisations, small and medium-sized businesses, as well as socially-oriented non-profit organisations.

Information about such benefits shall be specified by the customer in the notice of procurement and procurement documentation.

41. For the purposes of discussing the most pressing issues of law enforcement, information sharing, improving and harmonising the legislation, and joint development of guidance materials in the sphere of procurement, the Commission shall, jointly with the relevant regulatory and/or controlling authorities of the Member States in the sphere of procurement, hold meetings at the level of managers and experts at least 3 times a year.

Annex 1
to the Protocol on the
Procedure for Regulating
Procurement

**Requirements to the Organisation and Conduct of
Tenders, Request for Pricing (Request for Quotations), Request for
Proposals, Auctions and Procurement from a Single Source or a
Single Supplier (Executor, Contractor)**

1. A tender shall be held in electronic format, which provides for, among other things, submission of bids in the form of an electronic document.

The successful bidder shall be the potential supplier offering the best terms for the implementation of the procurement agreement (contract).

It shall not be allowed to determine evaluation criteria and the procedure for the evaluation and comparison of bids entailing any biased and/or unmanageable selection of the supplier, contrary to the procurement legislation of the Member State.

2. A tender shall be held subject to the following requirements:

- 1) approval of the tender documentation;
- 2) approval of the composition of the tender committee;

3) publication (posting) on the web portal of the tender notice and tender documentation within the periods provided for by the procurement legislation of the Member State, but not less than 15 calendar days before the deadline for the submission of tender bids. In case of changes in the tender notice and/or tender documentation, the deadline for the submission of bids shall be extended so as to ensure that the period between the date of publication (posting) of the changes on the web portal and the end date for

bid submission is not less than 10 calendar days. It shall not be allowed to change the subject of the procurement agreement (contract);

4) clarifications for provisions of the tender documentation and publication (posting) of such clarifications on the web portal not later than 3 calendar days before the deadline for the submission of bids. Clarifications for the provisions of the tender documentation shall be provided if requested not later than 5 calendar days before the deadline for the submission of tender bids;

5) submission of bids in the form of electronic documents into the electronic trading platform (e-platform) and/or the web portal;

6) opening and examination of bids by the tender committee for determining bids that meet the requirements of the tender documentation for the admission of potential suppliers to participate in the tender;

7) publication (posting) on the web portal of reports on the opening and examination of tender bids and admission of potential suppliers to participate in the tender and notification of each potential supplier on the results of the opening, examination and admission not later than on the day following the day of adoption of respective decisions by the tender committee;

8) evaluation and comparison of tender bids submitted by potential suppliers admitted to participation in the tender, as well as selection of the successful bidder and publication (posting) on the web portal of a respective report, informing each potential supplier on the results of such evaluation, comparison and determination of the successful bidder not later than on the day following the day of adoption of respective decisions by the tender committee;

9) conclusion of a procurement agreement (contract) under the terms specified in the tender bid of the potential supplier selected as the successful

bidder and in the tender documentation not earlier than 10 calendar or business days and not later than 30 calendar days from the date of adoption of the decision on the selection of the successful bidder or invalidation of the tender in cases specified by the procurement legislation of the Member State. Procurement legislation of a Member State shall also establish the procedure and priority of conclusion of a procurement agreement (contract) between the customer and a potential supplier based on the need to conclude the procurement agreement (contract) with a potential supplier offering the best terms for the implementation of the procurement agreement (contract), as well as customer procedures in the event of invalidation of the tender;

10) publication (posting) of information on the result of the tender on the electronic trading platform (e-platform) and/or the web portal and informing each potential supplier of the outcome of the tender not later than on the day following the day of adoption of respective decisions by the tender committee.

3. In the course of a tender providing for pre qualification of bidders, the requirements referred to in paragraphs 1 and 2 of this Annex shall apply, taking into account the following specific features:

1) the successful bidder shall be selected from among the potential suppliers having passed the pre qualification;

2) the additional requirements shall apply to potential suppliers and suppliers for the purposes of pre qualification and may not be used as a criterion for the evaluation and comparison of tender bids.

4. In the cases and in the procedure determined by the procurement legislation of the Member State, a tender may be held under two-stage procedures.

