

## Declaration of Undertaking

Reference name of the Application / Bid / Contract: **QSM-2017-6-PA-GOR-water**

To: **AHT GROUP AG (“Contracting Authority”)**

Project: “Support of Nature Protected Areas in Ukraine”

BMZ Project Numbers: 2011.6612.3 and 2013.6588.1. financed from the loan funds provided by the Government of the Federal Republic of Germany through KfW pursuant to the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Federal Republic of Germany on Financial Cooperation (allocation 2011, 2012 and 2013) dated 10.05.2015, implemented by AHT GROUP AG (the leading partner of the consortium in association with WWF International Danube-Carpathian Programme, Frankfurt Zoological Society (FZS), and Ukrainian Society for the Protection of Birds (USPB))

1. We recognise and accept that KfW ("KfW") only finances projects of the Contracting Authority subject to its own conditions which are set out in the contractual agreements it has entered into with the Contracting Authority. As a matter of consequence, no legal relationship exists between KfW and our company, our joint venture or our subcontractors, suppliers or subconsultants. The Contracting Authority retains exclusive responsibility for the preparation and implementation of the procurement process and performance of the contract. The Contracting Authority means the Purchaser, the Employer, the Client or the Project Executing Agency as the case may be, for the procurement of goods, works, plants, consulting services or non-consulting services.
2. We hereby certify that neither we nor any of our board members or legal representatives nor any other member of our joint venture or – in the case of being awarded a contract - any of our subcontractors, suppliers or subconsultants are in any of the following situations:

2.1) Being bankrupt, wound up or ceasing our activities, having our activities administered by the courts, having entered into receivership, reorganisation or being in any analogous situation arising from any similar procedure;

2.2) Having been:

a. convicted, within the past five years by a court decision, which has the force of *res judicata* in the country where the Contract is implemented, of fraud, corruption or of any other offense committed during a procurement process or performance of a contract (*in the event of such conviction, the applicant or bidder shall attach to this Declaration of Undertaking supporting information showing that this conviction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*);

b. subject to an administrative sanction within the past five years by the European Union or by national authorities either in the country of the Contracting Authority or of KfW, for fraud, corruption or for any other offense committed during a procurement process or performance of a contract (*in the event of such sanction, the applicant or bidder shall attach to this Declaration of Undertaking supporting information showing that this sanction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*);

c. convicted, within the past five years by a court decision, which has the force of *res judicata*, of fraud, corruption or of any other offense committed during the procurement process or performance of an KfW-financed contract;

2.3) Being listed for financial sanctions by the United Nations, the European Union and/or Germany for the purposes of fight-against-terrorist financing or threat to international peace and security. This criterion of exclusion is also applicable to legal persons, whose majority of shares are held or factually controlled by a listed natural or legal person;

2.4) Having been subject within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;

2.5) Not having fulfilled our fiscal obligations regarding payments of taxes in accordance with the legal provisions

of either the country where we are constituted or the Contracting Authority's country;

2.6) Being subject to an exclusion decision of the World Bank or any other international development financing institution and being listed on the website <http://www.worldbank.org/debarr> respectively the relevant list of any other international development financing institution (*in the event of such exclusion, the applicant or bidder shall attach to this Declaration of Undertaking supporting information showing that this exclusion is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*);

2.7) Having created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the procurement process of this Contract.

3. We hereby certify that neither we, nor any of the members of our joint venture or any of our subcontractors, suppliers or subconsultants are in any of the following situations of conflict of interest:

3.1) Being an affiliate controlled by the Contracting Authority or a shareholder controlling the Contracting Authority, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;

3.2) Having a business or family relationship with a Contracting Authority's staff involved in the procurement process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;

3.3) Being controlled by or controlling another bidder or consultant, or being under common control with another bidder or consultant, or receiving from or granting subsidies directly or indirectly to another bidder or consultant, having the same legal representative as another bidder or consultant, maintaining direct or indirect contacts with another bidder or consultant which allows us to have or give access to information contained in the respective applications, bids or proposals, influencing them or influencing decisions of the Contracting Authority;

3.4) Being engaged in a consulting services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the Contracting Authority;

3.5) In the case of procurement of goods, works or plants:

i. Having prepared or having been associated with a consultant who prepared specifications, drawings, calculations and other documentation to be used in the procurement process of this Contract;

ii. Having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract;

4. If we are a state-owned entity, and compete in a procurement process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.

5. We undertake to bring to the attention of the Contracting Authority, which will inform KfW, any change in situation with regard to points 2 to 4 here above.

6. In the context of the procurement process and performance of the corresponding contract:

6.1) We have not and we will not engage in any dishonest conduct (act or omission) deliberately intended to deceive others, to intentionally conceal items, to violate or vitiate someone's consent, to make them circumvent legal or regulatory requirements and/or to violate their internal rules in order to obtain illegitimate profit.

6.2) We have not and we will not engage in any dishonest conduct (act or omission) contrary to our legal or regulatory obligations or our internal rules in order to obtain illegitimate profit;

6.3) We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to (i) any Person who holds a legislative, executive, administrative or judicial mandate within the State of the Contracting Authority regardless of whether that Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the Person occupies, (ii) any other Person who performs a public function, including for a State institution or a State-owned company, or who provides a public service, or (iii) any other person defined as a Public Officer by the national laws of the Contracting Authority's country, an undue advantage of any kind, for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity;

6.4) We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to any Person who occupies an executive position in a private sector entity or works for such an entity, regardless of the nature of his/her capacity, any undue advantage of any kind, for himself or another Person or entity for such Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations;

6.5) We have not and we will not engage in any practice likely to influence the contract award process to the detriment of the Contracting Authority and, in particular, in any anti-competitive practice having for object or for effect to prevent, restrict or distort competition, namely by limiting access to the market or the free exercise of competition by other undertakings;

6.6) Neither we nor any of the members of our joint venture or any of our subcontractors, suppliers or subconsultants shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or Germany;

6.7) We commit ourselves to comply with and ensure that our subcontractors, suppliers, in particular those for major supply items, or consultants comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract and the fundamental conventions of the International Labour Organisation<sup>1</sup> (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the relevant environmental and social management plans provided by the Contracting Authority.

7. We, as well as all members of our joint venture and our subcontractors, suppliers or subconsultants will provide information and authorise KfW or an agent appointed by KfW to inspect on site accounts, records and other documents relating to the entire procurement and award process and – in the case of being awarded a contract – the execution of the contract and to have them audited by auditors or agents appointed by KfW.

Name: \_\_\_\_\_ In the capacity of: \_\_\_\_\_

Duly empowered to sign in the name and on behalf of<sup>2</sup>: \_\_\_\_\_

Signature: \_\_\_\_\_ Dated: \_\_\_\_\_

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<sup>1</sup> In case ILO conventions have not been fully ratified or implemented in the Employer's country the Applicant / Bidder / Contractor shall, to the satisfaction of the Employer and KfW, propose and implement appropriate measures in the spirit of the said ILO conventions with respect to a) workers grievances on working conditions and terms of employment, b) child labour, c) forced labour, d) worker's organisations and e) non-discrimination.

<sup>2</sup> In case of joint venture, insert the name of the joint venture. The person who will sign the application, bid or proposal on behalf of the applicant, bidder or consultant shall attach a power of attorney from the applicant, bidder or consultant.