

Annex 1

to protocol of the Board of directors of Energy
Invest Holding CJSC № 47, dated February 15, 2018

ENERGY INVEST HOLDING

CLOSED JOINT-STOCK COMPANY

BY-LAWS

**ON THE PROCEDURE OF CONDUCTING REGULATED
PROCUREMENTS OF GOODS, WORKS, AND SERVICES**

Yerevan 2018

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I. General Provisions

1. Terms and Definitions

- 1.1. **Procurement Object:** good, work, or service being procured;
- 1.2. **Procurement Object Descriptions:** features of the Procurement Object, and their acquisition and payment terms;
- 1.3. **Procurement Price:** the estimated price, calculated in accordance with the established procedure, of acquiring the good, work, or service;
- 1.4. **Procurement Process:** the entirety of actions aimed at the realization of rights and obligations, and the procedures stipulated by the Republic of Armenia legislation on procurements, for the purpose of making procurement, including the procurement planning, the approval of the Procurement Object Descriptions, and the contract execution and management;
- 1.5. **Procurement:** acquisition of all types of goods, works, and services by entering a contract with the selected bidder, against compensation by the Orderer;
- 1.6. **Procurement Base Unit:** one million drams of the Republic of Armenia;
- 1.7. **Electronic Means:** electronic means, including software and hardware, necessary for organizing Procurement procedures electronically, as well as for processing and storage of data conveyed, transferred, and received through cable, radio, optical, or other electromagnetic means;
- 1.8. **Selected Bidder:** the bidder (bidders) to which the Orderer offers concluding a contract;
- 1.9. **Authorized Body:** state body of the executive power of the Republic of Armenia, which develops and implements the policy of the Republic of Armenia Government in the field of public finance management;
- 1.10. **Special or Exclusive Right:** a right stemming from the authority granted by the Authorized body through a legal or administrative act, the purpose of which is to reserve to one organization or a limited number of organizations the right to carry out certain activities (including in the field of public services), and which materially restricts the possibility of other organizations to carry out similar activities;
- 1.11. **Bid:** an offer presented by a bidder on the basis of the invitation;
- 1.12. **Bid Security:** resources securing the fulfillment of the obligations assumed by the bidder in the Bid, the amount of which shall be equal to up to five percent of the price proposed in the Bid. A bidder shall pay Bid Security if the bidder:
 - Has been declared a Selected Bidder, but refuses or is deprived of the right to enter into the contract;
 - Has violated an obligation assumed in the frames of the Procurement Process, which has led to the termination of such bidder's further participation in the Process;
 - After bid opening, refused to participate further in the Procurement Process.
- 1.13. **Commission:** an evaluation commission formed by order of the head of the Orderer;
- 1.14. **Invitation:** conditions offered to a Bidder by the Orderer for the purpose of entering into a contract;
- 1.15. **Bidder:** an entity participating in the Procurement Process with the aim of entering into a contract with the Orderer;
- 1.16. **Contract:** a written transaction concluded by the Orderer for the purpose of making a Procurement;
- 1.17. **Contract Security:** a means to secure fulfillment of the obligations assumed by the Selected Bidder under the Contract in the bases stipulated by these By-Laws;

1.18. **Orderer:** the closed joint-stock company Energo Invest Holding; and

1.19. **The Law:** the Republic of Armenia Law on Procurements.

2. Purpose and Scope of the By-Laws

2.1. The purpose of these By-Laws is to effectuate, against adequate compensation, the efficient, effective, and cost-effective acquisition of goods, works, and services necessary for the performance of powers vested in the Orderer.

2.2. In the process of accomplishing its goals, the Orderer shall rely upon the following principles:

2.2.1. Organization of the Procurement Process according to consistent rules, and on a competitive, transparent, public, and non-discriminatory basis;

2.2.2. Broadening the circle of Bidders and encouraging competition between them for the purpose of concluding the Contract; and

2.2.3. Ensuring equal rights of participating in the Procurement Process for any entity, irrespective of being a foreign natural person, a foreign legal entity, or a stateless person.

2.3. If international treaties ratified by the Republic of Armenia prescribe rules that differ from the ones stipulated in these By-Laws, the former shall apply.

3. Regulatory References

In the Procurement Process, the Company shall be governed by:

3.1. The Law; and

3.2. Other normative legal acts.

4. Right to Participate in Procurements and the Qualification Criteria

4.1. A Bidder shall meet the qualification criteria set out in the Invitation.

4.2. It shall be prohibited to set out the following type of criteria with respect to a Bidder's right to participate in Procurements and with to the qualification:

4.2.1. Criteria that are discriminatory and restrict competition by groundlessly complicating or simplifying potential participation in the Procurement Process; or

4.2.2. Criteria that are disproportionate, i.e. do not directly stem from the need to honor the obligations prescribed by the Contract.

4.3. The following entities shall not have the right to participate in the Procurement Procedures:

4.3.1. Entities that have been declared by court procedure as bankrupt by the date of Bid submission;

4.3.2. Entities that were convicted, or entities the representative of the executive body of which was convicted, during the three years preceding the Bid submission date, for a crime containing terrorism financing, child exploitation, or trafficking in persons, or for creating or participating in such a criminal collaboration, or receiving or giving or mediating a bribe, or crimes against the economic activities prescribed by law, except when such conviction has been lifted or eliminated under the procedure stipulated by law;

4.3.3. Entities with respect to which there has been, within a year prior to the Bid submission date, an unappealable administrative act, rendered in accordance with the procedure stipulated by law, for anti-competitive agreement or abuse of dominant position in the procurement field;

4.3.4. Entities that, as of the date of Bid submission, are included in the list of bidders not having the right

to participate in the procurement process published in accordance with the procurement legislation of the World Bank and/or the member states of the Eurasian Economic Union;

- 4.3.5. Entities that, as of the date of Bid submission, are included in the list of Bidders not having the right to participate in the Procurement Process. A Bidder shall be included in such list if:
- a. The Bidder has violated an obligation prescribed by the Contract or assumed in the frames of the Procurement Process, and such violation resulted in unilateral dissolution of the Contract by other Orderers or termination of such Bidder's further participation in the Procurement Process;
 - b. The Bidder, after becoming the Selected Bidder, refused to conclude the Contract; or
 - c. The Bidder refused to participate further in the Procurement Process after Bid opening.

The list mentioned in this Paragraph, including in Russian, shall be published by the Authorized Body.

5. Procurement Object Descriptions

- 5.1. The Procurement Object Descriptions shall comprehensively and clearly describe the features of the good, work, or service being acquired, and the conditions of their acquisition and payment, ruling out ambiguous interpretation.
- 5.2. The Procurement Object Descriptions shall:
- 5.2.1. Ensure equal conditions of competition for potential Bidders;
 - 5.2.2. Not result in the creation of unjustified obstacles to competition in the Procurement Process;
 - 5.2.3. Be objectively justified and proportionate to the need for the satisfaction of which such Procurement is being made; and
 - 5.2.4. Include a comprehensive and adequate description of the Procurement Object specifications, technical data, and in case of works, also the work volume sheet, timetable, and other non-price conditions.
- 5.3. Based on the peculiarities of the Procurement Object, their Descriptions shall, to the extent possible, include a clear description of conditions related to the quality of the good, work, or service being acquired, its standard, safety, symbols, terminology, packaging, unloading, size, designs, and other features of the Procurement Object, based on the international standards and normative-technical documents and standards in effect in the Republic of Armenia, and in case of their absence, temporary technical conditions.
- 5.4. The Procurement Object Descriptions may be defined also as performance or functional descriptions, which must be presented with sufficient precision to enable Bidders and the Orderer to correctly understand the Procurement Object.
- 5.5. The Procurement Object Descriptions shall not contain requirements or references to any trademarks, trade names, licenses, sketches, models, countries of origin, or specific sources or producers, except for when it is impossible to describe the Procurement Object without them. When using references, the feature descriptions shall contain the words "or equivalent."