The first stage of the tender shall include preparation by an expert (expert committee) of the technical specification for goods, works and services procured on the basis of technical proposals of potential suppliers developed in accordance with the customer's specifications.

The second stage of the two-stage tender procedures shall involve the tender activities provided for conducting a tender subject to the requirements specified in paragraphs 1 and 2 of this Annex.

5. In order to apply the method of request for pricing (request for quotations), the procurement legislation of the Member State shall set a limit initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement), including for the procurement of goods, works and services listed in Annexes 2 and 4 to the Protocol on the Procedure for Regulating Procurement (Annex 25 to the Treaty on the Eurasian Economic Union).

The successful bidder under request for pricing (request for quotations) shall be the potential supplier offering the lowest price of the procurement agreement (contract).

Any Member State shall seek to convert from the request for pricing (request for quotations) to the predominant auction process.

In case of procurement under the request for pricing (request for quotations) a respective notice shall be published (posted) on the web portal within the terms determined by the procurement legislation of the Member State, but not less than 4 business days before the deadline for the submission of applications for participation in request for pricing (request for quotations) process.

Reports of the committee compiled in the course of request for pricing (request for quotations) process shall be published (posted) on the electronic

trading platform (e-platform) and/or web portal; notifications of decisions taken by the quotation committee shall be sent to each potential supplier not later than on the day following the date of their adoption.

6. Procurement under the request for proposals process may only be conducted in respect of goods, works and services provided for by Annex 2 to the Protocol on the Procedure for Regulating Procurement (Annex 25 to the Treaty on the Eurasian Economic Union).

The successful bidder of the request for proposals process shall be the potential supplier offering the best terms and conditions for the implementation of the procurement agreement (contract) in accordance with the procurement legislation of the Member State.

In case of procurement under the request for proposals process, a respective notice shall be published (posted) on the web portal within the terms determined by the procurement legislation of the Member State, but not less than 5 business days before the deadline for the submission of the request for proposals bids.

Reports of the committee compiled in the course of the request for proposals process shall be published (posted) on the web portal; notifications of decisions taken by the committee shall be sent to each potential supplier not later than on the day following the date of their adoption.

7. In order to participate in auctions, potential suppliers shall be subject to mandatory accreditation on the web portal and/or electronic trading platform (e-platform) for a period of at least 3 years, if provided for by the procurement legislation of the Member State.

The successful bidder at an auction shall be the potential supplier offering the lowest price of the procurement agreement (contract) and complying with requirements of the auction documentation.

8. An auction shall be held subject to the following requirements:

1) approval of the auction documentation;

2) approval of the auction committee;

3) publication (posting) on the electronic trading platform (e-platform) and/or the web portal of the respective auction notice and tender documentation within the terms provided for by the procurement legislation of the Member State, but not less than 15 calendar days before the deadline for the submission of auction bids. In case of changes in the auction notice and/or auction documentation, the deadline for the submission of auction bids shall be extended so as to ensure that the period between the date of publication (posting) of the changes on the electronic trading platform (e-platform) and/or the web portal and the end date for bid submission is not less than 7 calendar days. It shall not be allowed to change the scope of the procurement agreement (contract). If the procurement legislation of a Member State provides for the initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement) at which the auction may be held within a shorter period, the procurement legislation of the Member State may determine shorter periods for the submission of auction bids than provided for by this sub-paragraph, but not less than 7 calendar days before the deadline for the submission of auction bids, and in case of changes in the auction documentation, not less than 3 calendar days before the deadline for the submission of auction bids from the date of publication (posting) of such changes on the electronic trading platform (e-platform) and/or the web portal;

4) clarifications for provisions of the auction documentation and publication (posting) of such clarifications on the electronic trading platform (e-platform) and/or on the web portal not later than 3 calendar days before

the deadline for the submission of auction bids. Clarifications for the provisions of the auction documentation shall be provided if requested not later than 5 calendar days before the deadline for the submission of auction bids;

5) submission of auction bids in the form of electronic documents into the electronic trading platform (e-platform) and/or the web portal;

6) opening and examining of bids by the auction committee in order to determine compliance of the bids with the requirements of the auction documentation with regard to admission of the respective potential suppliers to the procedure set forth in sub-paragraph 8 of this paragraph;

