



Republic of Turkey
Ministry of Science, Industry and Technology

OPERATIONAL AGREEMENT

BETWEEN

THE OPERATING STRUCTURE

AND

THE END RECIPIENT OF ASSISTANCE

WITH RESPECT TO

<OPERATION NUMBER>

<TITLE OF THE OPERATION>

**UNDER THE COMPETITIVENESS AND INNOVATION SECTOR
OPERATIONAL PROGRAMME (CISOP)**



CONTENTS

Definitions

Legal Basis and Reference Framework

Article 1. Subject and Scope

Article 2. Rights and Obligations of the ERA

- 2.1 SRER and Operation Coordination Unit
- 2.2 Development of Tender and other Technical Documents
- 2.3 Tendering and Contracting
- 2.4 Implementation
- 2.5 Financial Management
 - 2.5.1 *Payment Verification*
 - 2.5.2 *Accounting and Asset Registry*
 - 2.5.3 *Taxation*
- 2.6 Monitoring and Reporting
- 2.7 Right of Access, Audit and Control
- 2.8 Record Keeping
- 2.9 Information, Training and Guidance

Article 3. Rights and Obligations of the Operating Structure

- 3.1 Quality Control of Tender and Other Technical Documents
- 3.2 Tendering and Contracting
- 3.3 Implementation
- 3.4 Financial Management
 - 3.4.1 *Payments*
 - 3.4.2 *Accounting*
 - 3.4.3 *Taxation*
- 3.5 Monitoring and Reporting
- 3.6 Right of Access and Audit
- 3.7 Assessment of Institutional Competency of ERA

Article 4. Ineligible Expenditure and Operating Costs

Article 5. Abstaining from Acceptance

- 5.1 Transfer to third parties

Article 6. Information System & Data and Information Security and Confidentiality

Article 7. Publicity and Visibility

Article 8. Indemnities by ERA and OS's Non-Liability



Article 9. Execution Body

Article 10. Irregularity and Fraud

Article 11. Termination

Article 12. Enforcement, Penalties and Recovery of Funds

Article 12. Final Provisions and Miscellaneous

Article 13. Entry into Force and Duration

List of Annexes

Annex 1: OIS for the Project

Annex 2: Protocol between the Ministry and ERA

Annex 3: Declaration of Objectivity and Confidentiality

Annex 4: Quarterly Communication of Irregularities in Connection with the Instrument for Pre-Accession Assistance

Annex 5: Nil Report (Zero Irregularity Report)

Annex 6: ERA Standard Filing Plan

Annex 7: ERA's (SRER's) Statement

Annex 8: PRAG Glossary

Annex 9: Abbreviations



The Parties to this Agreement being;

The Head of the Operating Structure (HOS) <.....> acting for and on behalf of the Ministry of Science, Industry and Technology, hereinafter referred to as the “*Operating Structure*” (OS)

and

The Senior Representative of the End Recipient of Assistance (SRER) <.....> acting for and on behalf of <name of ERA>, hereinafter referred to as the End Recipient of Assistance (ERA), hereinafter jointly referred to as the “*Parties*” and, individually, as a “*Party*”

having joint and several responsibility for the sound execution of the subject of this Operational Agreement, (herein after the “*Agreement*”) agreed as follows:

Definitions

Contracting Authority Entity referred to in Article 190/2 of Regulation (EU, Euratom) No 966/2012, i.e., (i) in case of direct management: the European Commission on behalf of and for the account of the partner country/countries, (ii) in case of indirect management: the State or the entity concluding the contract as provided for (where appropriate) in the Financing Agreement.

Contract An agreement, between two or more persons or entities, with specific terms and an undertaking to provide services, supplies and/or works in return for a financial consideration (Service, Supplies, Works)

Contractor is a legal entity (or natural person) responsible for the execution of activities as laid down in the respective Contract with the Operating Structure. Contractors are appointed in accordance with the relevant procurement procedures as laid down in PRAG

Contract Notice (CN); Tender Notice

Delegation of the European Union to Turkey (EUD) is institution which represents European Commission Services in the Republic of Turkey, performs ex-ante controls on procurement processes.



Eligibility period	is the period in which all operational activities of the Programme are completed, both in technical, operational and financial terms. It commences on the date of entry into force of the respective Financing Agreement and ends in line with General Conditions, article 13 and Special Conditions sub-article 2(2). However the Eligibility Period shall not exceed 31 st of December, 2026.
End Recipient of Assistance (ERA)	is institution/organisation supported from the Programme funds in accordance with Article 10 of General Conditions of IPA II Financing Agreement that initiates and participates in the implementation of the Operation, benefits from it, and in charge of its sustainability.
Execution Body	is a supplementary special purpose vehicle that can be established in line with Turkish law to run the Operation outputs and results, and ensure its sustainability as required in the OIS.
Fraud	is any intentional act or omission relating to: the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of the European Communities, non-disclosure of information in violation of a specific obligation, with the same effect or the misapplication of such funds for purposes other than those for which they were originally granted.
Force Majeure	any unforeseeable exceptional situation or event beyond the Parties' control which prevents either of them from fulfilling any of its obligations under the Agreement, which may not be attributed to error or negligence on either part, and which could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making them available cannot be invoked as force majeure, unless they stem directly from a relevant case of force majeure.
Head of Operating Structure (HOS)	is the person who bears overall responsibility for the preparation, management, implementation, monitoring and evaluation, finance and contracting within the framework of the Competitiveness and Innovation Sector Operational Programme 2014-2020 (CISOP) as stated in the Prime Ministry Circular No 2015/15 of 08.12.2015 (published in the official gazette No 29556 dated December 8, 2015) on the Management of Pre-Accession European Union Funds.



Irregularity	in the context of the Operation is any infringement of a provision of Community law (administrative or financial mismanagement) that comes about either by act or omission by an economic operator which has or would have the effect of prejudicing the general budget of the Communities or budgets managed by them, by charging an unjustified item of expenditure to the Community Budget.
Management verifications	are administrative and physical (on the spot) checks carried out by the Operating Structure during the implementation of the Operation and its underlying contracts.
Operating Structure (OS)	is the Directorate of EU Financial Programmes within the Ministry of Science, Industry and Technology
Operation (also Project)	comprises a series of planned activities intended to accomplish an indivisible task of a precise economic and technical nature which has clearly identified goals, budget and time-frame.
Operation Identification Sheet (OIS)	is document identifying key aspects of the Operation contents as laid down in Annex VIII of the Financing Agreement
PRAG	is the Practical Guide for Procurement and Grants for European Union External Actions.
Protocol	is a bilateral agreement between the OS and the Applicant, whose operation had been pre-selected for financing, and describing the rights, roles and responsibilities of the Parties to work together to bring the content and description of the operation to the level of satisfactory maturity and feasibility suitable for the approval of OIS and fully-fledged implementation of the Project. The Protocol is the precondition of the Operational Agreement as the requirements included in the Protocol should be met by the signature date of the Operational Agreement.
Sectoral Monitoring Committee (SMC)	is a body in charge inter alia of the review the effectiveness, efficiency, quality, coherence, coordination and compliance of the implementation of the CISOP programme, and their consistency with the relevant sector strategies.



Senior Representative of the End Recipient of Assistance (SRER)	is a high-level representative of the ERA pursuant to her/his rights under this Agreement who ensures that the ERA complies with all responsibilities and obligations laid down in this Agreement and in liaison with the Operating Structure makes sure that the Operation is implemented in accordance with the principle of sound financial management.
Sustainability period	is the period, in which all rights and obligations of ERA remain valid in the respect of assistance to operations and which shall end 6 years from the end of eligibility period referred to in Article 2(2) of Special Conditions of Financing Agreement (i.e. 31 st of December, 2032)
Terms of Reference (ToR)	the document specifies the activities and the deliverables/outputs of the contract.

Legal Basis and Reference Framework

The Parties shall be bound by and comply with the Legal Basis and Reference Framework established for the implementation of the Competitiveness and Innovation Sector Operational Programme 2014-2020 (CISOP), contemplated in Preamble to this Agreement. Any change or modification to the aforementioned Framework will consequentially apply to the terms and condition of this Agreement, and shall not require its amendment in writing.¹

The Legal Basis and Reference Framework applicable to the implementation and management of CISOP includes but is not limited to the following source documents:

- Framework Agreement signed between the Government of the Republic of Turkey and the European Commission on the Arrangements for Implementation of Union Financial Assistance to the Republic of Turkey under the Instrument for Pre-Accession Assistance (IPA II) approved by the Council of Ministers Decree of 2015/7708 and published in the Official Gazette numbered 29393, dated 21/06/2015;
- Financing Agreement between the Government of the Republic of Turkey and the European Commission dated 22.01.2016 and approved by the Decision of Council of Ministers dated 14 March 2016 and numbered 2016/8593;
- Regulation (EU) No 231/2014 of the European Parliament and the Council of 11 March 2014 establishing the “Instrument for Pre-accession Assistance (IPA II)”;
- Regulation (EU) No 236/2014 of the European Parliament and the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union’s instruments for financing external action;
- Regulation (EU, EURATOM) No 966/2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EU, EURATOM) No 1605/2002 (the

¹ Such change may include but not be limited to e.g.: change, amendment, modification or repeal of the existing legislation, manual or guidance note, an enactment, adoption, issuance of new legislation or similar document, or change in the manner in which those are applied or interpreted.