6. Protocol and Reports of the Procurement Procedure

- 6.1. If the Procurement Price exceeds the Procurement Base Unit, then the Orderer shall, within three business days of Contract conclusion or declaration of the Procurement Procedure as failed, prepare a protocol of the Procurement Procedure. The protocol of the Procurement Procedure shall, in line with the Procurement form, contain:

- 6.1.1. The Orderer's name and address;
- 6.1.2. The justification of the Procurement need and the Procurement form chosen;
- 6.1.3. The Invitation and changes made therein;
- 6.1.4. Inquiries received regarding the Procurement and clarifications presented;
- 6.1.5. Information on the Bidders that submitted Bids—name and surname/organization name, business or residence address, and contact data;
- 6.1.6. The prices presented in the Bids;
- 6.1.7. The Bid evaluation procedure and their evaluation results;
- 6.1.8. The justification of refusal in case of Bid refusal;
- 6.1.9. The Contract, and in case of not concluding a Contract as a result of the Procurement Process, the justification for not concluding one;
- 6.1.10. In case of discovering illegal actions in the frames of the Procurement Process, their description and a brief description of the measures taken in that respect;
- 6.1.11. Appeals filed with respect to the Procurement Process and the decisions taken regarding such appeals; and
- 6.1.12. Other necessary information.

6.2. If the Procurement Price does not exceed the Procurement Base Unit, the Orderer shall secure the availability and safekeeping of documents (or electronic documents) related to the actions performed for the Procurement and their grounds.

7. Persons Responsible for the Procurement Process

- 7.1. The head of the Orderer and the following persons—insofar as the authority vested in them is concerned—shall be responsible for each Procurement Process:
 - 7.1.1. The Procurement coordinator;
 - 7.1.2. The responsible unit; and
 - 7.1.3. The Commission.
- 7.2. The Head of the Orderer shall:
 - 7.2.1. Appoint:
 - a. The Procurement coordinator;
 - b. The responsible unit; and
 - c. The Commission, except for cases prescribed by these By-Laws.
 - 7.2.2. With the exception of cases stipulated by the legislation:
 - a. Conclude a contract; and
 - b. Approve the protocol of the Procurement Procedure.
- 7.3. The Procurement coordinator shall:
 - 7.3.1. Be responsible for the organization and coordination of the Orderer's Procurement Process;
 - 7.3.2. Issue an opinion on the documents approved by the Orderer in the framework of the Procurement, and ensure the conformity of the Procurement Procedure and the related documents with the conditions prescribed by the Republic of Armenia legislation;

- 7.3.3. Exercise the powers of the Commission's secretary; and
- 7.3.4. Prepare and present to the head of the Orderer for approval the protocol of the current Procurement Procedure and the Contract.

7.4. The responsible unit shall:

- 7.4.1. Prepare and approve the Procurement request;
- 7.4.2. Monitor the honoring of obligations assumed by the Contract party (contractor, supplier, etc.) under the Contract and, based on the results of such monitoring, make recommendations to the head of the Orderer on the imposition of sanctions prescribed by the Contract;
- 7.4.3. Accept the results of the Contract execution;
- 7.4.4. Present the candidacy of the person (persons) that is (are) nominated as a member (members) of the Commission; and
- 7.4.5. If necessary, make a proposal on amending and supplementing the Procurement plan

The following may be designated as the responsible unit:

- a. The relevant structural unit of Orderer;
- b. A professional group formed within the Orderer, which may include also representatives of other bodies or organizations; and
- c. An employee of the Orderer, if the Orderer does not have appropriate structural units.

The powers of the responsible unit may not be vested with the Procurement coordinator.

7.5. The Commission shall:

- 7.5.1. Approve the Procurement or prequalification announcement and Invitation texts;
- 7.5.2. Amend the Procurement or prequalification announcement and Invitation texts;
- 7.5.3. Present clarifications on the Procurement Procedure;
- 7.5.4. Open and evaluate the Bids;
- 7.5.5. Determine the Procurement Procedure winner (winners); and
- 7.5.6. Declare that the Procurement Procedure has failed.

The Procurement coordinator or its representative or employee may not become members of the Commission. A member of the Commission shall have professional abilities required to evaluate the qualification and bids of the Bidders, which shall be determined in accordance with the Procurement Object. If the Orderer's employees do not have the necessary professional abilities, an appropriate expert (specialist) shall be invited to become a member of the Commission.

8. Procurement Procedures and Conditions of Engagement

8.1. Procurement Procedures

These By-Laws prescribe the following methods of Procurements:

- 8.1.1. Single-source Procurement;
- 8.1.2. Price enquiry;
- 8.1.3. Competitive negotiations; and
- 8.1.4. A tender.

II. Single-Source Procurement

9. Conditions of Engagement

- 9.1. In the cases prescribed by these By-Laws and the Law, single-source Procurement may be carried out by means of sending an offer to conclude a Contract to a particular supplier or accepting a particular supplier's offer to conclude a Contract, without reviewing competing offers.
- 9.2. Procurement may be made from a single source if:
- 9.2.1. The good, work, or service subject to Procurement may be acquired only from one entity, which is due to such entity's copyrights and related rights or special or exclusive rights;
 - 9.2.2. An emergency or another contingency has arisen, creating an urgent need for Procurement, and given the emergency or the other contingency, the engagement of other Procurement forms is impossible, provided that such need could not have been objectively foreseen;
 - 9.2.3. Having procured goods from an entity, the Orderer decides to make an additional Procurement from the same entity of goods that were not included in the initial Contract, but became necessary for the execution of the initial Contract due to circumstances that were not objectively foreseen, provided that:
 - a. The Contract for additional goods cannot be technically or economically separated from the initial Contract without creating significant difficulty for the Orderer; and
 - b. Its price shall not exceed 10 percent of the total price of the initial Contract. Moreover, an additional Procurement may be made from the same entity by triggering this Paragraph only once, and the price of additional goods may not be set higher than was contemplated by the Contract;
 - 9.2.4. The Procurement Price does not exceed two Procurement Base Units; or
 - 9.2.5. The competitive negotiations have been declared as failed and/or they did not result in the conclusion of a Contract.

III. Price Enquiry

10. Conditions of Engagement

- 10.1. The Procurement shall be made through a price enquiry if the Procurement Price does not exceed 12-fold the Procurement Base Unit.
- 10.2. In case of engaging a price enquiry procedure, the deadline set for Bid Submission shall be at least four business days, counted from the moment of publishing the Procurement announcement and invitation on the Company's website.

IV. Competitive Negotiations

11. General Provisions

- 11.1. Competitive negotiations are a competitive method of Procurement, which imply declaring as a winner the Bidder that offered the best combination of Contract execution conditions, and whose final proposal was awarded the first place under the announced set of criteria.
- 11.2. The Procurement shall be made through competitive negotiations if the Procurement Price does not exceed 150-fold the Procurement Base Unit.
- 11.3. Competitive negotiations shall be conducted at least in a closed manner with a limited number of potential Bidders, as defined in advance by decision of the Commission.