7) publication (posting) on the electronic trading platform (e-platform) and/or on the web portal of reports on the opening and examination of auction bids and admission of potential suppliers to participate in the procedure specified in sub-paragraph 8 of this paragraph and notification of each potential supplier on the results of the opening, examination and admission not later than on the day following the day of adoption of respective decisions by the auction committee;

8) holding of a procedure to reduce the initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement) by means of an auction for price reduction. In this case, the procurement legislation of a Member State may provide for that in case of price reduction for the procurement agreement (contract) of up to 0.5 percent of the initial (maximum) price of the procurement agreement (contract) (the estimated cost of procurement) and lower, the auction shall proceed by increasing the price of the procurement agreement (contract) to be paid, in this case, to the customer by the supplier;

9) publication (posting) of the report on the results of the procedure referred to in sub-paragraph 8 of this paragraph on the electronic trading platform (e-platform) and/or the web portal and notification of each potential supplier of the results of this procedure on the day of its completion;

10) examination by the auction committee of the auction bids submitted by potential suppliers participating in the procedure referred to in sub-paragraph 8 of this paragraph in order to identify the potential suppliers that meet the requirements provided for by the auction documentation and determine the successful bidder, as well as publication (posting) of the respective report on the electronic trading platform (e-platform) and/or the web portal and notification of each potential supplier of the results of this examination and identification of the successful bidder of the auction not later than on the day following the date of adoption of the respective decisions by the auction committee;

11) conclusion of the procurement agreement (contract) under the terms conditions specified in the auction bid of the potential supplier selected as the successful bidder and in the auction documentation at the price of the procurement agreement (contract) offered by this potential supplier according to the report on the results of the procedure specified in sub-paragraph 8 of this paragraph, not earlier than 10 calendar or business days or not later than 30 calendar days from the date of the decision on the successful bidder of the auction or invalidation of the auction in cases specified by the procurement legislation of the Member State. The procurement legislation of a Member State shall also determine the procedure and priority of conclusion of a procurement agreement (contract) between the customer and a potential supplier based on the need to conclude the procurement agreement (contract) with a potential supplier offering the lowest price for the execution of the

procurement agreement (contract), as well as customer procedures in the event of invalidation of the auction;

12) publication (posting) of information on the result of the auction on the electronic trading platform (e-platform) and/or the web portal and informing each potential supplier of the outcome of the auction not later than on the day following the day of adoption of respective decisions by the auction committee.

9. If provided for by the procurement legislation of a Member State, procurement may be conducted without application of the rules governing the selection of a supplier and conclusion of the procurement agreement (contract). Such procurement shall be conducted under the civil law of the Member State in the cases provided for by Annex 3 to the Protocol on the Procedure for Regulating Procurement (Annex 25 to the Treaty on the Eurasian Economic Union).

10. Procurement from a single source or a single supplier (contractor, executor) shall be carried out upon completion of the respective calculation and justification of the price of the procurement agreement (contract).

Requirements for the publication of information on procurement from a single source or a single supplier (contractor, executor) shall be specified in the procurement legislation of the Member State.

Annex 2
to the Protocol on the
Procedure for Regulating
Procurement

**List of
Cases Requiring Procurement under the Request for Proposals
Process**

1. Procurement of goods, works or services that are the subject of a procurement agreement (contract) terminated by the customer subject to the requirements of paragraph 22 of the Protocol on the Procedure for Regulating Procurement (Annex 25 to the Treaty on the Eurasian Economic Union). In such case, if prior to the termination of the procurement agreement (contract), the supplier has partially fulfilled its obligations provided for by the procurement agreement (contract), at the conclusion of a new procurement agreement (contract) on the basis of this paragraph, the quantity of goods supplied, the volume of works performed or services provided shall be reduced taking into account the quantity of goods supplied, the volume of works performed or services provided under the terminated procurement agreement (contract), and the price of the procurement agreement (contract) shall be reduced in proportion to the quantity of goods supplied, the volume of works performed or services provided.