EU Financial Regulation) as amended
[http://ec.europa.eu/budget/biblio/documents/regulations/regulations_en.cfm];

- Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union as amended [http://ec.europa.eu/budget/biblio/documents/regulations/regulations_en.cfm];
- Commission Implementing Regulation (EU) No 447/2014 of 2 May 2014 on the specific rules for the Implementing Regulation (EU) No 231/2014 of the European Parliament and the Council establishing the “Instrument for Pre-accession assistance (IPA II)”;
- Commission Decision No C(2014)9576 of 11.12.2014 adopting the Multi-Annual Country Action Programme for Turkey on Competitiveness and Innovation;
- Law No.4749 of 28.03.2002 on the Regulation of Public Financing and Debt Management amended with Law no.4969 dated 31/7/2003, Law no. 5018 dated 10/12/2003, Law no. 5217 dated 14/7/2004, Law no 5234 dated 17/9/2004, Law no. 5335 dated 21/4/2005, Law no. 5538 dated 1/7/2006, Law no.5568 dated 26/12/2006, Law no.5667 dated 24/5/2007, Law no.5787 dated 16/7/2008, Law no.5838 dated 18/2/2009, Law no.5909 dated 17/6/2009, Law no.5917 dated 25/6/2009, Law no.6001 dated 25/6/2010, Law no.6274 dated 7/2/2012, Law no.6327 dated 13/6/2012, Law no.6338 dated 29/6/2012, Law no. 6428 dated 21/2/2013, Law no.6456 dated 3/4/2013, Law no. 6525 dated 20/2/2014, Law no.6552 dated 10/9/2014, Law no.6745 dated 20/8/2016 and Law no.6770 dated 18/1/2017;
- Regulation (Published in the Official Gazette of TR No 28880 of 12.01.2014 by Undersecretariat of Treasury) on The regulation on the Procedures and Principles for Meeting the Financial Requirements for the Programs and Projects in the Context of EU Financial Cooperation and Proceedings and Collection of National Fund Receivables
- General Communique No:2 (Published in the Official Gazette of TR No 28907 on 08.02.2014) by the Ministry of Finance on the Framework Agreement between the Government of the Republic of Turkey and the Commission of the European Communities on the “Instrument for Pre-Accession Assistance (IPA II)”;
- General Communique No:3 (Published in the Official Gazette of TR No 29378 of 06.06.2015) by Ministry of Finance on Framework Agreement Between the Government of the Republic of Turkey and the Commission of the European Communities on the “Instrument for Pre-Accession Assistance (IPA II)”;
- General Communique No:1 (Published in the Official Gazette No 29623 on 13.02.2016) by the Ministry of Finance on the Framework Agreement between the Government of the Republic of Turkey and the Commission of the European Communities on the “Instrument For Pre-Accession Assistance (IPA II)”;
- Prime Ministry Circular No 2015/15 of 08.12.2015 (published in the Official Gazette of TR No 29556) on the Management of Pre-Accession European Union Funds.

Article 1 - Subject and Scope

1. The subject of this Agreement is to regulate the rights and obligations of the Parties during the tendering and the implementation of the contracts for the sound implementation of the <title> Operation.
2. The scope of the Operation and its conditions are set in the Operation Identification Sheet (OIS) Annex 1 to this Agreement.

Article 2 - Rights and Obligations of the ERA

The ERA participates in the implementation of the Operation and benefits from it in accordance with the Legal Basis laid down in the Preamble to this Agreement and, in particular, the following provisions pertaining to the lifecycle of the Operation.

Participates in the implementation of the Operation and cooperates with the OS to ensure that all Project components and activities are properly sequenced, scheduled and carried out in an integrated manner to achieve defined objectives, results and outputs.

2.1 SRER and Operation Coordination Unit

The General Provisions of the Protocol dated .../.../.... and signed between the parties of this Operational Agreement will be valid and full in force for the implementation of this Agreement.

The designated SRER via .../.../..... dated Protocol shall;

- a. Ensure sound and effective functioning of the Operation Coordination Unit (OCU). The ERA shall report to the OS any changes to the appointed SRER and/or assigned OCU staff members within 2 weeks with their CVs,
- b. Ensure that the Operation features no double financing, i.e. no other source of funding (e.g. other EU programme, national or local budget, the World Bank, the UN, etc.) provides funds against any Operation activity,
- c. Ensure sufficient co-financing by the ERA of all ineligible costs and other expenditure not covered by the Operating Structure,
- d. Ensures (based on Statement being Annex 3 to the Agreement) that all the persons involved in the elaboration of the OIS and any tender dossier document for the Operation have signed declaration of objectivity and confidentiality in accordance with the template in Annex 3.

The above requirements are *ex-ante* preconditions for the launch of the tender process and sound implementation of the Operation. In the event that any of the aforementioned requirements remains unfulfilled, the OS has the right to suspend and/or withdraw the Project.

2.2 Development of Tender and other Technical Documents

The ERA shall be liable for the implementation of the work program and shall take necessary measures for the successful performance of the procurement process.

The ERA is liable for preparation of quality tender and other associated technical documents requested by the OS. The ERA shall consider and assure the quality of the technical specifications/terms of reference, drawings, cost estimate/market survey etc. to be prepared and submitted in line with OIS.

The ERA shall prepare and submit the following documents; however, the OS has the right to request additional documents for the procurement process if needed.

The submitted documents of the ERA are subject to written consent of OS in terms of their consistency with PRAG rules and OIS.

For Service Contract/s; (will be matured in months following the signature of the Agreement at most)

- Draft Technical selection criteria for Contract Notice;
- Terms of Reference and detailed budget estimation which reflects the Programme and Project specific indicators as well as the activities stated in the OIS.

For Supply Contract/s; (will be matured in months following the signature of the Agreement at most)

- Draft Technical selection criteria for Contract Notice;
- Technical Specifications and Market Survey with min. 3 (three) appropriate offers and the proof documents showing the detailed specifications of these goods in line with OIS.
- Ensures that as-built drawings and static calculations of the building are formally submitted to OS for the supply component before the tender preparation stage.
- All the permits, licenses including but not limited to Environmental Impact Assessment should be obtained by ERA in order to ensure the effective working of the equipment supplied by the OS.

[For Works Contract:]

For Project Site

- Title Deed or Land Allocation Order suitable for the Operation implementation; land must be owned by the ERA or formal partner in the Operation. Alternatively, a land lease contract must be signed that will cover the period of at least 15 years from the anticipated date of the completion of the Project;
- Land Zoning Master Plan with notes or Revised Land Zoning Master Plan with notes and ministerial decision related to the Plan revision;
- Land Zoning Development Plan (Implementation Plan) – approved, including soft copy in “Dwg” format;
- Sector-specific and Thematic Plan(s);
- Up-to-date version of the Land Zoning Document;



- Topographic Map of the direct area concerned (scale 1/1,000 or 1/5,000) and broader area (scale 1/25,000), including soft copy in “Dwg” format;
- Location of the Project Plot drawn according to the coordinates obtained from Land Register Office (approved coordinates cadastral map); coordinates must be listed in ITRF system or in accordance with Transformation Parameters obtained from the relevant administrative body;
- KMZ file of the Project to download into Google Earth
- Environmental Impact Assessment (EIA) Report, the required Record of Environmental Decision (if required) or official statement from the Ministry of Environment and Urbanization) that EIA is not compulsory for the Operation at hand;
- Geological and Geotechnical Survey Report (approved by the Ministry of Environment and Urbanization; approval of University required separately in case of soil improvement)
- Opinions and permits: Energy Permit from the relevant electricity distribution authority
- Lifeline pattern maps of adjacent area with integrated and clearly marked Project Plot and i) existing infrastructure such as: protected area and buildings, approved copy of road (including road elevation report), railways, electrical grid, water supply, sewage, natural gas pipelines, telecommunication network, fire protection, rainwater drainage system and other utility services, if applicable and ii) the new buildings/structures and planned associated infrastructure specific for the Project as contemplated earlier in section
- Project specific documents in line with the subject and goals of the project.