- 11.4.If this Section is engaged, it shall be taken into consideration that competitive negotiations are not a bargaining process and shall not create the relevant legal consequences prescribed by the Republic of Armenia legislation.
- 11.5.Negotiations shall be conducted with each participant of the competitive negotiations. Negotiations with each participant may be conducted several times (in several rounds) consecutively or after negotiations with other participants. The negotiations shall be confidential. It shall not be permitted to disclose to other participants the results of negotiations with any participant, unless such participant has consented to such disclosure.
- 11.6.A participant in competitive negotiations shall have the right to refuse participation therein. In such case, the offer by such participant in the competitive negotiations may not be declared as the best and shall not be subject to further evaluation.
- 11.7.Any formal proposal made by the participants in competitive negotiations shall be recorded in the protocol.
- 11.8.As a result of conducting the negotiations, the Orderer shall have the right to restate the Procurement documents taking into account the proposals and data received from the participants. The restated Procurement documents shall be sent to all the participants in the competitive negotiations, and the participants shall have the right to prepare their revised Bids in accordance with the general procedure stipulated by the Procurement documents.
- 11.9.The results of completed competitive negotiations shall be documented in protocols of competitive negotiations conducted by the Orderer, which shall be signed by all members of the Commission and the participants in the competitive negotiations. A separate protocol shall be prepared with each participant in the negotiations.
- 11.10.If necessary for specific projects, competitive negotiations may be preceded by the Procurement Process preparation stipulated by Chapter 13 hereof and the Commission formation procedure stipulated by Chapter 14 hereof.
- 11.11.Within three business days of the Commission formation, the secretary shall convene the first session of the Commission. As a result of the session, and based on the Procurement Request, the Commission shall approve:
- 11.11.1. The competitive negotiations announcement text;
 - 11.11.2. The invitation text; and
 - 11.11.3. The date, time, and place of the Commission’s next session.
- 11.12.The announcement about the competitive negotiations shall contain the information stipulated by Paragraph 15.3 of these By-Laws.
- 11.13.The invitation to participate in competitive negotiations may contain the information stipulated by Paragraphs 15.4 and 15.5 of these By-Laws, taking into account the peculiarities of the given Procurement Process.
- 11.14.The Bid Submission deadline shall be at least five calendar days.
- 11.15.If an emergency or another contingency has created an urgent need for Procurement, and the said deadline for Bid Submission cannot be applied, provided that such need could not have been objectively foreseen, the Bid Submission deadline shall be at least three calendar days.
- 11.16.Bids shall be presented under the procedure stipulated by Section 17 of these By-Laws.

- 11.17.If, by the deadline for Bid Submission for competitive negotiations, the Orderer has received only one Bid or no Bids for participation in the competitive negotiations, the competitive negotiations shall be declared to have failed.
- 11.18.In case of declaring the competitive negotiations as having failed, the Orderer may take the decision to conduct a repeat Procurement, in which case the Contract execution conditions may be changed.
- 11.19.The Bids shall be opened on the date and time and in the place specified in the Invitation, at the Bid opening session. The Bid opening date and time shall correspond to the deadline for submitting Bids.
- 11.20.At the session for opening Bids for participation in competitive negotiations, the Commission shall check:
- a. Whether the envelopes containing the Bids were prepared and presented in accordance with the established procedure;
 - b. Whether each opened envelope contains all of the required documents and whether such documents have been prepared in accordance with the conditions set out in the Invitation; and
 - c. The conformity of the Bidders with the requirements of the documents.
- 11.21.The Commission may refuse a Bidder's Bid in case of any of the following:
- 11.21.1. If the Bid object is not consistent with the Procurement object specified in the Procurement announcement/Invitation;
 - 11.21.2. If the Price specified in the Bid exceeds the initial (maximum) Price specified in the Procurement documents;
 - 11.21.3. If any of the specified Procurement documents is missing;
 - 11.21.4. If a Bidder has not complied with the requirements concerning the preparation of documents submitted as part of the Bid;
 - 11.21.5. If the Commission has discovered, during the review, that the submitted documents contain inaccurate information on the Bidder;
 - 11.21.6. In the cases stipulated by Paragraph 4.3 of these By-Laws;
 - 11.21.7. If a Commission member is a related party to the Bidder;
 - 11.21.8. If a document securing the Bid is missing, when such requirement is set out in the Procurement documents; or
 - 11.21.9. If the Bid submitted by the Bidder is not in conformity with the manufacturing, technical, commercial, and contractual requirements.
- 11.22.After Bid opening, a protocol shall be prepared, which shall be attached to the protocol of the Procurement Procedure. The protocol shall be signed by the Commission members attending the session. The protocol shall contain:
- 11.22.1. Information on the Bids opening date, time, and place;
 - 11.22.2. The names and addresses of the Bidders that submitted Bids;
 - 11.22.3. Information on whether the envelopes were prepared and presented in accordance with the requirements set out in the Invitation;
 - 11.22.4. Information on whether each opened envelope contains all of the required documents;
 - 11.22.5. Information on whether the documents submitted by each Bidder have been prepared in accordance with the conditions set out in the Invitation;

11.22.6. The price offered by each Bidder;

11.22.7. The names of Bidders granted the right to participate in the competitive negotiations;

11.22.8. The place, date, and time of conducting the competitive negotiations; and

11.22.9. In case of declaring the Procurement Procedure as failed, its justification.

11.23. If all the Bids are refused, the competitive negotiations shall be deemed to have failed.

11.24. Whenever the competitive negotiations are declared as failed, the Orderer may conclude a contract with the sole supplier (contractor, performer) under Paragraph 9.2.5 of these By-Laws.

11.25. Negotiations with Bidders that have been allowed to participate in the competitive negotiations on the basis of the review of their bids shall be conducted under the procedure stipulated by Paragraphs 11.5 to 11.9 of these By-Laws.

V. Tender

12. Procedure of Conducting a Tender

12.1. General Provisions

12.1.1. A Procurement shall be conducted through a tender if the Procurement Price exceeds 150-fold of the Procurement Base Unit.

12.1.2. Depending on the number of rounds, a tender may be conducted in one round or two rounds.

12.1.3. Depending on the existence of prequalification procedures, a tender may be conducted with or without a prequalification procedure.

12.2. Conditions for Engagement of a Tender

12.2.1. In case of a tender, the Bid submission deadline shall be counted from the date of publishing the Procurement announcement and Invitation on the Company's website.

12.2.2. The Bid Submission deadline shall be at least five calendar days.

12.2.3. If an emergency or another contingency has created an urgent need for Procurement, and the said deadline for Bid Submission cannot be applied, provided that such need could not have been objectively foreseen, the Bid Submission deadline shall be at least three calendar days.

12.3. Conditions for Engagement of a Two-Round Tender

12.3.1. A tender may be conducted in two rounds:

- a. If the Orderer has not correctly (objectively) defined the Procurement Object Descriptions;
- b. If the Orderer allows Bidders to present alternative proposals on the potential Procurement Object Descriptions;
- c. If negotiations with the Bidders have become necessary for clarifying certain aspects of the Procurement Object Descriptions; and
- d. In case of public-private partnership, including the conclusion of concession and trust management transactions.

12.3.2. A prequalification procedure shall be organized in case of engaging a two-round tender procedure. Any Bidder may participate in the prequalification procedure. The Orderer shall present an Invitation and invite to the negotiations only the prequalified Bidders. The aim of the negotiations is to define or more alternatives of the Procurement Object Descriptions meeting the Orderer's requirements. As a result of the negotiations, the Orderer shall issue the final Invitation to the prequalified

Bidders.