2. Procurement of medicines required for administration to a patient on medical indications (idiosyncrasy, for life-saving reasons) by decision of a medical commission to be recorded in the medical records of the patient and the journal of the medical commission. In this case the amount of medicines procured shall not exceed the amount of medicines required by the patient

within the period of treatment. Moreover, in case of procurement under this paragraph, the scope of the respective procurement agreement (contract) may not include medicines required for administration to two or more patients.

Annex 3
to the Protocol on the
Procedure for Regulating
Procurement

**List of
Cases Requiring Procurement from a Single Source or a Single
Supplier (Executor, Contractor)**

1. Procurement of services related to the sphere of business of natural monopolies, except for services for the sales of liquefied natural gas and connection (junction) to engineering and technical services under price (tariff) regulation in accordance with the legislation of the Member State, power supply services or purchase and sale of electricity (power) with a guaranteed electricity (power) supplier.

2. Procurement of services for the storage and import (export) of narcotic drugs and psychotropic substances.

3. Acquisition of goods, works and services at prices (tariffs) set by the legislation of the Member State.

4. Supply of cultural property (including museum objects and collections, as well as rare and valuable books, manuscripts, archival documents, including copies of historical, artistic or other cultural significance) intended to supplement public museums, library, archives, cinematographic and photography funds and other similar funds.

5. Performing of work related to mobilisation training.

6. Acquisition of goods, works and services from a particular person specified in legislative acts of the Member State, as well as acquisition of goods, works and services that may be supplied, performed or rendered exclusively by executive authorities in accordance with their powers or by

their subordinate state institutions, state (unitary) enterprises and juridical persons in which 100 percent of the voting shares (ownership interests) belong to the state, the appropriate powers of which are determined by legislative acts of the Member State and acts of the head of the Member State.

7. Acquisition of certain goods, works and services as a result of occurrence of force majeure, including emergencies (emergency containment and/or emergency response), accidents, need of urgent medical intervention, when other, more time-consuming types of procurement are inappropriate.

8. Acquisition of goods, works and services from institutions and enterprises of the penal enforcement system, medical and industrial (labour) dispensaries and medical and industrial (labour) workshops, as well as from organisations established by public associations of persons with disabilities, in which the number of disabled persons in the staff listing is not less than 50 percent.

9. Acquisition by an institution executing punishment of raw materials, supplies and components for the production of goods, works and services for the purposes of employment of convicts on the basis of agreements concluded with juridical persons, subject to the acquisition by the said institution of such raw materials, supplies and components at the expense of funds provided for by these agreements.

10. Procurement based on the results of invalidated procurement procedures (in cases provided for by the procurement legislation of the Member State).

11. Communication services for the purposes of national defence and national security, as well as law enforcement.

12. Determination of the maximum amount of transactions (or quarterly or annual limit volume) that may be set by the legislation of a Member State and that allows procurement from a single source or a single supplier (executor, contractor); in this case the said amount shall not be determined individually (the Member States shall seek to minimise this threshold in order to maximise access to procurement for potential suppliers).

13. Placing an order for the supply of weapons and military equipment from a single supplier in accordance with the legislation of a Member State, as well as acquisition of works and services for the repairs (modernisation) of weapons, military and special equipment.

14. Specific procurement from a potential supplier specified in a decree or disposition of the Head of the Member State, a disposition of the highest executive authority of the Member State or by decision or instruction of the head of the Member State. Decisions and actions regarding the adoption of such acts shall be implemented in the procedure stipulated in paragraphs 32 and 33 of the Protocol on the Procedure for Regulating Procurement (Annex 25 to the Treaty on the Eurasian Economic Union).

15. Acquisition of works of art and literature of certain authors (except for the acquisition of film projects for distribution), performances of specific performers, phonograms of specific producers in cases when a single person holds the exclusive rights to such works, performances or phonograms.

16. Subscription to certain periodic printed and electronic publications, as well as procurement of printed and electronic publications of certain authors, rendering of services to provide access to electronic publications for the activities of state and municipal educational institutions, state and municipal libraries, public research organisations, publishers of printed and

electronic publications if the specified publishers hold exclusive rights to the use of such publications.

17. Placing an order for a visit to a zoo, theatre, cinema, concert, circus, museum, exhibition and sporting event, as well as conclusion of a procurement agreement (contract) for the provision of services for the sale of tickets and season tickets to visit theatres, cultural, educational and entertainment activities, excursion tickets and sightseeing tours.