For Project Design (will be matured in months following the signature of the Agreement at most)

- Distinctive preliminary (conceptual) design of the project with at least 2 up-to-date photographs/visuals illustrating the parcel and the building/structures;
- List of machinery and equipment and consequent requirements impacting the building/structures in regard to the overall design, size, space, mechanical, static, electrical and architectural features together with sound budget estimates, architectural report, process diagram and preliminary market survey for machinery and equipment

Once the above are endorsed in-principle by the OS the ERA shall provide following documents in line with OIS; Technical specifications or Employer’s Requirements;

- Bill of Quantity, Financial Offer, Cost Estimation including permanent works, contingencies and detailed quantity surveys;
- TS and the design of the work reflecting the Programme and Project specific indicators;
- Architectural, static, mechanical, electrical designs and descriptions and other application drawings (shall be provided in both pdf and dwg format) – if required – such as: landscaping plan, structures, design reports, all complying with the Turkish legislation at the time of submission. These must be prepared in hard and soft copy and approved by the relevant public authority and signed off by the ERA. In addition to those, design parameters, design criteria report and supplementary calculations shall be provided;
- Proof documents indicating the capability and authorization of the designer (including engineer, architect etc.) shall be provided when requested;
- Any other technical studies, permits, licenses or documents if required.

ERA shall ensure that Construction drawings are signed by authorized licensed architect and engineers who will be immediately and duly notified to the OS in [insert days] following the date of publication of Contract Notice.

Other Requirements and Conditionalities

The ERA shall:

- Act with the care of duty.
- Comply with confidentiality principles through all stages of the procurement processes of the Project,
- Not disclose the information concerning the scope and contents of the Project.
- Not disclose the list of the equipment and technical specifications of the equipment during market research to the third parties;
- Meet the preconditions described in the OIS and the respective Protocol,
- Fulfil the obligations and meet the requirements set in the OIS;
- Prepare, submit, reply and/or amend tender documents based on commentary provided by the OS and/or EUD within defined deadline in the respective correspondence;
- Shall complete all extension of utility infrastructure to the site if such is not covered by the Operation eligible cost – before the signature of the respective Contract;
- Maintain effective and constructive communication with the OS during tender documents preparation.
- Fulfils his obligations to support the activities listed in ToR and technical specifications of the Project.

All costs associated with the preparation of the tendering documents shall be covered by the ERA.

2.3 Tendering and Contracting

All tendering and contracting responsibilities rest with the OS acting for and on behalf of the ERA. Staff members of the ERA however shall partake in those proceedings as laid down hereunder:

- Provide satisfactory additional information regarding Project specific technical requirements in 2 (two) days following the request of the Contracting Authority; in the clarification period of the tender process (21 to 11 days prior to the submission deadline). ERA has the full responsibility of these information.
- Provide full time voting members or observers during tender evaluation and throughout its entire period (shortlisting, where relevant and full evaluation), in line with request by the OS issued in due course, based on inter alia procurement and contracting schedule for the Operation referred to in section 3.2
- Voting members or observers shall possess distinct technical knowledge, expertise and experience of the issues pertaining to the specific features of the Operation and type of Contract at hand. They should also have good command of the English language being the working language of the Operation implementation. Based upon request contemplated in the bullet point above the ERA must with no delay submit CVs of candidate voting members or observers alongside proof of controls by the ERA of the requirements pertaining to their background and experience (check lists, diplomas, or similar);
- The ERA shall ensure that there is no hierarchical link between the submitted Evaluation Committee and also there is no detected or potential conflict of interest for the persons nominated as voting members or observers being situation where their impartiality, objectivity and observance of the principle of competition, non-discrimination against or equality of treatment of candidates, tenderers and contractors can be compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with an



entity participating in tendering procedure. All voting members and observers shall sign Declaration of Impartiality and Confidentiality. In case of the latter such declaration shall be signed and submitted to OS BEFORE the start of the preparation of tender documents;

The ERA shall be liable for any amount of irregularity in case of breach of the principle of the avoidance of conflict of interest, as laid down above.

2.4 Implementation

The Operation implementation phase commences on the date of Contract signature/commencement with the first Contractor selected to implement Operation activities.

During this period the ERA:

Horizontal Provisions that are Applicable for all Contracts:

- Works with the Contractors in cooperative and collaborative fashion, supporting the organization of logistics or other assistance;
- Partakes of regular or ad-hoc Operation monitoring meetings; such meetings can be organized in Ankara, Operation area or elsewhere;
- Acquires necessary permits for the construction purpose and other permits/licenses required by the Operation specificities;
- Cooperates with the Contractors to obtain the permits/licenses as required by the Operation specificities;
- Regularly reviews progress of all Contracts and provides feedback to the OS, particularly:
 - Assesses performance by Contractors through checks and inspections to ensure that contracts are executed in accordance with technical specifications, due care, expected outputs and results, within the established time-frame and respecting required quality standards;
 - Reports any deficiency, difficulty, deviation, error and suspicious activity during the execution of the contracts;
 - Recommends or request contract modification in the form of Addendum or Administrative Order;
 - Participates in all kick-off meetings, Steering Committee meetings, monthly meetings and any other meetings or gatherings together with the OS as defined in the agreements with Contractors; in case the OS staff is absent in such meeting, the ERA shall duly notify the Operating Structure of the outcome and conclusions of such meeting
 - Partakes in bilateral meetings with the OS to review Operation implementation progress;
 - Reports the achievements in reference to Programme and Project level indicators stated in OIS/ToR, on a regular basis as stipulated in Article 2.6 or on an ad-hoc basis when required in cooperation with respective Contractors.
- Shall perform review and checks of Contractors' technical and financial source documents, including claims, copies of invoices, Interim Payment Certificates and supporting documentary evidence such as reports, time sheets, etc. within 5 working days following their receipt from the Operating Structure. The review shall provide the OS with commentary and remarks on quality and consistency of the technical and financial documents or 'verified and validated' stamp being no-objection to payment in principle. All checks shall be performed with the use of control tools to be provided by the OS.

- If applicable, undertakes all necessary measures to establish the Execution Body referred in Article 9 in compliance with the OIS provisions.

[For Technical Assistance and Supervision Contracts]:

- Validates Approval Requests for the appointment of non-key experts against tasks defined in the Terms of Reference and participates in their selection, including through interviews (if relevant);
- Checks correctness of timesheets of key and non-key experts,
- Confirms relevance and suitability of the use Incidental Budget Approval Requests;
- Reviews and comments, or endorses via a “verified and validated” stamp, within 15 calendar days from the receipt of the inception report, interim/progress report, final report, and any other related report specified in the ToR with a Contractor before the official approval by the OS;
- Approves and keeps the deliverables/outputs of the Contract stated in ToR including the visibility and publicity materials.

[For Supply and Works Contracts]:

- Reviews derogation requests and informs the OS of the relevance of such request;
- Arranges for the amendment of plans, drawings and similar documents, if required, and organizes for their endorsement by the authorized and licensed architect and engineer and subsequently handles their approval by the relevant designated authority;
- Establishes a Committee for Provisional Acceptance and Final Acceptance for supplies and Taking Over Certificate (Provisional Acceptance) and Performance Certificate (Final Acceptance) for works;
- Participates in tests and verifications on a date agreed with the OS;
- Notifies of defects and damage during warranty period and latent and systematic defects after the warranty period and confirms rectification of those, if any;
- Notifies of the suitability of the issuance of the Final Acceptance Certificate and Performance Certificate.

The ERA shall provide the OS with all necessary information, data and records for the Operation risk assessment and risk management.

2.5 Financial Management

The ERA shall participate in the financial management of the Operation in the ways as; contribution to the execution of payments, performance of asset registries and accounting transactions as outlined below.

2.5.1 Payment Verification

Though payment function is attributable to the OS, the ERA verifies the technical documents and reports and assists in verification of financial documents as referred to in Article 2.4 – concerning the review and check of Contractors’ technical and financial source documents.

The ERA shall be liable for any claims raised by the Contractors, resulting delay interest amounts, in case the 5 (five) working days period contemplated in Article 2.4 has not been respected.

2.5.2. Accounting and Asset Registry

The duties and responsibilities of ERA with regards to asset registration and accounting shall be as follows:

- ERA shall establish an accounting system based on the requirements of substantive Turkish Laws and regulations and moreover establish and operate an assets registry,
- In the scope of Supply contracts, all assets transferred to the ERA via the issuance of the Provisional Acceptance shall be incorporated in ERA's asset registry and accounting system in 15 (fifteen) days.
- In the scope of Works contracts, all assets transferred to the ERA via the issuance of the Taking Over Certificate shall be incorporated in ERA's accounting system in 15 (fifteen) days.
- Following the completion of assets registry ERA shall submit the formal assets registry documents to OS with authenticity stamp.
- ERA shall place a formal written request to OS in order to obtain the original copies of the invoices with regards to the assets registered.
- In 30 days period following the receipt of invoices, ERA shall submit the proof documents of the accounting transactions performed based on provided invoices to OS including trial balance, journal slips etc.
- All records related to the assets registry and accounting transactions shall be kept by the ERA for future audit or on-the-spot verifications by the OS and the relevant authorities.