12.4.Prequalification Procedure

- 12.4.1. The Orderer shall organize a prequalification procedure if the Procurement is made through a two-round tender.
- 12.4.2. In case of organizing a prequalification procedure:
 - a. A prequalification announcement about it shall be published;
 - b. The deadline for submitting the prequalification Bids shall be at least five calendar days, which shall be counted from the date of publishing the prequalification announcement;
 - c. An emergency or another contingency has created an urgent need for Procurement, and the deadline stipulated by Paragraph 11.42(b) hereof cannot be applied, provided that such need could not have been objectively foreseen, and in such case, the prequalification Bids Submission deadline shall be at least three calendar days, which shall be counted from the date of publishing the prequalification announcement.
- 12.4.3. The prequalification announcement shall be published on the Company's website and shall contain the following information:
 - a. The Orderer's name and address;
 - b. The code of the Procurement Procedure;
 - c. The announcement on the right of Bidders to participate in the prequalification procedure;
 - d. The language or languages in which the prequalification bids shall be presented;
 - e. Brief and clear statement of the contents of the contract and the Procurement Object Descriptions;
 - f. The procedure of preparing and submitting the prequalification Bid, including the form and the place, as well as the submission deadline;
 - g. The requirements concerning the Bidder's qualification and right to participate and the procedure of evaluating them;
 - h. A note stating that the World Trade Organization Agreement on Government Procurement shall apply to the given Procurement Process, if the Procurement Price exceeds the threshold set out by such Agreement, and the Procurement Process is organized through a two-round tender procedure; and
 - i. Other necessary requirements concerning the prequalification procedure.
- 12.4.4. The Orderer shall, within two business days, respond to a Bidder's inquiry for clarifications on the prequalification announcement. Concurrently, the Orderer shall publish information on the inquiry and the provided clarification on the Company's website, without specifying which Bidder inquired about clarifications. In case of providing information to any Bidder, the Orderer shall ensure the accessibility of such information for all potential Bidders.
- 12.4.5. The prequalification announcement may be amended no later than two business days prior to the deadline for submission of prequalification Bids. In case of amending:
 - a. Information about it shall be circulated in the same way as the initial prequalification announcement was circulated; and

b. The deadline for submission of prequalification Bids shall be counted from the date of publishing on the Company's website the information about such amendments.

12.4.6. During the first business day following the amendments, an announcement on making the amendments shall be published on the Company's website.

12.4.7. The Bidder's Bid, including the right to participate in the Procurement and the qualification, shall be evaluated under the procedure set out in the prequalification announcement, and a list of prequalified Bidders shall be prepared.

12.4.8. Prequalified Bidders shall obtain the right to participate further in the Procurement Process.

12.4.9. If up to Bidders have submitted a Bid in a prequalification procedure organized for the purpose of conducting a two-round tender, the Commission may decide to:

- a. Re-publish the prequalification announcement;
- b. Organize a new prequalification procedure;
- c. Declare the prequalification procedure as failed; or
- d. Continue the Procurement Process.

13. Procurement Process Preparation

13.1. In order to organize the Procurement Process Procedure, the following shall be designated in writing within five business days of the date on which the Procurement need arises:

13.1.1. The responsible unit; and

13.1.2. The Procurement coordinator:

13.2. Unless the act designating the responsible unit sets out a shorter time period, the responsible unit shall, within 30 business days of the date on which the Procurement need arises:

13.2.1. Prepare and approve the Procurement Request, which shall contain:

- a. The Procurement Object Descriptions;
- b. The Bidder qualification criteria;
- c. The types of licenses required for the supply of goods, the performance of works, or the delivery of services, if the execution of the Contract being concluded requires licensing under the Republic of Armenia legislation;
- d. In case of single-source Procurement, information (name, address, and if possible e-mail address) of the person or persons (potential Bidder) to which the Procurement Invitation shall be sent, except for single-source Procurement through the electronic system;
- e. The required volume of the Procurement Object; and
- f. The approximate timeframe, including deadline of the supply of goods, performance of works, or delivery of services;

13.2.2. Prepare and approve the list of persons nominated for membership in the Commission (candidates) as per the order of their inclusion in the Commission, specifying who is nominated as the chair of the Commission.

13.3. The responsible unit shall send the Procurement request, bearing a sequence number, to the Procurement coordinator on the date of approval by the responsible unit.

13.4. The Procurement coordinator shall, within three business days of receiving the Procurement request,

evaluate the conformity of the Procurement request with the Republic of Armenia legislation on procurements. If inconformity is found, the Procurement request shall be returned to the responsible unit, specifying the non-conformities found. The responsible unit shall correct and, within two business days, submit to the Procurement coordinator the adjusted Procurement request. In case of disagreement with the inconformity found, the responsible unit shall, within two business days, return the Procurement request to the Procurement coordinator, who shall report to the Head of the Ordered in writing within the business days following its receipt.

13.5. On the date of receiving such report, the Head of the Orderer shall:

13.5.1. Instruct the legal unit of the Orderer to issue a legal opinion within two business days. The legal unit may demand and receive additional materials for the purpose of issuing the opinion;

13.5.2. After receiving the legal opinion, instruct:

- a. The Procurement coordinator to organize the process of concluding the Contract, based on the submitted Procurement request, if the legal opinion deemed the report to be groundless, or
- b. The responsible unit to review the Procurement request as per the legal opinion.

14. The Commission

14.1. In order to organize the process of concluding the Contract, the Procurement coordinator shall, within three business days of receiving the written instruction or Procurement request specified in Paragraph 13.4 of these By-Laws, prepare and submit to the Head of the Orderer in writing for approval a draft decree on forming the Commission, which the Head of the Orderer shall approve within two business days.

14.2. The Commission shall consist of at least three members and shall have a chair and a secretary specified by the act on the formation of the Commission. The secretary shall not be a member of the Commission.

14.3. The secretary of the Commission shall:

- Organize the work of the Commission;
- Receive and keep a record of the requests;
- Prepare and present to the Commission the drafts of documents subject to approval by the Commission;
- Issue an Invitation;
- By preparing the appropriate documents, record the information on the activities of the Commission and ensure the safe keeping of such documents during the Commission's activities;
- Organize the activities of providing clarifications on the Procurement Procedure;
- Bear responsibility for the compliance of the Commission's activities with the Republic of Armenia legislation on procurements; and
- Perform other functions reserved for it.

14.4. The Commission's activities shall be carried out through sessions. A session of the Commission shall have quorum if two thirds of the Commission's members are present at the session. A Bid opening session shall have quorum if the Commission's secretary and at least two members of the Commission are present at the session.

14.5. If the participation of the chair at the Commission session is impossible, the session shall be chaired by such attending member, who was the next after the chair of the Commission to be nominated as a member of the Commission.

- 14.6. If a session does not have quorum, the secretary shall, upon finding out, report in writing to the Head of the Orderer, who shall do the following in the following sequence order:
- 14.6.1. Suspend the Procurement Process for no more than two business days;
 - 14.6.2. Ensure the respective member's attendance in the Commission session or appoint a new member of the Commission instead of such member based on a recommendation by the responsible unit; and
 - 14.6.3. Set the session date and time, which shall be no later than the Procurement Procedure suspension deadline.
- 14.7. A decision of the Commission shall be deemed adopted if more than half of the attending members of the Commission vote for such decision. Each Commission member shall have one vote and shall vote either for or against. In case of equal votes, the vote of the Commission chair, or in his absence—the vote of the member chairing the session—shall be decisive.
- 14.8. An extraordinary session of the Commission shall be convened by the Secretary by written instruction of the Head of the Orderer or by written demand of at least one third of the Commission members, with the agenda and in the time period suggested by them.
- The Commission secretary shall give at least six hours' advance written or electronic notice to the Commission members about convening an extraordinary session, as well as its agenda and time.
- 14.9. Each member of the Commission shall evaluate the submitted Bids, including the documents presented by the Bidder that was ranked as the first, reflect their evaluation results in the evaluation sheets, and endorse such sheets with his signature.
- 14.10. The Commission members shall bear liability for their decisions, including the documents and requirements endorsed by them, as well as the grounds for determining the winner of the Procurement Procedure.
- 14.11. Non-fulfillment of obligations by a Commission member or the Commission's secretary, as well as interference of an official who is not a Commission member with the Commission's activities shall result in measures by the Authorized Body of the Orderer in respect of holding liable such member (official) under the Republic of Armenia legislation.
- 14.12. If the Commission fails to ensure compliance with the requirements of these By-Laws, the Secretary shall report to the Head of the Orderer in writing on the date of discovering it, who shall:
- 14.12.1. On the date of receiving such report:
 - a. Issue an order suspending the Commission's activities. Unless the suspension order sets a different timeframe, the Commission's activities shall be suspended for a period of up to three business days; and
 - b. Instruct the Orderer's legal unit to issue a legal opinion prior to the end of the suspension period. The legal unit may demand and receive additional materials for issuing the opinion.
 - 14.12.2. Based on a written proposal of the legal unit, may request competent (specialized) bodies to issue a professional opinion on the matter. In such case, the suspension period of the Commission's activities shall be extended until the business day following the receipt of the opinion, about which the Head of the Orderer shall issue an order;
 - 14.12.3. After receiving a legal opinion, the order shall:
 - a. Resume the Commission's activities, if the legal opinion concluded that the report was

groundless, or

- b. Instruct the Commission to review the Commission's decisions as per the legal opinion. The report and the legal opinion shall be attached to the protocol.

