

**ANNEX 2 to the Tender Specifications****DECLARATION ON EXCLUSION CRITERIA**

The undersigned *[name of the signatory of this form, to be completed]*:

in his/her own name *(if the economic operator is a natural person)*

or

representing *(if the economic operator is a legal person)*

official name in full *(only for legal person)*: _____

official legal form *(only for legal person)*: _____

official address in full: _____

VAT registration number: _____

hereby acknowledges to have read and understood the provisions of Article 106, points 1 and 2 of the Financial Regulations which reads as follows:

“Article 106 - Exclusion criteria and administrative sanctions

1. The contracting authority shall exclude an economic operator from participating in procurement procedures governed by this Regulation where:

(a) the economic operator is bankrupt, subject to insolvency or winding-up procedures, where its assets are being administered by a liquidator or by a court, where it is in an arrangement with creditors, where its business activities are suspended, or where it is in any analogous situation arising from a similar procedure provided for under national laws or regulations;

(b) it has been established by a final judgment or a final administrative decision that the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract;

(c) it has been established by a final judgment or a final administrative decision that the economic operator is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the economic operator belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:

(i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract;

(ii) entering into agreement with other economic operators with the aim of distorting competition;

- (iii) violating intellectual property rights;
- (iv) attempting to influence the decision-making process of the contracting authority during the procurement procedure;
- (v) attempting to obtain confidential information that may confer upon it undue advantages in the procurement procedure;

(d) it has been established by a final judgment that the economic operator is guilty of any of the following:

- (i) fraud, within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the [Council Act of 26 July 1995](#);
- (ii) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the [Council Act of 26 May 1997](#), and in Article 2(1) of [Council Framework Decision 2003/568/JHA](#), as well as corruption as defined in the law of the country where the contracting authority is located, the country in which the economic operator is established or the country of the performance of the contract;
- (iii) participation in a criminal organisation, as defined in Article 2 of [Council Framework Decision 2008/841/JHA](#);
- (iv) money laundering or terrorist financing, as defined in Article 1 of [Directive 2005/60/EC of the European Parliament and of the Council](#);
- (v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of [Council Framework Decision 2002/475/JHA](#), respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;
- (vi) child labour or other forms of trafficking in human beings as defined in Article 2 of [Directive 2011/36/EU of the European Parliament and of the Council](#);

(e) the economic operator has shown significant deficiencies in complying with main obligations in the performance of a contract financed by the budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an authorising officer, OLAF or the Court of Auditors;

(f) it has been established by a final judgment or final administrative decision that the economic operator has committed an irregularity within the meaning of Article 1(2) of [Council Regulation \(EC, Euratom\) No 2988/95](#).

2. In the absence of a final judgment or, where applicable, a final administrative decision in the cases referred to in points (c), (d) and (f) of paragraph 1, or in the case referred to in point (e) of paragraph 1, the contracting authority shall exclude an economic operator on the basis of a preliminary classification in law of a conduct referred to in those points, having regard to established facts or other findings contained in the recommendation of the panel referred to in Article 108.

The preliminary classification referred to in the first subparagraph does not prejudice the assessment of the conduct of the economic operator concerned by the competent authorities of the Member States under national law. The contracting authority shall review its decision to exclude the economic operator and/or to impose a financial penalty on it without delay following the notification of a final judgment or a final administrative decision. In cases where the final judgment or the final administrative decision does not set the duration of the exclusion, the contracting authority shall set this duration on the basis of established facts and findings and having regard to the recommendation of the panel referred to in Article 108.

Where such final judgment or final administrative decision holds that the economic operator is not guilty of the conduct subject to a preliminary classification in law, on the basis of which it has been excluded, the contracting authority shall, without delay, bring an end to that exclusion and/or reimburse, as appropriate, any financial penalty imposed.

The facts and findings referred to in the first subparagraph shall include, in particular:

- (a) facts established in the context of audits or investigations carried out by the Court of Auditors, OLAF or internal audit, or any other check, audit or control performed under the responsibility of the authorising officer;*
- (b) non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;*
- (c) decisions of the ECB, the EIB, the European Investment Fund or international organisations;*
- (d) decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law.”*

For situations described in Article 106.1 (a), (c), (d) and (f), production of a recent extract from judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment showing that those requirements are satisfied.

For the situation described in point Article 106.1 (a) and (b), recent certificates issued by the competent authorities of the State concerned are required.

Where the certificate is not issued in the country concerned the Tenderer may provide a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The undersigned hereby confirms not to be in any of the exclusion situations listed above.

Furthermore, the undersigned acknowledges that the company or organisation that he/she represents / he/ she may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial penalty) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.

Full name

Date

Signature