Alternatively, assets acquired through the Project can be transferred to the Execution Body, if approved by the OS in written. In such case the Execution Body shall be accountable for the management of assets registry and all corresponding requirements. Also the Execution Body will have the liability of those assets.

No item handed-over by the OS shall be sold, transferred to third party or pledged as collateral during sustainability period without written consent by the OS; otherwise it will be considered as an irregularity and subject to financial recovery.

2.5.3 Taxation

The ERA (or Execution Body, if applicable) shall be liable for any taxes associated with the transfer of assets.

The responsibilities and duties of the ERA related to the implementation of the Operation, including tax regulation are laid down in the "General Communique No 1" for IPA II contemplated in the Preamble to this Agreement (as set out in section on Legal Basis).

2.6 Monitoring and Reporting

The ERA is accountable for the following:

- Maintaining sound communication with the OS at all times;
- Establishment of structured communication with the OS's online Management Information System (MIS) and entering the relevant monitoring data and information on regular basis, as required by the Programme implementation modalities to be communicated by the OS in due course;



- Development of monitoring reports upon OS's request and in accordance with template to be communicated by the OS in due course, including Operation Monitoring Report, Physical Progress Monitoring Report and Operation Final Report etc;
- Preparation of information, documents, records and other data requested by the OS for on-the-spot checks and Operation ex-post monitoring and evaluation visits, including regular reports on the revenue generated and costs incurred during the entire Operation implementation and sustainability period;
- Ensuring availability of persons responsible for the Operation and related source documents comprising audit trail during any kind of monitoring, control or audit visit and those contemplated in the bullet point above.

2.7 Right of Access, Audit and Control

The ERA shall allow the access of the European Commission, the European Anti-Fraud Office, the European Court of Auditors, any other personnel authorized by the Operating Structure, Internal Audit Unit of the Ministry of Science, Industry and Technology, Audit Authority (Board of Treasury Controllers), National Authorising Officer (NAO) Office or any other authorities to carry out management verifications and audit activities.

The ERA shall have to undertake all necessary steps to facilitate their work, including allowing for:

- Access to sites and location at which the Operation is or has been implemented;
- Examination of its accounting and information systems, documents and data bases concerning the technical and financial management of the Project;
- Taking copies of documents concerning the technical and financial management of the Project;

To ensure the implementation of the above mentioned rules and regulations ERA staff participating in Project activities are not allowed accepting gifts and/or perks from the Contractor and/or its employees.

2.8 Record Keeping

The ERA shall establish and maintain a sound system of filing and archiving in accordance with Annex-7 (Standard Filing Plan) and keep all records, accounting and supporting documents related to this Agreement for the period of at least 6 years following the end of the eligibility period referred to in Article 2(2) of the Special Conditions of the Financing Agreement, and in any case until any on-going audit, verification, appeal, litigation or pursuit of claim has been disposed of. They shall be easily accessible and filed so as to facilitate their examination and the ERA shall inform the OS of their precise location.

All supporting documents shall be available either in the original form, including electronic form, or as a copy.

2.9 Information, Training and Guidance

The ERA shall partake in capacity building activities organized by the OS, including information sessions, training courses aimed at the enhancement of the Operation implementation efficacy. The ERA is entirely responsible for the internal dissemination of skills and information acquired during such training among all members of the OCU as well as the other relevant staff within the institution/organization and Project partners.

2.10 Sustainability

The ERA shall be entirely accountable for meeting the principle of sustainability of the Operation both institutionally and financially, being subject of this Agreement unless such obligation is transferred to the Execution Body.

Article 3 - Rights and Obligations of the Operating Structure

The Operating Structure shall act in accordance with the rights and obligations assigned by the Legal Basis outlined in the Preamble to this Agreement. All rights and responsibilities of the OS, including control functions, are in line with the logic of Operation lifecycle as stipulated hereunder:

3.1 Quality Control of Tender and Other Technical Documents

The OS requires that:

- The ERA meets the conditionalities concerning Operation readiness for tendering and implementation within the period defined in section 2.2; and
- During that period all Tender and other Technical Documents contemplated in section 2.2 respect quality standards essential for EU tenders and are submitted by ERA in due time for checks and examination by the OS.

The Operating Structure executes checks in regard to the quality and consistency of these documents, and whether they comply with the principle of sound financial management. In doing so, the OS advises the ERA on deficiencies, inconsistencies, errors, gaps and other shortcomings. It can also issue guidance, instructions, provide feedback and request that the ERA amends those documents within the given time limit.

In the event of breach by the ERA of the time limit defined in section 2.2 the OS can terminate the agreement with immediate effect and cancel the execution of the Operation.

3.2 Tendering and Contracting

The OS shall compile the mandatory technical and administrative documents received from the ERA such as (but not limited to) the technical selection criteria for Contract Notice (CN) for all Project components, Terms of Reference (ToR), and detailed budget estimation for Service Contracts, Technical Specifications (TS) and market surveys, design documents with drawings, cost estimation and Bills of Quantity – in the format required by the PRAG and other EU tendering procedures, if applicable.

In duly justified cases the Ministry has the right to increase the project budget up to 20% in consultation with the EU Commission Services.

The OS shall also develop procurement and contracting schedule for the Operation and advise the ERA on the timetable. Subsequently the OS shall develop a Tender Dossier for each Operation component comprising administrative and technical documents in accordance with the PRAG and other EU procurement procedures, if applicable.

The execution of the entire procurement process is the OS's responsibility, including (but not limited to): submission of all relevant requests to the European Commission to publish Prior Information Notice (PIN), Contract Notice (CN) and other necessary tendering documents on the European Commis-

sion, publishing of those documents on the OS website, issuance of clarifications to potential tenderers and Corrigenda, organization of the work of Evaluation Committee for each Operation component, elaboration of Evaluation Report for each procurement procedure, and contract award and signature.

The OS shall keep an audit trail for the entire procurement procedure and provide the ERA with a copy of duly signed relevant records or documents.

3.3 Implementation

The OS performs the role of Contracting Authority and for that executes all contract management actions. In doing so the OS consults the ERA and acts based on its feedback and advice as laid down in sections 2.4 through 2.6 of this Agreement. Those include (but are not limited to):

- Handling of and issuance of Administrative Orders and Addenda;
- Request of additional information and clarifications from the ERA on Operation implementation progress that is not included in any written communication between the Parties;

[For Technical Assistance and Supervision Contracts:]

- Support the organization of kick-off , Steering Committee meetings and any other gatherings as envisaged through contractual arrangements with the Contractor;
- Approval of Non-Key Expert and Incidental Budget Requests;
- Approval of Weekend/holiday work Requests;
- Approval of Reports.
- Ensure the performance of the Project activities, both qualitatively and quantitatively in line with the OIS and ToR;
- Advise ERA on the performance of the defined Project activities in ToR to avoid arbitrary requests of ERA.

[For supply and works contracts:]

- Makes sure that as-built drawings are formally submitted by works Contractors and keeps one copy for archives;
- Issuance of Provisional Acceptance and Final Acceptance Certificate (for supplies) upon validation by the ERA through official correspondence;
- Issuance of Taking Over Certificate and Performance Certificate (for works) upon endorsement by the ERA through official correspondence;
- Verification of Certificate of Origin;
- Handling and issuance of derogation, if applicable;
- Handling notification of defects and damages.

The OS shall guide the ERA with regard to the development of Operation Monitoring Report, Operation Final Report and Physical Progress and Monitoring Report. At the same time the OS validates the correctness and accuracy of those reports.

The OS is responsible for the execution of Operation risk assessment, risk management and management verifications, including on-the-spot checks, both on Project and contract level.

3.4 Financial Management

The OS shall perform its financial responsibilities in accordance with EU and Turkish Legislation and the Contracts.

The OS shall ensure that there are sufficient EU funds and national co-financing available.

3.4.1 Payments

The OS makes payments after technical verification and financial review by the ERA of the documents contemplated in section 2.5.1 of this Agreement.

3.4.2 Accounting

The OS shall maintain a funds accounting system accredited by European Commission with all entries and records pertaining to the Operation as required by the Financing Agreement.

3.4.3 Taxation

The responsibilities and duties of the OS related to the implementation of the Operation, including tax regulation are laid down in the General Communiqué No 1 for IPA II contemplated in the Preamble to this Agreement (as set out in section on Legal Basis).

3.5 Monitoring and Reporting

The OS shall originate the establishment of sound and structured communication with the ERA and maintain it on a regular basis with regard to all (but not limited to) issues contemplated below:

- Monitoring of the implementation of the Operation together with the EUD based on ERA's feedback, in accordance with the principles of the entrustment of IPA II implementation tasks;
- Provision of necessary data and information about physical and financial progress of the Operation and of the entire CISOP 2014-2020 to the Sectoral Monitoring Committee (SMC) established in accordance with Article 19 of Regulation 447/2014;
- Development of inputs to IPA Annual Implementation Report alongside preparation of Sector Annual Report, Sector Final Report, Monitoring Sheets and other monitoring reports based on reports, records and data provided by the ERA and submission of those to the SMC;
- Performing any other monitoring activity including but not limited to On the Spot Checks pertaining to the Operation in line with Monitoring and Evaluation Guidelines for IPA II.