18. Acquisition of materials of exhibitions, seminars, conferences, meetings, forums, workshops, trainings and payment for participation in these activities, as well as conclusion of a procurement agreement (contract) for the services to participate in an event held as required by multiple customers with a supplier (contractor, executor) selected by the customer that is the organiser of the event, in the procedure determined by the legislation of the Member State.

19. Procurement of teaching services and the services of a guide from natural persons.

20. Placing an order by a theatre or entertainment organisation, museum, club, cinematographic organisation or any other cultural organisation, educational institution in the sphere of culture, or a broadcasting organisations with a specific natural person or specific natural persons, such as screenplay writers, actors, performers, choreographers, hosts of television or radio programmes, designers, conductors, playwrights, animal trainers, composers, accompanists, libretto authors, film operators, video and sound operators, writers, poets, directors, tutors, sculptors, choreographers, chorus masters, painters and other artists to create or perform works of literature or art, as well as from a specific natural person, including an individual entrepreneur, or a juridical person for the manufacture and

supply of scenery, stage furniture, stage costumes (including hats and footwear) and materials required to create scenery and costumes, as well as theatrical props, make-up, wigs and puppets required for the creation and/or performance of works by organisations referred to in this paragraph.

21. Procurement of services for the designer control over the development of design documentation for capital construction, designer supervision of construction, reconstruction and overhaul of capital construction by respective designers.

22. Placing an order to carry out technical and architectural supervision over the preservation of cultural heritage (monuments of history and culture) of the peoples of the Member States.

23. Procurement of services related to business trips of employees, trips of students and post-graduate students to participate in creative contests (contests, competitions, festivals, games), exhibitions, open-air, conferences, forums, workshops, internships, educational practical workshops, including their delivery to the venue of these events and back, rent of accommodations, transportation services, meals, as well as goods, works and services related to hospitality expenditures.

24. Placing an order for the provision of services related to support of the visits of heads of foreign states, heads of foreign governments, international organisations, parliamentary delegations, government delegations, and foreign delegations (hotel services, transportations, maintenance of computer equipment, meals).

25. Acquisition of goods, works and services required to ensure the safety and security of a head of a Member State and other protected persons and objects intended for the stay of protected persons (household services, hotel services, transportations, maintenance of computer equipment, sanitary

and epidemiological well-being, safe meals) as well as services for the creation of a video archive and information support of activities of the head of the Member State.

26. Procurement of tangible assets sold from state and mobilisation material reserves.

27. When the customer, having procured goods from a particular supplier, requires an additional quantity of the respective goods, if the quantity of additionally procured goods does not exceed 10 percent of the quantity of goods procured under the procurement agreement (contract) (unit price of additional goods to be supplied shall be determined by dividing the original price of the contract by the quantity of such goods provided for by the contract).

28. Procurement of management services for an apartment building at the option of the owners of premises in the apartment building or of the local authority in accordance with the housing legislation of the management organisation, if premises in the apartment building are privately owned or represent state or municipal property.

29. Conclusion of a procurement agreement (contract) to acquire a non-residential building, structure or premises specified in act in accordance with the legislation of the Member State, as well as lease of a non-residential building, structure or premises, procurement of services for technical maintenance, security and management of the leased premises, procurement of services for technical maintenance, security and management of one or more non-residential premises handed over for the free use to a state or municipal customer, if these services are provided to another person or persons using the non-residential premises located in a building including the premises handed over for the free use and/or operational management.

30. Required procurement to cover daily and/or weekly requirements for the period before the results of procurement and entry into force of the procurement agreement (contract), if such procurement is conducted within the first month of the year as per the list determined by the legislation of the Member State. In this case, the volume of procurement may not exceed the quantity of goods, the volume of works and services required to meet the demands of the customer during the term of the procurement, but not more than 2 months.

31. Acquisition of goods, works and services for the implementation of operational investigative activities, investigative actions by duly authorised authorities in order to ensure the safety of persons subject to state protection, in accordance with the legislation of the Member State, as well as services of officials and experts with the required scientific and technical or other specialised knowledge.

