

APPROVED  
By order No. 1-2019-00296  
of the CEO of  
public limited liability company  
Lietuvos paštas  
dated 1 August 2019

## **GENERAL TERMS AND CONDITIONS OF NEGOTIATIONS**

**PUBLISHED BY PUBLIC LIMITED LIABILITY COMPANY LIETUVOS PAŠTAS**

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## 1. GENERAL PROVISIONS

### 1.1. Terms:

1.1.1. **CPP IS** – Central Public Procurement Information System as defined in Article 2 (4) of the Law on Public Procurement;

1.1.2. **Participant** – the supplier submitting the Tender;

1.1.3. **European Single Procurement Document (hereinafter referred to as ESPD)** – an actual declaration replacing the documents issued by the competent authorities and proving explicitly that the supplier and the entities whose capacity it relies upon meet the requirements set out in the procurement documents regarding the lack of grounds for the elimination of the supplier, qualifications and other requirements;

1.1.4. **Final Tender** – in accordance with the terms and conditions set by the Buyer and after the negotiations (all stages, if negotiations are carried out in several stages), the totality of the documents submitted by the Participant, including the documents submitted in the Initial Tender, except the conditions specified therein, which were changed during the negotiations and/or in the Final Tender;

1.1.5. **Information System E-Account (hereinafter referred to as the E-Account)** – a state information system for the preparation, submission and preservation of the accounts related to the execution of procurement contracts concluded in accordance with the Law on Procurement, for the procurement of goods, services and works, as well as information about the submitted invoice payment;

1.1.6. **Candidate** – a supplier, invited in writing to submit a tender;

1.1.7. **Qualitative selection** – a procurement procedure as defined in Article 54 of the Law on Public Procurement;

1.1.8. **Minimum Requirements for Procurement Documents (hereinafter referred to as Minimum Requirements)** – the essential terms and conditions of the Procurement Documents which must be met by each Initial Tender and that cannot be negotiated. The Minimum Requirements are specified in the Special Terms and Conditions;

1.1.9. **Request (hereinafter referred to as the Request)** – the totality of the supplier's written documentation and data indicating the wish to participate in the procurement;

1.1.10. **Tender (hereinafter referred to as the Tender)** – a set of documents and data submitted by the supplier in writing in accordance with the conditions specified in the Buyer's procurement documents;

1.1.11. **Buyer** – public company Lietuvos paštas, company code 121215587, address: J. Jasinskio st. 16, 03500 Vilnius, telephone +370 700 55400, fax (+370 5) 216 3204;

1.1.12. **Procurement Documents (hereinafter referred to as Procurement Documents)** – documents provided or indicated by the Buyer describing or identifying the elements of the Procurement or its procedure. Procurement documents include:

1.1.12.1. procurement notice;

1.1.12.2. General Terms and Conditions;

1.1.12.3. Special Terms and Conditions (with annexes);

1.1.12.4. explanations (revisions) of Procurement Documents, as well as answers to the questions from suppliers (if there is any);

1.1.12.5. other information provided by the means of CPP IS;

1.1.13. **Procurement Contract (hereinafter referred to as the Procurement Contract)** – a written document drawn up between the winning Participant and the Buyer (if a Preliminary Agreement is concluded – the main Procurement Contract which is concluded on the basis of the Preliminary Agreement) regarding the object of the Procurement;

1.1.14. **Law on Procurement** – law on procurement carried out by contracting authorities that operate in water management, energy, transport or postal services sectors of the Republic of

Lithuania (version effective from the entry into force, if the law does not provide for a different application);

1.1.15. **Initial Tender** – the totality of the initial documents submitted by the Participant according to the terms and conditions established by the Buyer (the clarifications and/or additions made by the Participant are considered as an integral part of the Initial Tender);

1.1.16. **Preliminary Agreement** – an agreement concluded between the Buyer and one or more suppliers, the purpose of which is to determine the conditions, including the price and, where applicable, the estimated quantity applicable to the Procurement Contract that will be concluded within a specified time period;

1.1.17. **General Terms and Conditions for the Published Negotiations (hereafter referred to as the General Terms and Conditions)** – these general terms and conditions of procurement, which describe the procedures for the submission of Requests/Tenders, examination and evaluation of the Requests/Tenders. General Terms and Conditions are the same and unchanged for all international and simplified procurement cases conducted through published negotiations. What procurement (international or simplified) is conducted in a particular case, see Special Terms and Conditions;

