

ANNEX 3
to the Contract Documents
GROUNDS FOR EXCLUSION OF
THE SUPPLIER

Grounds for Exclusion of the Supplier*

No.	Grounds for exclusion of the supplier	Article, part, item and part of the ESPD form for completion	Documents proving the absence of grounds for exclusion
Mandatory grounds for exclusion in accordance with the provisions of Article 46(1) to (4) of the Law on Public Procurement			
1.	<p>The supplier or his responsible person referred to in Article 46(2)(2) of the Law on Public Procurement has been convicted of the following offence:</p> <p>(1) participating in, organizing or directing a criminal association;</p> <p>(2) bribery, influence peddling, graft;</p> <p>(3) fraud, misappropriation of assets, embezzlement of assets, false declaration of the activities of a legal person, use of credit, loan or targeted support for purposes other than for its intended purpose or in the prescribed manner, credit fraud, submission of incorrect data on income, profits or assets, failure to submit a declaration, report or other document, fraudulent keeping of accounts or abuse where these offences encroach on the financial interests of the European Union within the meaning of the Convention on the protection of the European Communities' financial interests in Article 1;</p> <p>(4) criminal bankruptcy;</p> <p>(5) terrorist offences and offences related to terrorist activities;</p> <p>(6) the legalization of property derived from crime;</p> <p>(7) trafficking in human beings, buying or selling a child;</p> <p>(8) an offence committed by a supplier of another Country as defined in the legislation of other States</p>	<p>Article 46(1) of the Law on Public Procurement</p> <p>Paragraphs A1 to A6 of Part III of the ESPD</p> <p>Paragraph III, point D1, of the ESPD</p>	<p>Entities established in Lithuania are required to:</p> <ul style="list-style-type: none"> • extract from a judgment, or • certificates from the Department of Informatics and Communications under the Ministry of the Interior, or • a document issued by the State Enterprise Centre of Registers in accordance with the procedure established by the Government of the Republic of Lithuania confirming the joint data processed by the competent authorities. <p>Entities established outside Lithuania are required to:</p> <ul style="list-style-type: none"> • the document of the relevant foreign authority¹. <p>The documents referred to must be issued not earlier than 180 days before <i>the date on which the supplier, at the request of the contracting authority, is required to provide documents confirming the absence of grounds for exclusion.</i></p>

¹ *If the supplier is unable to provide the specified documents proving that there are no grounds for exclusion provided for in Article 46(1) and (3) and (6)(2) of the Law on Public Procurement of the Republic of Lithuania, since such documents are not issued in the Member State or the country concerned or the documents issued in that country do not cover all the issues raised in Article 46(1) and (3) and (6)(2), they can be replaced by:*

- a) declaration of the oath;*
- b) an official supplier's declaration where the country does not use an oath declaration. The formal declaration must be certified by a competent legal or administrative authority, a notary or a competent professional or trade organization in the Member State or supplier's country of origin or the country in which he is registered.*

	<p>implementing the European Union legislation listed in Article 57(1) of Directive 2014/24/EU.</p> <p>The supplier or his responsible person shall be deemed to have been convicted of the above offence where:</p> <p>(1) a conviction has been passed and finalized by a supplier who is a natural person in the last 5 years and has a criminal record that has not been expunged or expunged;</p> <p>(2) the head of a supplier who is a legal person, another organisation or a subdivision thereof, a member of another management or supervisory body, or another person having the right to represent or control the supplier, to take a decision on his behalf, to enter into a transaction, the person(s) entitled to draw up and sign the supplier's financial records documents, in the last 5 years, a conviction has been passed and has become final and this person has a criminal record that has not been expunged or abolished;</p> <p>(3) a conviction has been handed down and has become final in the last 5 years by a supplier who is a legal person, another organisation or a subdivision thereof, or, in the case of Article 46(3) of the Law on Public Procurement, a final administrative decision, if such a decision is taken in accordance with the requirements of the legislation of the supplier's country.</p>		<p><i>Example: If the contracting authority has applied to the supplier on 10.10.2022 with a request to submit documentary evidence by 14.10.2022, it must be issued no earlier than 180 days, counting them retroactively from 14.10.2022.</i></p> <p>If the document was issued earlier, but the period of validity specified in it is longer than the deadline for the submission of documents confirming the absence of grounds for exclusion under the ESPD, such a document is admissible during its period of validity.</p>
<p>2.</p>	<p>The supplier has been convicted of defaulting on obligations relating to the payment of taxes, including social security contributions, in accordance with the requirements of the country where the supplier is registered or the country in which the contracting authority is situated, within the meaning of Article 46(2)(1) and (3) of the Law on Public Procurement, or the contracting authority has other evidence of non-fulfilment of those obligations.</p> <p>The supplier or his responsible person shall be deemed to have been convicted of the above offence where:</p> <p>(1) a conviction has been passed and finalized by a supplier who is a natural person in the last 5 years and has a criminal record that has not been expunged or expunged;</p> <p>(2) a conviction has been handed down and has become final in the last 5 years by a supplier who is a legal person, another organisation or a subdivision thereof, or, in the case of paragraph 3, a final administrative decision, if such a decision is taken in</p>	<p>Article 46(3) of the Law on Public Procurement</p> <p>Paragraphs III, points B1 and B2 of the ESPD</p>	<p>1) With regard to the fulfilment of obligations related to the payment of taxes, the following are requested from the entities established in Lithuania:</p> <ul style="list-style-type: none"> • an extract from a court decision (if any) or a document issued by the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania, • or a document issued by the State Enterprise Centre of Registers in accordance with the procedure established by the Government of the Republic of Lithuania, confirming the joint data processed by the competent authorities. <p>Entities established outside Lithuania are required to:</p> <ul style="list-style-type: none"> • the document of the relevant foreign authority².