14.13. In case of issuing a new order prior to the end of the suspension period of the Commission's activities, the Commission's activities shall be deemed resumed. Copies of the documents related to the suspension of the Commission's activities shall be attached to the protocol of the Procurement Procedure.

14.14. The Commission shall be deemed liquidated on the day following the date of declaring the Procurement Procedure as failed or the date of concluding the Contract

14.15. In case of Procurement under Chapter 2 of these By-Laws, if a Commission is not formed, the powers of the Commission shall be exercised by the head of the responsible unit, the group—if a professional group has been formed, and the Procurement coordinator shall exercise the powers of the Commission's secretary.

14.16. The Commission's members and secretary shall be obliged to ensure the confidentiality of information marked by Bidders as confidential, and shall be liability under the Republic of Armenia legislation for damage inflicted to bidders because of their disclosure, save for information subject to mandatory publication as stipulated by law.

15. Contents of Tender Documents

15.1. Within three business days of the Commission's formation, the secretary shall convene the Commission's first session. As a result of the session, the Commission shall, based on the Procurement request, approve:

15.1.1. The Procurement or prequalification announcement text;

15.1.2. The Invitation text; and

15.1.3. The date, time, and place of conducting the Commission's next session.

15.2. To engage Bidders for making Procurement through a Tender, the Procurement announcement and Invitation shall be published on the Company's website.

15.3. The Procurement announcement shall contain the following information:

15.3.1. The Orderer's name and address;

15.3.2. The tender code number;

15.3.3. A brief and clear overview of the content of the Contract and the Procurement Object Descriptions;

15.3.4. The conditions for receiving a paper-based Invitation;

15.3.5. The language or languages in which Bids must be submitted;

15.3.6. A brief overview of the Bidder qualification criteria;

15.3.7. The criteria to be applied for determining the Selected Bidder;

15.3.8. The Bid submission form, place, and deadline;

15.3.9. The Bid opening form, place, date, and time;

15.3.10. A note stating that the World Trade Organization Agreement on Government Procurement shall apply to the given Procurement Process, if the Procurement Price exceeds the thresholds set by such Agreement; and

15.1.1. Other information if necessary.

15.4. The Invitation shall contain:

- 15.4.1. A reference to the published announcement, according to which the Invitation is being sent;
- 15.4.2. The tender code number;
- 15.4.3. The instructions on Bid preparation;
- 15.4.4. The qualification criteria, the requirements on the right to participate, and their evaluation procedure;
- 15.4.5. The Procurement Object Descriptions;
- 15.4.6. The Bid evaluation procedure and Selected Bidder selection procedure;
- 15.4.7. The draft Contract;
- 15.4.8. If the Procurement is made in lots, and Bidders are allowed to submit Bids for only one part of the procured goods, works, and services, then the respective conditions and procedure;
- 15.4.9. The procedure of calculating the price submitted in the Bid, including the exchange rate in case of submitting the price in a foreign currency;
- 15.4.10. A note stating that the offered price includes, in addition to the cost of goods, works, and services, also the costs of transportation, insurance, fees, taxes, and other payments, and may not be less than their cost of production. The calculation of the offered price shall be presented in the Bid;
- 15.4.11. Requirements on Bid security and Contract performance security, if such security is required;
- 15.4.12. The Bid submission conditions, including form, place, deadline, Bid language, and Bid validity period;
- 15.4.13. The procedure of obtaining clarifications on the Procurement Process, information on meetings to be organized with Bidders, and the name and surname of the Commission secretary;
- 15.4.14. The Bid opening form, place, date, and time;
- 15.4.15. The grounds for rejecting the Bid; and
- 15.4.16. Other necessary information on Bid preparation, submission, opening, and evaluation, as well as on Procurements.

15.5. The Invitation shall also stipulate the following:

- 15.5.1. A requirement for the Bidders to present the following as a part of the Bid:
 - a. A written application to participate in the Procurement Procedure, specifying its taxpayer identification number;
 - b. A statement endorsed by the Bidder about the right to participate, as prescribed by the Invitation, and about the Bidder's compliance with the qualification criteria;
 - c. A price offer;
 - d. The Bid security (if required);
 - e. If the Bid security is presented in the form of bank guarantee, then the original document shall be submitted;
 - f. A copy of the license, if the order so requires;
 - g. In case of Procurement of goods, a statement approved by the Bidder, stating that it is in compliance with the technical specifications set out in the Invitation, provided that, in case of being ranked as the first Bidder, the Bidder shall submit, in the procedure specified in the Invitation, also the name of the producer under the proposed trademark, the country of origin, and the tech-

nical specifications of the goods (hereinafter, “Complete Description of the Goods”);

- h. A declaration about the absence of abuse of dominant position and anti-competitive agreement;
- i. A declaration about the absence of concurrent participation of its related parties in the same Procurement Process;
- j. Information on the natural person (persons) that directly or indirectly has (have) more than 10 percent of the voting shares (stocks) in the Bidder’s statutory capital, including bearer shares, and/or information on the person (persons) that has (have) the right to appoint or dismiss the members of the Bidder’s executive body or receives over 15 percent of the profit from the Bidder’s business or other activity. In the absence of such persons, information on the head and members of the executive body shall be presented. If a Bidder is declared as a Selected Bidder, the information stipulated by this sub-paragraph shall be published on the Company’s website together with the announcement on the decision to conclude a Contract.

15.5.2. The Bidder shall present a price offer in the form of the sum of cost (cost of production plus projected profit) and value added tax, as the components of the total. Other details or a breakdown of the components of the total shall not be required or presented. If a Bidder shall pay value added tax to the state budget of the Republic of Armenia for such transaction, the price offer shall contain a separate line presenting the amount of such tax payable. The evaluation and comparison of Bidders’ price offers shall be performed net of the tax amount specified herein.

15.5.3. When demanded by a Bidder, the Commission secretary shall immediately provide to such Bidder copies of any Bidder’s Bid, including price offer, and in case of Procurement of goods, also copies of the documents containing the Complete Description of the Goods presented by the Bidder ranked as first. If such demand cannot be met, originals of the documents shall be immediately provided to the demanding person, who shall study them on the spot, may take photos, and shall return them to the secretary during the session, without hindering the normal course of the Commission’s work.

15.5.4. The Contract to be concluded may be implemented as an agency agreement or a subcontract. A Bidder that submitted a Bid in the same Procurement Procedure may not be a party to such agency agreement or a subcontract. If the Contract will be implemented through an agency agreement or a subcontract, the Bidder shall also present in the Bid a copy of the agency agreement or subcontract, as well as information on the entity that is a party to such agency agreement or subcontract.