32. Acquisition of the rights of management of natural resources.

33. Acquisition of training, retraining and advanced training services for employees abroad.

34. Acquisition of services of rating agencies and financial services.

35. Acquisition of services of specialised libraries for blind and visually impaired individuals.

36. Acquisition of securities and shares in the authorised capital (authorised fund) of juridical persons.

37. Acquisition of goods, works and services required for holding elections and referendums in a Member State according to the list provided by the legislation of the Member State.

38. Acquisition of goods, works and services under international treaties of the Member States according to the list approved by the supreme

executive authority of the Member State, as well as within the implementation of investment projects financed by international organisations acceded to by the Member State.

39. Conclusion of an agreement (contract) for the procurement of geodetic, cartographic, topographic and hydrographic support for delimitation, demarcation and checking the state border, as well as maritime delimitation, in order to fulfil international obligations of the Member State.

40. Acquisition of goods, works and services related to the use of monetary grants provided to the supreme executive authorities of the Member State free of charge by states, governments, international and national organisations, foreign non-governmental organisations and foundations operating on a charitable and international basis, as well as of monetary funds allocated to co-finance these grants in cases where respective agreements provide for other procedures for the acquisition of goods, works and services.

41. Acquisition of services under a state educational order for natural persons (if the natural person has independently selected the educational organisation).

42. Acquisition of services for the medical treatment of nationals of the Member States abroad, as well as services for their transportation and support.

43. Acquisition of goods and services that are objects of intellectual property from a person holding the exclusive rights in respect of the goods and services procured.

44. Acquisition of goods, works and services by foreign establishments of the Member States and separate subdivisions of customers acting on their behalf for the purposes of their activities on the territory of a foreign state, as well as for peacekeeping operations.

45. Acquisition of services for the provision of information by international news organisations.

46. Acquisition of goods, works and services required for the implementation of monetary activities, as well as activities to manage the national fund of the Member State and pension assets.

47. Acquisition of consulting and legal services to protect and represent the interests of the state or customers in international arbitration, international commercial arbitration and international courts.

48. Acquisition of trust management services for property from a person determined under the legislation of the Member State.

49. Acquisition of statistical data processing services.

50. Acquisition of property (assets) sold at auctions by bailiffs in accordance with the legislation of the Member State on enforcement proceedings conducted in accordance with the legislation of the Member State on bankruptcy, land and state property privatisation.

51. Acquisition of services rendered by lawyers to persons entitled to receive such services free of charge in accordance with the legislation of the Member State.

52. Acquisition of goods into the state material reserve in order to exert a regulatory impact on the market in the events determined by the legislation of the Member State.

53. Acquisition of services for the storage of material values of the state material reserve.

54. Acquisition of services for the preparation of astronauts and organisation of space missions of astronauts in cases determined by the legislation of the Member State, as well as services for the design, assembly and testing of spacecraft.

55. Acquisition of services for the repairs of aviation equipment at specialised maintenance enterprises.

56. Acquisition of services for the manufacture of state and departmental awards and departmental supporting documents thereto, badges of deputies of the legislative authority of the Member State and supporting documents thereto, state verification marks, passports (including official and diplomatic passports), identity cards of nationals of the Member State, residence permits for foreigners in the Member State, identity cards for stateless persons, certificates of registration of civil status, as well as purchase from suppliers selected by the supreme executive authority of the Member State of printed materials requiring a special degree of protection, according to the list approved by the supreme executive authority of the Member State.

57. Procurement of precious metals and precious stones to supplement the state funds of precious metals and precious stones.

58. Acquisition of services for compulsory medical examinations of employees engaged in heavy works or works under harmful (particularly harmful) and/or dangerous working conditions, as well as works associated with increased risk and the use of machinery and equipment.

59. Acquisition of sports gear and equipment, sports outfits required for the participation in and/or preparation of national sports teams of the Member State, as well as for the national sport teams of the Member State to attend the Olympic, Paralympic, Deaflympic Games and other international sports events on the basis of the calendar plan approved by the authority of state administration governing this sphere.

60. Acquisition of goods, works and services using the funds allocated from the reserve of the heads of the Member State or head of the government

of the Member State for immediate expenses in situations that threaten the political, economic and social stability of the Member State or its administrative-territorial entity.