² If the supplier is unable to provide the specified documents proving that there are no grounds for exclusion provided for in Article 46(1) and (3) and (6)(2) of the Law on Public Procurement of the Republic of Lithuania, since such documents are not issued in the

<p>accordance with the requirements of the legislation of the supplier's country.</p> <p>However, this provision shall not apply where:</p> <ol style="list-style-type: none"> 1. the supplier is under an obligation to pay taxes, including social security contributions, and is therefore deemed to have already fulfilled the obligations referred to in this paragraph; 2) the amount of indebtedness does not exceed EUR 50 (fifty euros); 3. the supplier has been informed of the exact amount of his debt at a time when he has not been able to pay taxes, including social security contributions, to conclude a tax loan agreement or other binding agreement of a similar nature for their payment or to take other measures to comply with the provisions of point 1 before the deadline for the submission of tenders or tenders. The supplier shall not be excluded from the procurement procedure on this basis if, when the contracting authority requires the submission of relevant documents in accordance with Article 50(6) of the Law on Public Procurement, he proves that he has already fulfilled the obligations relating to the payment of taxes, including social security contributions. 	<p>The documents referred to must be issued not earlier than 120 days before the date on which the supplier, at the request of the contracting authority, is required to provide documents confirming the absence of grounds for exclusion. Example: If the contracting authority has applied to the supplier on 10.10.2022 with a request to submit documentary evidence by 14.10.2022, it must be issued no earlier than 120 days, counting them back from 14.10.2022.</p> <p>If the document was issued earlier, but the period of validity specified in it is longer than the deadline for the submission of documents confirming the absence of grounds for exclusion under the ESPD, such a document is admissible during its period of validity.</p> <p>2) With regard to the fulfilment of the obligations related to the payment of social security contributions, the following are requested from the entities established in Lithuania:</p> <p>2.1) If the supplier is a legal entity registered in the Republic of Lithuania, he is not required to provide any documents proving this requirement. The contracting authority shall independently check the data in the national database at the address http://draudejai.sodra.lt/draudeju_viesi_duomenys/.</p> <p>If, due to technical disturbances in the information system of the State Social Insurance Fund Board (hereinafter referred to as "Sodra"), the Contracting Authority will not be able to check the data on the supplier (legal entity) available free of charge, it will have the right to ask the supplier (legal entity) to provide an extract from the court decision (if any) or a document issued in accordance with the procedure established by "Sodra" confirming compliance with this requirement. The Supplier may also submit a document issued by the State Enterprise Centre of Registers in accordance with the procedure established by the Government of the Republic of</p>
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Member State or the country concerned or the documents issued in that country do not cover all the issues raised in Article 46(1) and (3) and (6)(2), they can be replaced by:

a) declaration of the oath;

b) an official supplier's declaration where the country does not use an oath declaration.

The formal declaration must be certified by a competent legal or administrative authority, a notary or a competent professional or trade organization in the Member State or supplier's country of origin or the country in which he is registered.

			<p>Lithuania, confirming the joint data processed by the competent authorities.</p> <p>2.2) If the Supplier is a natural person registered in the Republic of Lithuania, he shall submit an extract from the court decision (if any) or a document issued by Sodra, or a document issued by the State Enterprise Centre of Registers in accordance with the procedure established by the Government of the Republic of Lithuania, confirming the joint data processed by the competent authorities.</p> <p>Entities established outside Lithuania are required to:</p> <ul style="list-style-type: none"> the document of the competent authority of the foreign country concerned³. <p>The documents referred to must be issued not earlier than 120 days before the date on which the supplier, at the request of the contracting authority, is required to provide documents confirming the absence of grounds for exclusion. <i>Example: If the contracting authority has applied to the supplier on 10.10.2022 with a request to submit documentary evidence by 14.10.2022, it must be issued no earlier than 120 days, counting them back from 14.10.2022.</i></p> <p>If the document was issued earlier, but the period of validity specified in it is longer than the deadline for the submission of documents confirming the absence of grounds for exclusion under the ESPD, such a document is admissible during its period of validity.</p>
3.	The supplier has concluded agreements with other suppliers aimed at distorting competition in the procurement being carried out, and the contracting authority has conclusive evidence to this effect.	Article 46(4)(es)(1) of the Law on Public Procurement	No documentary evidence is required from entities established in Lithuania. The provided ESPD is enough.