1.1.18. **Special Terms and Conditions for the Published Negotiations (hereinafter referred to as Special Terms and Conditions)** – special conditions for the procurement, specifying the subject matter and requirements of the procurement, the grounds for eliminating suppliers, qualification and other requirements of suppliers, requirements for submission of Requests/ Tenders, other terms of procurement, changing the procurement procedures described in the General Terms and Conditions. The Special Terms and Conditions depend on the subject of the Procurement and are subject to change in the case of a specific procurement;

1.1.19. **Interested participant** – a Participant other than the Participant who has been finally removed from the procurement procedure, that is, it has been informed of the rejection of the Tender, and the elimination of which due to the expiry of the appeal period cannot be disputed or the validity of the elimination is valid;

1.1.20. **Interested Candidate** – the Candidate whom the Buyer has not notified about the rejection of its Request prior to sending the notification of the decision to determine the winning Tender to the Participants concerned;

1.1.21. **Supplier (hereinafter referred to as the Supplier)** – an economic entity – a natural person, a private or public legal entity, another organization and its subdivision or a group of such persons, including temporary associations of economic entities which offer on the market the works, supplies or services required for the procurement object;

1.1.22. **Law on Public Procurement** – Law on Public Procurement of the Republic of Lithuania (the version effective from the entry into force, if the law does not provide for a different application);

1.1.23. In the General Terms and Conditions, the word "contract", "procurement contract" in any form, refers to a procurement contract or a preliminary agreement, depending on the type of contract stipulated in the Special Terms and Conditions;

1.1.24. If the Special Terms and Conditions indicate that the procurement procedure is performed for the purpose of concluding a Preliminary Agreement and this agreement may be concluded with several suppliers, the terms "winner", "winning Tender", etc., in the General and Special Terms and Conditions should be understood in the plural form.

1.2. The Buyer will assume that all suppliers who submit Requests/Tenders are familiar with the General Terms and Conditions. It is recommended for each supplier participating in the procurement to check if the General Terms and Conditions have not changed with which the supplier is familiar (the date of the revision is indicated in the General Terms and Conditions heading). In case of discrepancies or contradictions between these General Terms and Conditions and the Special Terms and Conditions, the provisions of the Special Terms and Conditions are applied.

1.3. The Procurement is executed in accordance with these Procurement Documents, the Law on Procurement, the Civil Code of the Republic of Lithuania (hereinafter referred to as the Civil Code), and other legal acts regulating public procurement.

1.4. The general terms used are defined in the Law on Procurement. If the Procurement is carried out in accordance with the Law on Procurement, and does not define the required term and/or procedure, the relevant provision of the Law on Public Procurement is applied.

1.6. Procurement is carried out in compliance with the principles of equality, non-discrimination, transparency, mutual recognition, proportionality, and confidentiality and impartiality. When deciding on Procurement Documents, the principle of rationality is followed.

1.7. By participating in the Procurement the supplier confirms and guarantees that it and its sub-suppliers (if applicable) are not and will not be the entities subject to international sanctions with reference to the fact that the laws of the Republic of Lithuania provide for direct prohibition to conclude contracts which execution contradicts to international sanctions implemented in the Republic of Lithuania. The supplier declares that it is not registered, has no branch, contracts, activity or does not plan any activity with the country which is subject to international sanctions, has no relations with any natural person or legal entity, registered, domiciled or with a branch in the country for which the international sanctions are applied and implemented. The supplier ensures that goods and/or services provided do not/will not originate from the territories and/or persons or companies which are subject to international sanctions. These terms are applicable throughout the duration of the Procurement execution and (if applicable) the validity of the Contract concluded with the supplier (the supplier with its sub-supplier (s)). When entering into contracts with the sub-suppliers the supplier undertakes to stipulate the requirement to follow these provisions. The violation and/or non-observance of the requirements stated in this clause shall entitle the Buyer to reject the supplier's tender, not to conclude a contract and/or terminate any or all contracts with the supplier without the payment of any penalties, indemnification or payment of any compensation or refund to the supplier and/or its sub-supplier, it may also cancel any or all orders and (or) suspend in whole or in part, as well as abolish any contracts with the supplier.

1.8. Procurement notice is published in accordance with the Law on Procurement. Procurement is carried out using CPP IS means available at the following web address: <https://pirkimai.eviesiejipirkimai.lt>. Only registered suppliers of CPP IS can participate in the Procurement.