61. Acquisition of goods, works and services required for the operation of special forces of law enforcement and special state authorities related to detection and neutralisation of explosives and explosive devices, conducting anti-terrorist operations, as well as special operations for the release of hostages, detention and neutralisation of armed criminals, extremist terrorists and members of organised criminal groups, perpetrators of serious and particularly serious crimes.

62. Acquisition of special social services stipulated by the guaranteed scope of social services provided to persons (families consisting of persons) with permanent disabilities caused by physical and/or mental disabilities and/or persons of no fixed abode, as well as persons (families consisting of persons) unable to look after themselves due to old age, as well as services for assessing and determining the requirement for such special social services.

63. Acquisition of products of folk arts and crafts in cases specified by the legislation of the Member State.

Annex 4
to the Protocol on the
Procedure for Regulating
Procurement

**List of
Goods, Works and Services Procured using the Auction Process**

1. Agricultural products, hunting products, agricultural and hunting services, except for live animals, products and services related to hunting, fishing and game propagation, as well as hunting products.*
2. Products of forestry and logging, forestry and logging services.
3. Fishing products, products of fish hatcheries and fish farms, fishing-related services. *
4. Coal, lignite and peat.
5. Crude oil and natural gas, their mining services, except for surveying.
6. Metal ores.
7. Stone, clay, sand and other types of mineral raw materials.
8. Food products and beverages.*
9. Textiles and textile products.
10. Clothing, furs and fur products, with the exception of children's clothing.
11. Leather and leather goods, saddlery and footwear.
12. Wood, wood products, cork, straw and plaiting products, except furniture.
13. Pulp, paper, paperboard and products manufactured thereof.

14. Printing and publishing products, except for promotional materials, drawings, draftings, printed photos, souvenir and gift sets (pads and notebooks), voting ballots for elections and referendums.

15. Coke oven products.

16. Organic and inorganic synthesis products.

17. Rubber and plastic products.

18. Other non-metallic mineral products, except for household glass, products for interiors, as well as non-construction non-flameproof ceramic products.

19. Metal industry products.

20. Metal products, except for machinery, equipment, nuclear reactors and parts of nuclear reactors, accelerators of charged particles.

21. Machinery and equipment not included in other categories, except for weapons, ammunition and parts thereof, explosives and explosives used for national economic purposes.

22. Office appliances and computer equipment.

23. Electric motors and electrical equipment (including electrical devices) not included in any other categories.

24. Equipment and instruments for radio, television and communications.

25. Medical equipment and instruments, measuring instruments, photographic and video equipment (except for the medical equipment and medical devices specified in the procurement legislation of the Member State).

26. Motor vehicles, trailers and semi-trailers, car bodies, parts and accessories for motor vehicles, garage equipment.

27. Vehicles other than commercial and passenger vessels, warships, aircraft and space vehicles, aircraft equipment and parts.

28. Finished products, except for jewellery and related goods, musical instruments, games and toys, equipment for training in labour processes, teaching aids and equipment for schools, products of arts and crafts, works of art and collectibles, exposed film, human hair, animal hair, synthetic hair and articles thereof.

29. Waste and scrap metal in a form suitable for use as new raw materials.

30. Trade, maintenance and repairs of motor vehicles and motorcycles services .

31. Wholesale and commission trade services, except for motor vehicles and motorcycles services.

32. Overland transportation services, except for rail transportation, subway transportation and pipeline transmission services.

33. Water transportation services.

34 Auxiliary and additional transportation services, services in the field of tourism and sightseeing, except for the services of travel agencies and other services to assist tourists.

35. Communication services, except for courier services, except for the services of the national mail, telecommunications services.

36. Financial intermediation services, except for insurance and pension services, services for the arrangement of bonds.

37. Auxiliary services to financial intermediation, except for valuation services.

38. Maintenance and repair services for office equipment, computers and related peripheral devices.

39. Cleaning services in buildings.

40. Packaging services.

41. Waste disposal services, sanitary processing and similar services.

*Except for procurement by children's educational organisations, health care organisations, social service establishments and children's recreation organisations, and catering services for these establishments and organisations.