³ If the supplier is unable to provide the specified documents proving that there are no grounds for exclusion provided for in Article 46(1) and (3) and (6)(2) of the Law on Public Procurement of the Republic of Lithuania, since such documents are not issued in the Member State or the country concerned or the documents issued in that country do not cover all the issues raised in Article 46(1) and (3) and (6)(2), they can be replaced by:

- declaration of the oath;
- an official supplier's declaration where the country does not use an oath declaration. The formal declaration must be certified by a competent legal or administrative authority, a notary or a competent professional or trade organization in the Member State or supplier's country of origin or the country in which he is registered.

		Paragraph III, point C10, of the ESPD	
4.	<p>The supplier is in a situation of conflict of interest within the meaning of Article 21 of the Law on Public Procurement at the time of the purchase and the situation in question cannot be remedied.</p> <p>It is considered that the relevant situation regarding the conflict of interest cannot be remedied if the persons in the conflict of interest have determined the decisions of the public procurement commission or the contracting authority and the modification of these decisions would be contrary to the provisions of the Law on Public Procurement.</p>	<p>Article 46(4)(2) of the Law on Public Procurement</p> <p>Paragraph III, point C12, of the ESPD</p>	No documentary evidence is required from entities established in Lithuania. The provided ESPD is enough.
5.	<p>Competition has been violated, as set out in Article 27(3) and (4) of the Law on Public Procurement, and the situation in question cannot be remedied.</p>	<p>Article 46(4)(es)(3) of the Law on Public Procurement</p> <p>ESPD, Part III, point C13</p>	No documentary evidence is required from entities established in Lithuania. The provided ESPD is enough.
6.	<p>The supplier has withheld information or provided false information during the procurement procedures regarding compliance with the requirements laid down in Articles 46 and 47 of the Law on Public Procurement, and the contracting authority can prove this by any lawful means, or the supplier is unable to provide the supporting documents required under Article 50 of the Law on Public Procurement due to false information provided.</p> <p>On this basis, the supplier is also excluded from the procurement procedure where, in the course of previous procedures carried out by the Law on Public Procurement, the Law on Public Procurement in the Field of Defence and Security, the Law on Procurement by Contracting Entities in the Field of Water Management, Energy, Transport or Postal Services, the Law on Concessions or the Law on Concessions, withheld information or provided false information referred to in this paragraph, or the supplier was unable to provide supporting evidence due to false information provided documents required under Article 50 of the Law on Public Procurement, which led to the exclusion from the procurement or concession award procedures in the last one year.</p> <p>On this basis, the supplier is also excluded from the procurement procedure where, in accordance with the legislation of other States, in the course of previous procedures, he withheld information or provided false information, or because of the provision of false information, he was unable to provide supporting</p>	<p>Article 46(4)(es)(4) of the Law on Public Procurement</p> <p>Paragraph III, point C15, of the ESPD</p>	<p>No documentary evidence is required from entities established in Lithuania. The provided ESPD is enough.</p> <p>When deciding on the exclusion of a supplier from the procurement procedure on the grounds of exclusion referred to in this point, account may be taken, inter alia, of the information published in accordance with Article 52 of the Law on Public Procurement:</p> <p>https://vpt.lrv.lt/melaginga-informacija-pateikusi-tiekeju-sarasas-3</p>