15.5.5. Bidders may participate in a Procurement Procedure as a consortium. In such case:

- a. The Bid shall contain also the consortium agreement;
- b. Bid evaluation shall take into account that the qualification of each member in the consortium agreement must correspond to the qualification requirements set forth in the Invitation, as undertaken by such member through the consortium agreement;
- c. The Invitation shall prescribe that any party to a consortium agreement may not submit a separate Bid in the same Procedure. In case of not complying with the requirement set forth in this sub-paragraph, the Bids submitted separately, as well as in the form of a consortium shall be rejected at the Bid Opening Session.

15.5.6. If the Contract price is stable, the Bidder shall submit the price offer as one number—the total price offered for Contract execution.

15.5.7. The Bid Security shall be presented in the form of a cash bank guarantee.

- 15.5.8. Contract Security shall be presented in the form of a bank guarantee.
- 15.5.9. Electronic notices shall be given by means of delivery of the information to e-mail addresses. The Invitation and the Bid shall specify the e-mail addresses of the Orderer and the Bidder. In case of the electronic exchange of information (documents), their sender shall send the information (documents) in the form of an endorsed printout (scan) of the original document.
- 15.5.10. The offer to the Selected Bidder to conclude a Contract and the draft Contract to be concluded shall be provided by the Commission secretary by e-mail. In case of Procurement of goods, the draft Contract shall contain the Complete Description of the Goods presented by the Selected Bidder in the Bid.
- 15.5.11. The Selected Bidder shall present the approved draft Contract to the Orderer in writing, and the letter presenting it shall be recorded in the Orderer's document processing system. The draft Contract shall be approved by the head of the Orderer within two business days of when such authority arises.
- 15.5.12. The concurrent participation in a Procurement Procedure of Bidders that are related parties as defined by these By-Laws shall be prohibited.
- 15.5.13. In case of organizing the Procurement Procedure in lots, Bid evaluation and the determination of the Selected Bidder shall be carried out by specific lots. In the framework of a Procurement Procedure organized in lots:
- a. If a Bidder submits a Bid for more than one lots, the Bidder may submit Bid Security for each lot separately, or one Bid Security for all the lots. In case of submitting one Bid Security, its amount shall be calculated with respect to the sum of price offers submitted for the lots;
 - b. If a Bidder is selected for more than one lots, the Bidder may submit Bid Security for each lot separately, or one Bid Security for all the lots. In case of submitting one Bid Security, its amount shall be calculated with respect to the total price of the Contract;
 - c. If a Bidder refuses any lot or refuses to conclude a Contract, or is deprived of the right to conclude a Contract, then Bid Security shall be paid only for the security calculated with respect to such lot; and
 - d. If the concluded Contract for any lot is dissolved due to non-execution or improper execution of the concluded Contract, then Contract Security shall be paid only for the amount calculated with respect to such lot.

15.6. The Contract (draft Contract) shall also prescribe that:

- 15.6.1. The party to the Contract shall bear liability for the non-execution or improper execution of obligations by the agent or subcontractor;
- 15.6.2. In case of change of the agent or subcontractor during Contract execution, the party to the Contract shall give advance written notice to the Orderer, providing a copy of the draft agency agreement or draft subcontract and information on the entity that is a party to such agency agreement or subcontract;
- 15.6.3. In case of a consortium, the members shall bear joint and proportionate liability. If a consortium member quits the consortium, the Contract concluded with the consortium shall be unilaterally dissolved, and the sanctions prescribed by the Contract shall be imposed on the consortium members;
- 15.6.4. The Contract may set forth fines and penalties for non-execution or improper execution of the obli-

gations undertaken by the person that concluded the Contract (the performer). The amount of the fine may not be less than 0.5 percent of the total Contract price, and the amount of the penalties may not be less than 0.05 percent of the total Contract price. The fine shall be counted in calendar days—with respect to the price of the non-executed part of the Contract;

15.6.5. When making payments for Procurements, if the grounds prescribed by the Contract are present, the Orderer shall be obliged to secure the calculation of fines and penalties on the Contract party and offset them against the amounts payable;

15.6.6. When it is discovered, as a result of the oversight or supervision of compliance with requirements prescribed by law under the procedure stipulated by law, or as a result of the examination of complaints, that a Contract party submitted false documents (information and data) in the Procurement Process, prior to concluding the Contract, or that the decision to declare the Bidder as the Selected Bidder does not comply with the Republic of Armenia legislation, then the Orderer may, after the emergence of such grounds, unilaterally dissolve the Contract, if the violations found would have, under the Republic of Armenia legislation on procurements, served as a basis for not concluding the Contract as they been known prior to concluding the Contract. The Contractor shall not bear the risk of damages or missed benefits inflicted to the Contract party as a consequence of unilateral dissolution of the Contract, and the Contract party shall be obliged, under the procedure stipulated by the Republic of Armenia legislation, to compensate the Orderer for the damages inflicted by the Contract party, which caused the Contract dissolution;

15.6.7. When preparing the design documents, the designer shall present the required documents in the procedure stipulated by the Republic of Armenia legislation on procurements;

15.6.8. The entity that provided the Contract performance security shall, in case of starting a process of liquidation or bankruptcy during the term of such security, given advance written notice thereof to the Orderer;

15.6.9. Notice of unilateral complete or partial dissolution of the Contract on the basis that the entity that concluded the Contract did not execute or improperly executed its obligations shall be published by the Orderer on the Company's website, specifying the date of publishing. The person that concluded the Contract shall be deemed duly notified of unilateral dissolution of the Contract as from the day following the date of such publishing on the Company's website.

16. Procedure of Conducting

16.1. Within two business days of the date of approval of the Procurement announcement and prequalification announcement texts, the secretary shall:

16.1.1. Publish the announcement and prequalification announcement texts on the Company's website;

16.1.2. In case of organizing the Procurement Procedure in a paper-based mode, send the electronic Invitation to the potential Bidder/-s of such Procedure, if the Procurement is made under Chapter 2 of these By-Laws, and in the cases stipulated by these By-Laws, shall publish the Invitation on the Company's website, as well;

16.2. By decision of the Commission, the secretary shall take measures to expand the scope of Bidders for the purpose of concluding the Contract and of encouraging competition between them. Information on the Procurement shall be dealt with in the following manner:

16.2.1. The Procurement or prequalification announcement shall be published also in the mass media, in-

cluding the electronic media; and

- 16.2.2. The Invitation shall be provided (sent) to the potential Bidders of the Procurement Process, as defined by the Commission.
- 16.3. To receive the paper-based Invitation, a Bidder shall present a written application to the Orderer. The Orderer shall secure the provision of the paper-based Invitation on the working day following receipt of such demand. In case of a demand to provide the Invitation in electronic form, the Orderer shall ensure, free of charge, the provision of the electronic Invitation during the business day following receipt of the application.
- 16.4. Prior to the Bid opening session, officials of the Orderer shall be prohibited from disclosing to other persons information on persons that received the Invitation or requested an Invitation. Provision of clarifications not in the manner stipulated by the Republic of Armenia legislation on procurements or provision of other information by such officials to other persons shall result in measures to hold liable such official in accordance with the legislation.
- 16.5. A Bidder may, at least five calendar days prior to the Bid submission deadline, demand in writing a clarification of the Invitation. The clarification shall be provided to the inquiring Bidder in writing within two business days of the date of receiving the inquiry.
- 16.6. An announcement on the contents of the inquiry and the clarifications shall be published on the Company's website on the date of providing the clarification to the inquiring Bidder, without specifying information on the inquiring Bidder, and in case of a closed tender, the clarification on the contents of the inquiry and the clarifications shall be provided to the Bidders that received the Invitation.
- 16.7. A clarification shall not be provided if the inquiry was made in breach of the deadline stipulated by Paragraph 16.5 of these By-Laws, or when the inquiry lies outside the scope of the Invitation. The Bidder shall be notified in writing of the grounds of not providing the clarification within two business days of receiving the inquiry.
- 16.8. At least five calendar days prior to the Bid submission deadline, the Invitation may be amended. In case of a tender, the announcement about amendments and about the conditions of providing amendments shall, within three calendar days of making such amendments, be published on the Company's website, and in case of a closed tender, the amendments shall be provided to the Bidders that received the Invitation.
- 16.9. In case of amending the tender Invitation, the Bid submission deadline shall be counted from the date of publishing such amendments on the Company's website, and in case of a closed tender, from the date of provision of the amendments to the Bidders that received the Invitation.
- 16.10. A protocol shall be prepared about the actions performed in accordance with Paragraphs 16.5 to 16.9 of these By-Laws and their results. Such protocol shall be annexed to the protocol of the Procurement Procedure.