3.6 Right of Access and Audit

The OS shall keep the records and documents as required by the provisions of Article 2(2) of the Financing Agreement.

3.7 Assessment of Institutional Competency of ERA

The OS keeps his rights stated in the Article D.3 of the signed Protocol between former Applicant (ERA) and the OS.

Article 4 - Ineligible Expenditure and Operating Costs

Expenditures other than those identified in the OIS are ineligible. These include but are not limited to: purchase of supplies and services for Operation preparation, acquisition of permits, licenses, and development of technical documents, operating cost, and consumables associated with the implementation of the Project, etc.

The ERA shall undertake for and cover all additional investment cost resulting from omissions and errors in the administrative and technical documents defining the scope of the Project or being a part of the corresponding tender dossier.

The ERA shall bear all cost of Dispute Adjudication Board (DAB), including expert expenses, arbitration and/or litigation with regard to disputes arising out of or in relation to the Operation, stemming from the failures of the ERA. The ERA shall indemnify itself and hold the OS safe from such costs.

The ERA must also ensure that all its staff members working on the Operation are adequately supported and equipped and with reasonable command of English and capable of participating in the Project activities.

All goods purchased by the OS and possessed by the ERA before transfer of the ownership must be adequately maintained and insured at ERA's cost.

In case the transfer of the assets to the Execution Body, ERA will ensure that the assets would be insured by the Execution Body for the sustainability period of the Project.

All costs associated with the sustainability and durability of the Operation, including investment in equity (principal capital) and operating cost estimated on annual basis at shall be borne by the ERA and respective shareholders of the Execution Body.

Article 5 - Abstaining from Acceptance

The ERA (and/or Execution Body where appropriate) shall not abstain from the Provisional and/or Final Acceptance except for a situation in which outputs, goods or assets have substantial defect that inhibit their full operationalization.

In case of the Acceptance of goods and/or buildings could not executed for reasons attributable to the ERA, it shall pay the OS the total sum of eligible cost apportioned to the Operation, as outlined in the OIS. The amount due shall be topped up with the penalty interest rate for late payment based on the current European Central bank rate (prime rate plus 8%) calculated from the date of the first disbursement made to the Operation if applicable.

5.1 Transfer to third parties

No item handed-over by the OS shall be sold, transferred to third party or pledged as collateral during sustainability period without written consent by the OS; otherwise it will be considered as an irregularity and subject to financial recovery.



Article 6 - Information System & Data and Information Security and Confidentiality

The OS keeps his rights stated in the Article A.4 of the signed Protocol between former Applicant (ERA) and the OS.

Article 7 - Publicity and Visibility

The OS keeps his rights stated in the Article A.5 of the signed Protocol between former Applicant (ERA) and the OS.

The ERA shall also:

- Ensure that the contractor performs tasks complying with the rules and principles that are stated in the Competitive Sectors Programme Communication and Visibility Manual and Communication And Visibility Manual For European Union External Actions in all written, printed, and visual materials related to its operation (<https://rekabetcisektorler.sanayi.gov.tr/program-dokumanlari-2>);
- Receive an approval from the relevant Project/Contract Manager of the OS before producing any publicity/visibility material or organising a publicity/visibility event; failing to comply with the EU visibility and communication guidelines and Competitive Sectors Programme Communication and Visibility Manual rules is an irregularity and such expenditure may be ineligible;
- Make sure that the Communication and Visibility Plan of the Operation developed by the relevant Contractor is implemented appropriately, effectively and with due care and diligence;

Article 8 – Indemnities by ERA and OS’s Non-Liability

ERA commits that the non-liability of the OS for the performance of Project activities including its contracts.

ERA cover against any damage or loss to the assets acquired under the Operation in the period between Provisional Acceptance/Taking Over Certificate and Final Acceptance / Performance Certificate.

Article 9 – Execution Body

Subject to the approval by the OS, the ERA and - where relevant - its partners shall establish an Execution Body to manage the Operation beyond its implementation period, in order to ensure sustainability and durability of the Project.

Upon the request of OS the Execution body will be established in line with the requirements set by the OS during the time frame determined by the OS. OS has the authority to take necessary measures to ensure the institutional and financial sustainability of the Execution Body in line with the substantive laws and regulations of Republic of Turkey.

Article 10 - Irregularity and Fraud

The ERA shall inform the OS immediately and simultaneously if there is a suspicion of a fraud or irregularity, or any other indications in this respect and shall ensure the immediate reporting of any determined or suspected fraud or irregularity by using the template of “Irregularity Report” which is annexed to this Agreement (Annex 4) to the OS. Following the submission of first report, ERA shall also submit the developments regarding the suspected or detected fraud or irregularity by using the same procedures on a quarterly basis.

In the absence of suspicious activity, irregularity or fraud; prepares nil report. The “Nil Report” shall be prepared by the ERA on a quarterly basis in accordance with the annexed template (Annex 5) and shall be sent to the OS within 2 weeks following the end of each quarter, if there is no suspicion of a fraud or irregularity.

The ERA shall be liable for any irregularity caused by ERA’s negligent controls as well as any fraud by Contractors that is detected by the ERA but not communicated to the OS.

Article 11 - Termination

Termination for Convenience

In the case where either Party believes that this Agreement can no longer be executed effectively or appropriately, it shall duly consult the other for amicable solution of the dispute. Failing agreement on a solution, the ERA or the OS may terminate this Agreement by serving two months written notice. The provisions of Article 12 will be in force following the termination of this Agreement.

Termination by the Operating Structure

The OS may, after having duly consulted the ERA, terminate this Agreement without any indemnity on its part when:

- The ERA fails to fulfil any substantial obligation incumbent on it by this Agreement or relevant legislation and, after being given notice by letter to comply with those obligations, still fails to do so or furnish satisfactory explanation within 30 days of receipt of the letter;
- The ERA has been acknowledged to be technically incapacitated to participate in the management of the Operation as a result of the assessment contemplated in Article 2.2 and 3.7;
- It has become entitled to claim maximum 15% (on daily basis 0.15% of the eligible cost of the Operation for 100 days) of the total eligible cost of the Operation against Liquidated Damages in accordance with Article 12 of this Agreement;
- The ERA is bankrupt, subject to insolvency or winding up procedures, is having its assets administered by a liquidator or by the courts, has entered into an arrangement with creditors, has suspended business activities, or is in any analogous situation arising from a similar procedure provided for under any national law or regulations relevant to the ERA or its partner; if applicable;
- The ERA or project partners participating in the Operation, have been found guilty of an offence concerning their professional conduct proven by any means;



- It has been established by a final judgment or a final administrative decision or by proof in possession of the Operating Structure or the European Commission that the ERA has committed or been guilty of fraud, corruption, committing systemic, involvement in a criminal organization, money laundering or terrorist financing, terrorist related offences, child labor or other forms of trafficking in human beings or has committed an irregularity;
- A change to ERA's or any Partner's participating in the Operation legal, financial, technical, organizational or ownership situation or the termination of the participation of a Partner(s) substantially affects the implementation of this Agreement or calls into question the decision awarding the financing of the Operation;
- The ERA or any related person or entity, are guilty of misrepresentation in supplying the information required in the award procedure or in the implementation of the Operation or fail to supply – or fail to supply within the deadlines set under this Agreement - any information related to the Operation required by the Operating Structure;
- The OS has evidence that the ERA committed irregularity or fraud in the award procedure or was in conflict of interest.

Termination by the ERA

The ERA may communicate to the OS the intention to terminate the Agreement, duly explaining the reason for the termination and the date on which the termination shall take effect. Such communication shall be sent to the OS in writing at least 2 months before the anticipated Agreement termination date.

Force Majeure

The OS may decide to suspend or terminate the implementation of all or part of the Operation if exceptional or unforeseen circumstances beyond the control of the OS make such implementation impossible or excessively difficult, such as in cases of Force Majeure. In such an event, the Party who identifies the cases of force majeure shall immediately inform the other Party and provide all the necessary details, including the measures taken to minimise any possible damage, and the foreseeable effect and date of resumption, in the case of the suspension.

Neither of the Parties shall be held liable for breach of its obligations under the Agreement if it is prevented from fulfilling them by Force Majeure or exceptional circumstances provided it takes any measure to minimise any possible damage.

Article 12 - Enforcement, Penalties and Recovery of Funds

Liquidated damages

In case the ERA fails to perform its obligations within the periods specified in the OIS and/or this Agreement the OS shall, without the necessity to provide formal notice and without prejudice to its other remedies under the OIS or this Agreement, be entitled to liquidated damages for every day which shall elapse between the end of the periods specified in the OIS/Agreement and the actual date of completion of these tasks. The daily rate for liquidated damages shall be calculated by dividing the total value of the Operation by the number of days of the period of implementation of the Operation,

up to a maximum of 15% (on daily basis 0.15% of the eligible cost of the Operation for 100 days) of the total value of the Operation.