	documents, which led to his exclusion from the procurement or concession award procedures or other similar sanctions in the last one year.		
7.	The supplier has taken unlawful steps during the procurement in order to influence the decisions of the contracting authority, to obtain confidential information which would undue advantage for him in the procurement procedure, or to provide misleading information which may have a material influence on the contracting authority's decisions concerning the exclusion of suppliers, the assessment of their qualifications and the award of the contract, and the contracting authority may prove this by any lawful means.	Article 46(4)(es)(5) of the Law on Public Procurement Paragraph III, point C15, of the ESPD	No documentary evidence is required from entities established in Lithuania. The provided ESPD is enough.
8.	The supplier has failed to perform or has improperly performed a contract concluded in accordance with the Law on Public Procurement, the Law on Public Procurement in the Field of Defence and Security, or the Law on Procurement by Contracting Entities in the Field of Water Management, Energy, Transport or Postal Services, or has improperly performed it, which constituted a material breach of contract within the meaning of Article 6.217 of the Civil Code (hereinafter referred to as a 'material breach of contract'), which has led to the termination of the contract or in the last 3 years, a court decision has been issued and has become final which satisfies the claim of the contracting authority, the contracting entity or the awarding authority for compensation for damages suffered as a result of the fact that the supplier has performed a material contractual clause with serious or persistent defects, or that the contracting authority has, in the last 3 years, taken a decision by the contracting authority that the supplier has fulfilled the essential contractual clause laid down in the contract with serious or permanent deficiencies, or persistent deficiencies and, as a result, the sanction laid down in the treaty was applied. On this basis, the supplier is also excluded from the procurement procedure where, in accordance with the legislation of other States, it has been established over the last 3 years that, in the course of the performance of a previous contract, a previous contract with the contracting entity or a previous concession contract, he has performed a material requirement laid down in the contract with serious or persistent defects and, as a result, that previous contract has been terminated before the expiry of the period laid down in that contract, damages have been claimed or other similar sanctions have been imposed.	Article 46(4)(6) of the Law on Public Procurement Paragraph III, point C14, of the ESPD	No documentary evidence is required from entities established in Lithuania. The provided ESPD is enough. When deciding on the exclusion of a supplier from the procurement procedure on the grounds of exclusion referred to in this point, account may be taken of the information published in accordance with Article 91 of the Law on Public Procurement: https://vpt.lrv.lt/lt/pasalinimo-pagrindai-1/nepatikimi-tiekejai-1 https://vpt.lrv.lt/lt/pasalinimo-pagrindai-1/nepatikimu-koncesininku-sarasas-1/nepatikimu-koncesininku-sarasas
9.	The supplier has committed a serious professional misconduct in respect of which the contracting authority has doubts as to the supplier's good faith when he has committed an infringement of the financial reporting and audit legislation and less than	Article 46(4)(7)(a) of the Law on Public Procurement	No documentary evidence is required from entities established in Lithuania. The provided ESPD is enough. When deciding on the exclusion of a supplier from the procurement procedure on the grounds of exclusion referred to in this point, account shall be

	one year has elapsed since the date on which it was committed.	PARAGRAPH III, POINT C11, OF THE ESPD	taken, inter alia, of the national database at the following address: https://www.registrucentras.lt/jar/p/index.php the information published, as well as the information contained in this information notice: https://vpt.lrv.lt/lt/naujienos/finansiniu-ataskaitu-nepateikimas-gali-tapti-kliutimi-dalyvauti-viesuosiuose-pirkimuose
10.	The supplier has committed a serious professional violation, as a result of which the contracting authority doubts the good faith of the supplier when he (the supplier) does not meet the minimum criteria for a reliable taxpayer set out in Article 40(1) of the Law on Tax Administration of the Republic of Lithuania.	Article 46(4)(7)(b) of the Law on Public Procurement PARAGRAPH III, POINT C11, OF THE ESPD	No documentary evidence is required from entities established in Lithuania. The provided ESPD is enough. Decisions on the exclusion of a supplier from the procurement procedure on the grounds of exclusion referred to in this point shall take into account, inter alia, the information published in the national database at the address: https://www.vmi.lt/evmi/mokesciu-moketoju-informacija .
11.	The supplier has committed a serious professional violation, as a result of which the contracting authority doubts the supplier's good faith, when he has committed a violation of the prohibition on concluding insured agreements established in the Law on Competition of the Republic of Lithuania or a similar legal act of another state and less than 3 years have passed since the date of its commission.	Article 46(4)(7)(c) of the Law on Public Procurement PARAGRAPH III, POINT C11, OF THE ESPD	No documentary evidence is required from entities established in Lithuania. The provided ESPD is enough. When deciding on the exclusion of a supplier from the procurement procedure on the grounds of exclusion referred to in this point, account shall be taken, inter alia, of the following information published in the national database at the address: https://kt.gov.lt/lt/atviri-duomenys/diskvalifikavimas-is-viesuju-pirkimu .
12.	The supplier has not carried out the penal measure imposed on him, i.e. the prohibition of a legal person to participate in public procurements.	Article 46(2¹) of the Law on Public Procurement PARAGRAPH III, POINT D2, OF THE ESPD	No documentary evidence is required from entities established in Lithuania. The provided ESPD is enough.

* The Contracting Authority shall not require the Supplier to submit documents confirming the circumstances of the presence or absence of the grounds for rejecting the Supplier, if it:

- 1) shall have access to these documents or information directly and free of charge in the national database in any Member State or in CVP IS;
- 2) already has the documents from previous public procurement procedures.