17. Bid Submission

- 17.1. In case of paper-based Bid submission, the Bidder's offers and documents related to them shall be placed in an envelope, which shall be glued by the submitter. The documents contained in the envelope shall contain the original and the number of copies specified in the Invitation. The document packages shall respectively be marked as "original" and "copy." The envelope and the documents prepared by the Bidder as specified in the Invitation shall be signed by the person submitting them or by a person authorized by such person (hereinafter, "the Agent"). If the Bid is submitted by an Agent, the Bid shall contain a

document confirming that such power has been delegated to such Agent.

17.2. The following shall be marked on the envelope specified in Paragraph 17.1 of these By-Laws in the language in which the Bid is prepared:

17.2.1. The Orderer's name and the Bid submission place (address);

17.2.2. The tender code number;

17.2.3. The words "do not open prior to the Bid opening session"; and

17.2.4. The Bidder's name, address, and telephone number.

17.3. Bids not conforming to the requirements of Chapter 17 of these By-Laws shall be rejected by the Commission in the Bid opening session and returned to the submitter in the same form.

17.4. The Commission secretary shall record Bids in a journal in the order in which they were received, specifying in the journal the registration number, date, and time. If a Bidder so demands, a statement about it shall be issued. Bids submitted after the Bid submission deadline shall not be recorded in the journal and shall be returned by the secretary within two business days of the date of receiving them.

18. Bid Opening

18.1. Bids shall be opened on the date and time and in the place specified in the Bid, at the Bid opening session. The Bid opening date and hour shall overlap with the Bid submission deadline.

18.2. In the Bid opening session:

18.2.1. The chair (session chair) shall declare the session open and shall publish the price of goods, works, or services to be procured within the current Procedure, expressed as one amount. The Commission secretary shall convey information on the records in the journal and shall hand over the Bid journal to the Commission chair, together with documents that form an integral part thereof, as well as the recorded Bids.

18.2.2. After handing over to the chair (session chair) the documents specified in sub-paragraph 18.2.1 of these By-Laws, the Commission shall evaluate:

- a. Whether the envelopes containing the Bids were prepared and presented in accordance with the established procedure, and shall open the Bids evaluated as being in accordance; and
- b. Whether each opened envelope contains all of the required documents and whether such documents have been prepared in accordance with the conditions set out in the Invitation.

18.2.3. The Commission chair shall announce the price offers of the Bidders that submitted Bids, expressed as one number, based on what is written in words.

18.2.4. The Commission shall reject Bids that lack the price offer and/or the Bid Security, as well as Bids submitted not in accordance with the requirements of the Invitation.

18.2.5. From among the Bidders that submitted Bids evaluated as satisfying the requirements of the Invitation, the Commission shall decide and announce the Bidders ranked as first and ranked as further.

18.3. If the offered minimum prices are equal, or if the price offers of all Bidders that submitted Bids satisfying the non-price conditions exceed the price set forth in the request for Procurement of goods, works, or services through the current Procedure, then:

- a. In the Commission session for determining the Bidders ranked as first and ranked as further, concurrent negotiations for reducing the offered prices shall be conducted with all Bidders evaluated as satisfying the non-price conditions, provided that all such Bidders (their appropriately authorized repre-

sentatives) are present at such session;

- b. Otherwise, the Commission session shall be suspended, and within one business day, the Commission secretary shall give concurrent electronic notice to all Bidders, evaluated as satisfactory, of the date, time, and place of conducting concurrent negotiations for reducing the price;
- c. Negotiations shall be conducted no earlier than on the date following the day of sending such notice, and no later than on the 10th business day following the day of sending such notice;
- d. Each Bidder's price offer presented at such time shall be published for the other Bidders, and prior to the deadline set for negotiations, the Bidder may revise its price offer;
- e. At the time of the deadline set for negotiations, based on the prices submitted by Bidders, which do not exceed the amount of funding allocated for such Procurement, the Bidders ranked as first and ranked as further shall be determined and announced;
- f. At the time of the deadline set for negotiations, if the prices submitted by Bidders exceed the price set forth in the request for Procurement of goods, works, or services through the current Procedure, or if the minimum prices are equal, the Procurement Procedure shall, based on sub-paragraph 21.1.1 of these By-Laws, be declared as failed.

18.4. If the evaluation performed during the Bid opening session reveals that the Bidder's Bid is not in conformity with the requirements of the Invitation, except when the Bid is lacking the price offer or Bid Security, or the price offer or Bid Security is submitted not in conformity with the requirements of the Invitation, the Commission shall suspend the session for one business day, and the Commission secretary shall, on the same day, give electronic notice thereof to the Bidder and propose to fix such non-conformity prior to the end of the suspension period.

18.5. If, within the time period set forth in Paragraph 18.4 of these By-Laws, the Bidder corrects the non-conformity found, the Bidder's Bid shall be evaluated as satisfactory. Otherwise, the Bid shall be evaluated as unsatisfactory and shall be rejected.

18.6. After Bid opening, a protocol shall be prepared, which shall be attached to the protocol of the Procurement Procedure. The protocol shall be signed by the Commission members attending the session. The protocol shall contain:

18.6.1. Information on the Bids opening date, time, and place;

18.6.2. The names and addresses of the Bidders that submitted Bids;

18.6.3. Information on whether the envelopes were prepared and presented in accordance with the requirements set out in the Invitation;

18.6.4. Information on whether each opened envelope contains all of the required documents;

18.6.5. Information on whether the documents submitted by each Bidder have been prepared in accordance with the conditions set out in the Invitation;

18.6.6. The price offered by each Bidder;

18.6.7. Information on the Bidders ranked as first and ranked as further;

18.6.8. In case of declaring the Procurement Procedure as failed, its justification;

18.6.9. Information on the inquiries received about Bids and the responses;

18.6.10. The place, date, and time of the Commission's next session; and

- 18.6.11. The names and surnames of the Commission members attending the session.
- 18.7. If a Commission member or Bidder wishes to express an opinion regarding the bid opening, which is not included in the protocol of the Bid opening session (a special opinion), such member or Bidder shall present it in writing during the session, and it shall be attached to the protocol.
- 18.8. Bidders and their representatives may be present at the Commission sessions. Bidders or their representatives may demand copies of the Commission session protocols, which shall be provided within five business days. The Orderer shall maintain the confidentiality of information marked as confidential by the Bidders, and shall bear liability under the procedure stipulated by the Republic of Armenia legislation for damage inflicted to Bidders as a consequence of their disclosure, except for information that is subject to mandatory disclosure under the law.
- 18.9. A Commission member or the secretary may not participate in the Commission work, if it becomes clear at the Bid opening session that a Bid for such Procedure has been submitted by an organization founded by, or an organization in which shares (stock) are held by, such member or secretary, or a close relative or in-law (parent, spouse, child, sibling, or parent, child, or sibling of spouse) of such member or secretary.
- 18.10. If the condition prescribed by Paragraph 18.9 of these By-Laws is present, then immediately after the Bid opening session, the Commission member or secretary who has a conflict of interest regarding such Procedure shall recuse himself from such Procedure. The Commission members and secretary shall sign a declaration on the absence of conflict of interest.