Partial recovery

In case of termination of the Agreement in accordance with the principle of 15% of liquidated damages the OS shall be entitled to recover from the ERA the total amount of all contracts signed with the Contractors until the date of termination, topped up with the penalty interest referred to in Article 5.

The OS has the right of recovery to the amount of all contracts signed with the Contractors until the date of termination, topped up with the penalty interest referred to in Article 5 shall also apply in the event of irregularity, fraud or comparable situation as referred to in the Regulation no 28880 published in the Official Gazette dated 12 January 2014 at any time during the implementation - if at least one Component of the Operation has not been contracted by the date of Agreement termination; in cases where contracts for all Operation Components have been signed, the provisions pertaining to full recovery are applicable.

Recovery of the full amount of the Operation

The OS shall be entitled to recover from the ERA (or Execution Body) the total amount of all eligible cost of the Operation topped up with penalty interest referred to in Article 5:

- In case of non-functioning of the Operation on account of the ERA by the Programme closure date, or in case of breach of the sustainability principle;
- In the event of irregularity, fraud or comparable situation as referred to in the Regulation no 28880 published in the Official Gazette dated 12 January 2014 at any time during the implementation and sustainability period of the Operation;
- In the event of termination of the Agreement without any rational justification by the ERA.

As long as the European Commission's and Republic of Turkey's rights and obligations remain valid in respect of assistance to operations, the OS reserves its rights to recourse to the ERA for claims that result in amounts of funds returning to the European Commission and amounts of funds that shall be transferred to the National Fund. The closure/completion of the Operation does not prejudice the OS's right to recover funds.

Article 13 - Final Provisions and Miscellaneous

The Parties shall endeavor to amicably settle any dispute or complaint relating to the implementation of this Agreement. In the event of failure to reach an amicable agreement, the dispute may by common agreement of the ERA and the OS be submitted for conciliation by the Ombudsman. In default of amicable settlement or Ombudsman mediation, the Ankara Courts and Execution Offices are relevant for handling any legal dispute.

In the event that the ERA fails or delays fulfilling its duties and responsibilities efficiently and in due course, the OS shall be entitled to change the technical preparations schedule, revise tendering and procurement plans, implementation priority of the Operation and/or remove the Operation from the list of projects financed by the Programme. In the case of the latter, the OS shall provide detailed assessment of the reasons for doing so.



This Agreement may only be amended in writing, and signed by each Party except for its Annexes that can be changed through a rider (unilaterally) by the Operating Structure and corresponding notification sent to the ERA.

Except for the cover page of official correspondences, all other correspondence related to the implementation of this Agreement shall be in English.

The ERA shall inform the OS about the changes in their addresses in 5 (five) working days following such a change. Domiciles of the Parties are:

Operating Structure	ERA
Ministry of Science, Industry and Technology
DG for EU and Foreign Affairs
Directorate of EU Financial Programmes (MoSIT/DoEUFP)
Mustafa Kemal Mahallesi
Dumlupınar Bulvarı (Eskişehir Yolu 7.Km)
2151.Cadde No:154/A
06510 Çankaya /ANKARA

Any notification, request, demand or other communication relating to this Agreement, unless otherwise notified, must be in writing and should be submitted to the above-mentioned domiciles of the Parties:

This Agreement has been executed in two (2) originals in English and each Party has received one (1) original. All originals shall be equally valid.

Without prejudice the above mentioned provision, the other unforeseen requirements with regards to the items and/or activities of the Project shall be met by the End Recipient resources.

If there is any payment made for the Project from the Ministerial resources, the End Recipient shall reimburse this amount to the Ministry and the Project shall be delisted.



Article 14 - Entry into Force and Duration

This Agreement enters into force on the date of the signature by the last Party; each page of the Agreement shall be initialed.

The Agreement remains in force until the end of the sustainability period.

**On Behalf of the Operating
Structure**

**On Behalf of the End Recipient of the
Assistance**

Date:

Date:

[Signature]

**Head of
Operating Structure**

[Signature]

[Function]

List of Annexes

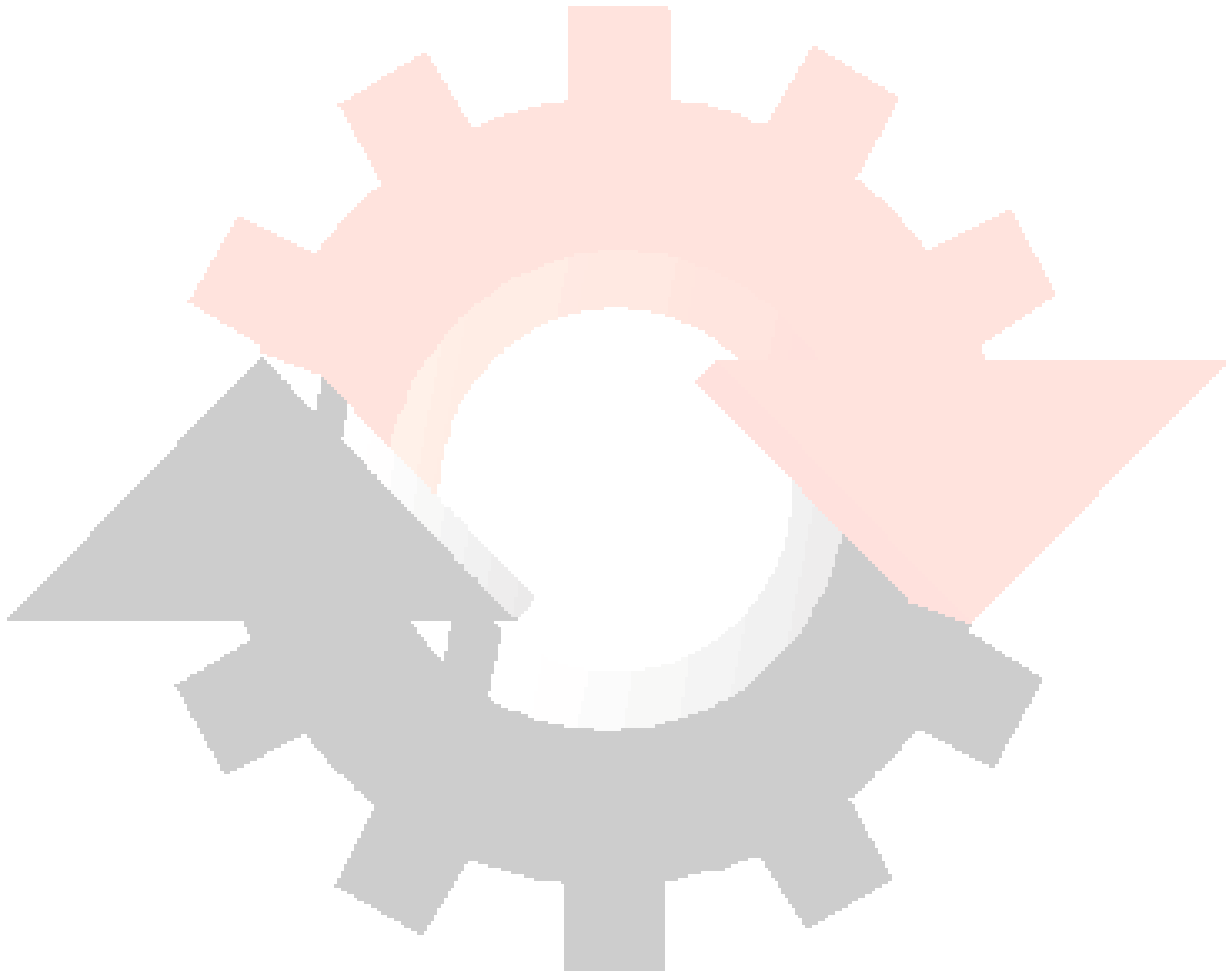
- Annex 1:** OIS for the Project
- Annex 2:** Protocol between the Ministry and ERA
- Annex 3:** Declaration of Objectivity and Confidentiality
- Annex 4:** Quarterly Communication of Irregularities in Connection with the Instrument for Pre-Accession Assistance
- Annex 5:** Nil Report (Zero Irregularity Report)
- Annex 6:** ERA Standard Filing Plan
- Annex 7:** ERA's (SRER's) Statement
- Annex 8:** PRAG Glossary
- Annex 9:** Abbreviations



Republic of Turkey
Ministry of Science, Industry and Technology

Annex 1 - OIS

[Insert approved version of OIS]