19. Bid Evaluation

- 19.1. Bids shall be evaluated under the procedure set forth in the Invitation. Bids satisfying the conditions set forth in the Invitation shall be evaluated as satisfactory; otherwise, Bids shall be evaluated as unsatisfactory and rejected.
- 19.2. The Bidder ranked as first shall be determined:
- 19.2.1. From among the Bidders that submitted Bids evaluated as satisfactory, according to the principle of giving preference to the Bidder that submitted the lowest price offer; or
- 19.2.2. By selecting the Bidder who has the highest sum of the ratios for the offered price and non-price criteria. If this method is used, then in the cases and procedure stipulated by the Invitation for Bid evaluation, non-price criteria shall also be taken into account in addition to the offered price. Non-price criteria shall be related to the Contract object, and their relative weights shall be presented in the Invitation.
- 19.3. If the Bid contains a discrepancy between the amount written in numbers and in words, the amount written in words shall be accepted as a basis. If the offered prices were presented in two or more currencies, they shall be compared in drams of the Republic of Armenia at the exchange rate set forth in the Invitation.
- 19.4. As a result of Bid evaluation, a Bid evaluation session protocol shall be prepared and attached to the Procurement Procedure protocol. The protocol shall be signed by the Commission members attending the session.
- 19.5. On the business day following the end of the Bid opening session, the Commission secretary shall:
- 19.5.1. Post on the Company's website a printout (scan) of the original of the Bid opening session protocol;
- 19.5.2. Post on the Company's website printouts (scans) of the originals of the declarations on the absence of conflict of interest, signed by him and by the Commission members attending the Bid opening session. The Commission members that participate in the Commission's work through sessions

convened after the Bid opening session, shall sign such statements, which the secretary shall post on the Company's website on the business day following such signature;

- 19.5.3. Give e-mail notice to the Bidder ranked as first and propose to present by e-mail, within three business days of sending such notice, the documents stipulated by the Invitation for justifying the qualification criteria, except for the cases set forth in these By-Laws, and in case of Procurement of goods, also the document stipulated by sub-paragraph 17.5.1(g) of these By-Laws, as well as the original of the Bid Security presented in the form of a bank guarantee, together with a cover letter. In case of not presenting any documents during the time period prescribed by this Paragraph, the Commission shall, in the Bid opening session, reject the Bid of the Bidder ranked as first and require the Bidder ranked next to present the documents.
- 19.6. On the business day following the end of the deadline prescribed by Paragraph 19.5.3 of these By-Laws, the secretary shall send concurrent e-mails to the Commission members, containing two copies of the documents presented by the Bidder ranked as first and two copies of the evaluation sheets. The Bid evaluation results approval session shall be convened not later than on the third business day after provision of such documents to the Commission members. In case of procuring goods, the Commission shall evaluate also the conformity of the presented technical specifications with the requirements set forth in the Invitation, and in case of finding a non-conformity, the protocol of the Commission's session shall provide a detailed description of the non-conformities found.
- 19.7. If the Bidder ranked as first does not present the documents in full, or if a non-conformity with the requirements set forth in the Invitation is found as a result of evaluating the documents required by the Invitation, and in case of procuring documents, evaluating also the document stipulated by sub-paragraph 17.5.1(g) of these By-Laws, the Commission secretary shall give e-mail notice to the Bidder ranked as first on the same day and suggest correcting the non-conformity within one business day.
- 19.8. If, within the prescribed period, the Bidder ranked as first:
- 19.8.1. Corrects the non-conformity found, the Bid shall be evaluated as satisfactory, and the Bidder ranked as first shall be announced as the Selected Bidder;
- 19.8.2. Fails to correct the non-conformity found, the Commission shall by decision reject the Bid, and require the Bidder ranked next to present the documents.

20. Concluding the Contract

- 20.1. The Contract shall be concluded by the Orderer on the basis of a decision of the Commission.
- 20.2. Prior to concluding the Contract, the Orderer shall post on the Company's website an announcement about concluding the Contract not later than on the first business day after taking the decision on the Selected Bidder.
- 20.3. The decision to conclude a Contract shall contain brief information on the Bid evaluation and the reasons justifying the selection of the Selected Bidder, as well as an announcement about the idle period. The idle period is the time period between the date following publication of the announcement on the decision to conclude a Contract and the date following the emergence of the Orderer's right to conclude a Contract.
- 20.4. In case of a tender, the idle period shall be at least five calendar days. For other Procurement Procedures, the idle period shall be at least three calendar days.
- 20.5. The idle period stipulated by Paragraph 20.4 of these By-Laws shall not apply, if only one Bidder submitted a Bid, in which case a Contract shall be concluded with such Bidder.

- 20.6. The Orderer shall conclude a Contract, if, during the idle period stipulated by Paragraph 20.4 of these By-Laws, no Bidder files a court appeal against the decision to conclude a Contract. A Contract concluded before the end of the idle period or a Contract concluded without publishing an announcement on concluding a Contract shall be null and void.
- 20.7. Based on a demand to present Contract Security, the Selected Bidder shall be obliged to present Contract Security within 10 business days of the date of receiving such demand.
- 20.8. The amount of the Contract Security shall be 10 percent of the Contract price. The Contract Security shall be presented by the Selected Bidder in the form of a bank guarantee.
- 20.9. Relationships between the parties, which are related to the Procurement, but not regulated by the Republic of Armenia legislation on procurements, shall be regulated by the Contract.
- 20.10. Within four business days of the end of the idle period stipulated by Paragraph 20.4 of these By-Laws, the Orderer shall notify the Selected Bidder and present an offer to conclude the Contract and the draft Contract. The Contract may be concluded no earlier than on the second business day after the end of the idle period stipulated by Paragraph 20.4 of these By-Laws.
- 20.11. If, within five business days of receiving the notice on concluding a Contract and the draft Contract, the Selected Bidder fails to sign the Contract and to present the Contract Security to the Orderer (when required), such Selected Bidder shall lose the right to conclude the Contract.
- 20.12. Prior to the end of the time period stipulated by Paragraph 20.11 of these By-Laws, the parties may agree to amend the draft Contract, but such amendments may not result in changes to the Procurement Object Descriptions or an increase in the price offered by the Selected Bidder.
- 20.13. In case of not concluding (refusing) a Contract with the Selected Bidder, or loss of the right to conclude a Contract, the Commission shall apply the provisions of Paragraphs 19.5 to 19.8 of these By-Laws in order to determine the Selected Bidder.
- 20.14. A Contract shall be concluded with the Selected Bidder under the procedure stipulated by these By-Laws and the Law.

VI. Failed Procurements

21. General Provisions

- 21.1. A Procurement Procedure shall be declared as failed if:
- 21.1.1. None of the Bids satisfies the conditions of the Invitation;
 - 21.1.2. The need for Procurement ceases;
 - 21.1.3. No Bid is submitted; or
 - 21.1.4. No Contract is concluded.
- 21.2. After the Procurement Procedure is declared as failed, it shall be prohibited to open the unopened Bids, and they shall be returned to the Bidders.
- 21.3. Within the business day following the declaration of the Procurement Procedure as failed, the Orderer shall post on the Company's website an announcement that shall state the reasons for declaring the Procurement Procedure as failed. In case of a closed tender, such announcement shall not be published.

VII. Appealing the Procurement Procedure

22. General Provisions

22.1. Every person may appeal the actions (inaction) and decisions of the Orderer and the Commission.

22.2. Relationships concerning the Procurements, including the examination of appeals, shall not be administrative relationships, and shall be regulated by the Republic of Armenia legislation on civil-law relationships.