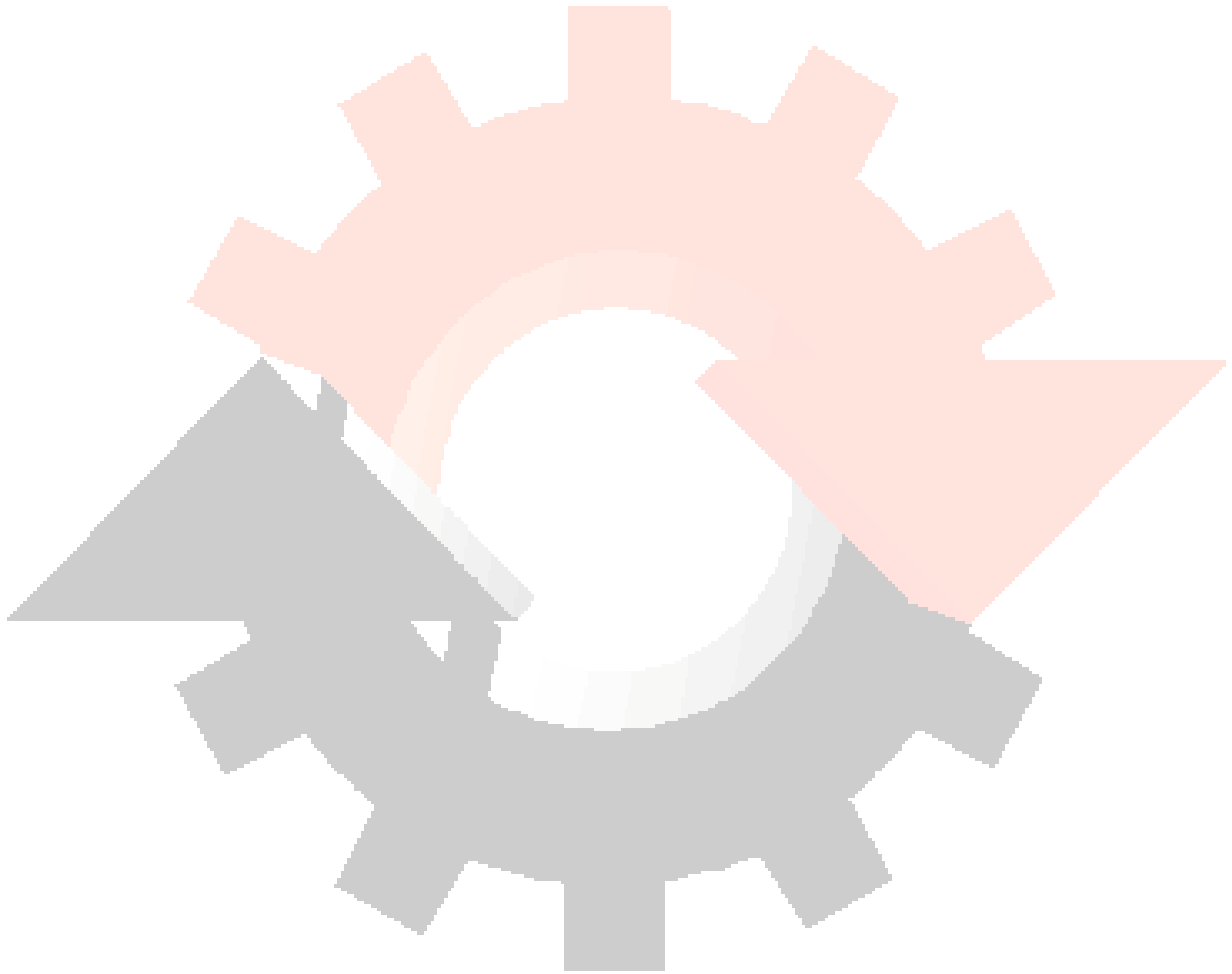




Republic of Turkey
Ministry of Science, Industry and Technology

Annex 2 - Protocol between the Ministry and ERA

[Insert signed version of Protocol]





Annex 3 - Declaration of Objectivity and Confidentiality

DECLARATION OF OBJECTIVITY AND CONFIDENTIALITY²

OPERATION TITLE: _____

I, the undersigned, hereby declare that I agree to participate in the preparation of the above-mentioned [tender/call for proposals]*. By making this declaration, I confirm that I have familiarized myself with the information available to date concerning this [tender/call for proposals]*.

I undertake to perform my duties honestly and fairly. My contribution to the documents in whose preparation I will be involved in will be objective and will fully respect the principles of fair competition and impartiality, in particular by avoiding terms or conditions favouring any one product, manufacturer or service provider.

I undertake to hold in trust and confidence any information or documents ("confidential information") disclosed to me or discovered by me or drafted by me in the course of or as a result of preparing the [tender/call for proposals]* and undertake to use them only for the purposes of preparing this [tender/call for proposals]* and not to disclose them to any third party. I also undertake not to retain copies of any written information or prototypes supplied and undertake neither to assist nor be associated with any [prospective tenderer/applicant]* in the above-mentioned [tender/call for proposals]*. I am fully aware that any failure to comply would lead to my exclusion from the [tender/call for proposals]* and to the rejection of my [candidature/tender/application]*.

Lastly, I undertake not to divulge confidential information to any employee or expert unless that person has signed this declaration and agreed to abide by its provisions.

Name:

Signature:

Date:

* Delete as applicable.

² For completion by all persons involved in preparing terms of reference, technical specifications or other documents relating to the [tender/call for proposals]*



Annex 4 - Quarterly Communication of Irregularities in Connection with the Instrument for Pre-Accession Assistance

CONFIDENTIAL

Case No: XX/9999/999/X/9

QUARTERLY COMMUNICATION OF IRREGULARITIES IN CONNECTION WITH THE INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA)

IDENTIFICATION OF COMMUNICATION

Beneficiary Country:

Case Number: XX/9999/999/X/9

Quarter:

- (a) Quarter I
- (b) Quarter II
- (c) Quarter III
- (d) Quarter IV

Date Sent: DD/MM/YYYY

Administrative Department in Beneficiary Country:

Contact Point Name :

Phone :

E-mail :

Fax :

DETAILS OF IRREGULARITY

1. Description of Operation

- 1.1. Name of programme:
- 1.2. Identification number:
- 1.3. Commission decision approving the programme:
- 1.4. Name of measure and title of operation:
- 1.5. Beneficiary Country's operation number:

2. Provision Infringed:

3. Date of first information leading to suspicion of irregularity:

3.1. Source of first information leading to suspicion of irregularity:

4. Manner in which irregularity was detected

- 4.1. Who detected the irregularity?
- 4.2. How was the irregularity detected?



5. Type of irregularity:

5.1. Qualification of Irregularity:

- (a) No irregularity
(b) Irregularity
(c) Suspected Fraud
(d) Established Fraud

5.2. Practices employed in committing the irregularity:

5.3. Are these practices considered new?

Yes No Not known

6. Are other countries involved?

Yes No Not Known

6.1. If yes, has notification been sent?

Yes Date and reference: No Not known

7. Period of irregularity:

8. Date of primary administrative or judicial finding:

9. Authorities or bodies

9.1. Authorities or bodies which drew up the Primary administrative or judicial finding:

9.2. Authorities or bodies responsible for administrative or judicial follow-up:

10. Name and address of natural and legal persons involved

10.1. Natural persons:

- Name:
- First Name:
- Address:
- Postal Code:
- City:
- Country:
- Function:

10.2. Legal persons:

- Name:
- Registered Office:
- Postal Code:
- Country:

FINANCIAL ASPECTS

11. Total amount and distribution between sources of financing

11.1. Total amount of the operation:

11.2. Community financing:

11.3. Beneficiary Country financing:

12. Nature of the irregular amount:

13. Amount of the irregularity

13.1. Total irregular amount:

13.2. Community irregular amount:

13.3. Beneficiary Country irregular amount:



14. Financial consequences

14.1. Irregular amount under 13.1.already paid:

14.2. Community irregular amount under 13.2.already paid:

14.3. Beneficiary Country irregular amount under 13.3 already paid:

15. Irregular amount not yet paid

15.1. Irregular amount under 13.1 not yet paid:

15.2. Community irregular amount under 13.2 not yet paid:

15.3. Beneficiary Country irregular amount under 13.4 not yet paid:

15.4. Has the payment been suspended?

Yes () No () N/A ()

16. Possibility of recovery:

17. Amount recovered

17.1. Total amount recovered:

17.2. Community amount recovered:

17.3. Beneficiary Country amount recovered:

18. Amount to be recovered

18.1. Total amount to be recovered:

18.2. Community amount to be recovered:

18.3. Beneficiary Country amount to be recovered:

STAGE OF PROCEDURES

19. Action by Beneficiary Country:

20. Has the recovery procedure been abandoned?

Yes () No () N/A ()

21. Have criminal proceedings been abandoned?

Yes () No () N/A ()

22. Sanction applied (administrative and/or judicial):

23. Additional observations:

24. Final communication:

Yes () No ()



Annex 5 - Nil Report (Zero Irregularity Report)

NIL REPORT (ZERO IRREGULARITY REPORT)

CONFIDENTIAL

Quarter: <1, 2, 3 or 4/year>

Report number : <sequential number>

Programme title	IPA Operational Programmes - IPA for Turkey – Competitive-ness and Innovation Sector OP
Programme code	CCI No. 2007 TR 16 I PO 003
Operation title	
Operation code	

I, the undersigned, <insert name> acting as <insert position>, hereby declare that for the period from <insert date> to <insert date> there has been no identified irregularity, which has been subject to administrative or judicial investigation; and/or any other sum wrongly paid under the above-mentioned IPA Operation.

Name and function

Date:

Signature:



Annex 6 - ERA's (SRER's) Statement

END RECIPIENT (SRER) STATEMENT

I,, designated SRER for the “.....” operation, hereby declare that all persons involved in the preparation of the OIS and any tender dossier document, listed below have signed the Declaration of Objectivity and Confidentiality: Herewith, I also confirm that the names of these persons have been validated by me. If any other new person is involved in such activity, I also undertake to ensure the signature of the declaration in due course and inform the OS about it.

1. Name of personA involved in the preparation of the OIS and any tender dossier document
2. Name of personB involved in the preparation of the OIS and any tender dossier document
- 3.

Senior Representative of End Recipient of the Assistance

Name:

Position:

Date:

Signature:

Annex 7 - ERA Standard Filing Plan

Filing Code : A

Filing Title : Operation Documents

- A.1. Operation Identification Sheet (OIS) and its revisions (signed and initialised official versions)
- A.2. Operational Agreement and its revisions (signed and initialised official versions)
- A.3. Operation Monitoring Reports (signed and initialised official versions)
- A.4. Operation Final Report (if any)
- A.5. Nil Irregularity Reports
- A.6. Irregularity Reports (if any)
- A.7. Steering Committee Minutes

Filing Code : B

Filing Title : Contract Documents

Sub-Filing Code : B-1

Sub-Filing Title : Works Contract Documents

- B.1.1. Technical Specification
- B.1.2. Works Contract and its Annexes
- B.1.3. Addendums and Admin Orders (if any)
- B.1.4. Work Plan
- B.1.5. Monthly Reports
- B.1.6. Interim Payment Requests
- B.1.7. Taking Over Certificate (if any)
- B.1.8. Final Acceptance Certificate (if any)
- B.1.9. Operation and Maintenance Manuals
- B.1.10. As-Built Drawings
- B.1.11. Warranties

Sub-Filing Code : B-2

Sub-Filing Title : Supervision Contract Documents

- B.2.1. Job Description / Terms of Reference
- B.2.2. Supervision Contract and its Annexes
- B.2.3. Addendums and Admin Orders (if any)
- B.2.4. Inception Report (final version)
- B.2.5. Interim Reports
- B.2.6. Completion Report
- B.2.7. Final Report (if any)

Sub-Filing Code : B-3

Sub-Filing Title : Technical Assistance Contract Documents

- B.3.1. Job Description / Terms of Reference
- B.3.2. Technical Assistance Contract (its copy)



- B.3.3. Addendums and Admin Orders (if any)
- B.3.4. Inception Report (final version)
- B.3.5. Interim Reports
- B.3.6. Final Report (if any)
- B.3.7. All Documents produced by Technical Assistance (Manuals – Business Plan- Training materials, surveys etc.)

Sub-Filing Code : B.4

Sub-Filing Title : Supply Contract Documents

- B.4.1. Technical Specification
- B.4.2. Supply Contract (its copy)
- B.4.3. Addendums and Admin Orders (if any)
- B.4.4. Provisional Acceptance Certificate (if any)
- B.4.5. Final Acceptance Certificate (if any)
- B.4.6. Training Documents and/or their record, Training Certificate/Document
- B.4.7. Guarantee Documents
- B.4.8. Operation Handbooks
- B.4.9. Delivery Receipt Reports
- B.4.10. Inspection Acceptance Document
- B.4.11. Test Reports

Filing Code : C

Filing Title : Hand-Over and Establishment Transactions

- C.1. Hand-Over Protocol between the Ministry and ERA
- C.2. Hand-Over Protocol between ERA and Legal Entity (if any)
- C.3. Deed, Allocation Decision (if any) and Occupancy Permit
- C.4. Articles of Association of Legal Entity (if any)
- C.5. Chamber of Commerce and Industry Registry Certificate and Trade Registry Gazette related to the establishment of Legal Entity
- C.6. Inventory List
- C.7. Rental Contract (if any)
- C.8. Subscription Contracts (electricity, gas, phone etc.)

Filing Code : D

Filing Title : Invoices

- D.1. Copy of all invoices incurred within the scope of the operation and paid by the Ministry



Annex 8 - PRAG Glossary

Addendum	A document modifying the terms and conditions of a contract.
Administrative order	Any instruction or order issued in writing by Supervisor (Works) or Project Manager (Service/Supply) to Contractor regarding the execution of contract.
Beneficiary country	The country or state outside the European Union with which the European Union has an agreed programme of cooperation.
Call for proposals	A public invitation by the OS, addressed to clearly identified categories of applicant, to propose operations within framework of a specific EU programme.
Commission, EC	The European Commission.
Contract	An agreement, between two or more persons or entities, with specific terms and an undertaking to provide services, supplies and/or works in return for a financial consideration (SER, SUP, W).
Contract award procedure	The procedure followed by an OS to identify, and conclude a contract with, a suitable contractor to provide defined goods or services.
Contract budget	A summary of costs of performing a contract. The total of these costs is the contract value or contract price. Where grants are concerned: budget shows the eligible costs for funding and total costs. The income must also be detailed. Where works are concerned: sum represents the initial estimate payable for the execution of works or such other sum as ascertained by final statement of account as due to contractor under contract.
Contractor	Any natural or legal person or public entity or consortium of such persons and/or bodies selected at the end of the procedure for awarding the contract. The successful tenderer, once parties have signed the contract.
Corrigendum	Correction of a notice already published in the Official Journal of the European Union and/or equivalent local publication and on the Europe Aid website.
EU	The European Union.
Equipment	Machinery, apparatus, components and any other articles intended for use in works (W).
Evaluation committee	A committee made up of an odd number of members (at least three) with necessary technical and administrative expertise to give an informed opinion on tenders or grant applications.
Final acceptance certificate	Certificate(s) issued by the Supervisor (W) or Project Manager (SUP) to the Contractor at the end of defects liability period stating that Contractor has completed their obligations to construct, complete, and maintain works concerned. (W, SUP).
Financing Agreement	An agreement between the European Commission and the beneficiary country which determines objectives and scale of a future programme of assistance.
Implementation period	The period starting from signature, or alternative date if specified in Special Conditions, until provisional acceptance of works (W) or provisional acceptance for the last lot has been issued (SUP) or until all tasks have been carried out (SER).



InforEuro	http://ec.europa.eu/budget/inforeuro
Incidental expenditure	The provision for incidental expenditure covering ancillary and exceptional eligible expenditure incurred under a service contract and the type of eligible expenditure specified in each contract. It cannot be used for costs which should be covered by the Contractor as part of its fee rates. (SER)
Supplies	All goods Contractors are required to supply to the OS and where the property of what is purchased, is transferred from the contractor to the OS (in the case of procurement contracts) or to the designated local partners of the beneficiary and/or final recipients of the action (in the case of grant agreements).
Supply contract	Supply contracts cover the purchase, leasing, rental or hire purchase, with or without option to buy, of products. A contract for the supply of products and, incidentally, for siting and installation shall be considered a supply contract.
Taxes	Include indirect taxes such as value added taxes, customs and import duties, other fiscal charges and duties in beneficiary countries* (*except under the ENPI Regulation, which does not specify country(ies)).
Technical assistance contract	A contract between a service provider and the OS, under which the service provider exercises an advisory role, directs or supervises a project, provides experts stipulated in the contract.
Tender	A written or formal offer to supply goods, perform services or execute works for an agreed price.
Works contract	Works contracts cover either execution, or both design and execution, of works or a work related to one of the activities referred to in Annex I to Directive 2004/18/EC or the realisation, by whatever means, of a work corresponding to the requirements specified by the OS. A 'work' means the outcome of building or civil engineering works taken as a whole that is sufficient of itself to fulfil an economic or technical function (W).



ANNEX - 9 Abbreviations

CISOP	Competitiveness and Innovation Sector Operational Programme
CN	Contract Notice
EU	European Union
ERA	End Recipient of Assistance
EUD	Delegation of European Union to Turkey
HOS	Head of Operating Structure
IPA	Instrument for Pre-Accession Assistance
OCU/D	Operation Coordination Unit / Director
OIS	Operation Identification Sheet
OS	Operating Structure
SMC	Sectoral Monitoring Committee
SRER	Senior Representative of the End Recipient
ToR	Terms of Reference