1.9. Regular indicative announcement and announcement of a qualification assessment system were not published for this procurement. The announcement of voluntary *ex ante* transparency is not published.

1.10. Observers are not invited to attend meetings of the procurement commission (hereinafter referred to as the Commission) unless otherwise specified in the Special Terms and Conditions.

1.11. The Buyer, at any time before the conclusion of the Procurement Contract, has the right to cancel the Procurement procedures if circumstances arise that could not be foreseen.

1.12. Costs related to participation in this Procurement are not reimbursed to suppliers.

1.13. The Buyer does not tolerate any form of corruption, in the relations with its partners the Buyer follows the principals of transparency and anti-corruption, the procedures of the procurement and sales are executed in the most fair and transparent manner.

## **2. MEANS OF COMMUNICATION BETWEEN THE BUYER AND THE SUPPLIER**

2.1. Procurement Documents, their explanations and revisions, as well as replies to suppliers' questions, are published in CPP IS. Any information, explanations of Procurement Documents, notices or other correspondence between the Buyer and the supplier is carried out only by means of CPP IS correspondence except for exceptional cases referred to in Article 34 of the Law on Procurement Buyer notices will be received by suppliers that joined the Procurement

(notices will be received by the supplier's CPP IS user that clicked "Accept an invitation". Other CPP IS users of the supplier will receive notices if they are included in this Procurement by the supplier's Tender window menu line "Assign User Rights").

2.2. Buyer has the right to change the dates of the Procurement procedures. Suppliers should carefully monitor the CPP IS's explanations and additions to Procurement Documents.

2.3. After having missed the deadlines for the submission of Requests/Tenders, specified in the Procurement Documents or during the correspondence indicated by the Buyer, the suppliers lose the right to participate in further Procurement procedures.

2.4. Buyer does not reimburse and is not liable for the costs incurred by the supplier in preparing the Request/Tender and participating in the Procurement.

2.5. The authorized employee of the Buyer responsible for communication with suppliers and reception of notices related to the Procurement procedures from them, and responsible for execution of the Procurement Contract from the Buyer's side, and for the publication of the Procurement Contract and its amendments in accordance with the procedure specified in the Special Terms and Conditions.

### 3. EXPLANATION AND CLARIFICATION OF PROCUREMENT DOCUMENTS

3.1. Procurement Documents can be explained, revised by the supplier's initiative, by contacting the Buyer only by means of CPP IS correspondence. Suppliers should be proactive in asking questions or requesting explanations regarding the Procurement Documents as soon as they are analysed, taking into account the fact that after the closing date for the submission of Requests/Tenders, the Procurement Documents cannot be amended/revised.

3.2 Any request from suppliers to clarify/revise the Procurement Documents must be submitted no later than:

	<b>In case of international Procurement</b> (in order to clarify what kind of Procurement is conducted, see Special Terms and Conditions)	<b>In case of simplified Procurement</b> (in order to clarify what kind of Procurement is conducted, see Special Terms and Conditions)
When the supplier submits a request to clarify/revise the provisions of the Procurement Documents <b>related to the submission of Requests</b>	10 (ten) calendar days before the deadline for submission of Requests	6 (six) calendar days before the deadline for submission of Requests
When the supplier submits a request to clarify/revise the provisions of the Procurement Documents <b>related to the submission of the Initial Tenders</b>	8 (eight) calendar days before the deadline for submitting the Initial Tenders	5 (five) calendar days before the deadline for submitting the Initial Tenders

3.3. Before the term for the submission of Requests/Tenders, the Buyer has the right to clarify (revise) the Procurement Documents on its own initiative. In response to any request submitted by the supplier for clarification of the Procurement Documents, or by clarifying, revising the Procurement Documents on its own initiative, the Buyer has to publish clarifications, revisions by the CPP IS and send them to all suppliers who signed up for this Procurement via CPP IS correspondence no later than:

	<b>In case of international Procurement</b> (in order to clarify what kind of Procurement is conducted, see Special Terms and Conditions)	<b>In case of simplified Procurement</b> (in order to clarify what kind of Procurement is conducted, see Special Terms and Conditions)
When clarifying/revising the provisions of the Procurement Documents <b>related to the submission of Requests</b>	6 (six) calendar days before the deadline for submission of Requests	4 (four) calendar days before the deadline for submission of Requests
When clarifying /revising the provisions of the Procurement Documents <b>related to the submission of the Initial Tenders</b>	6 (six) calendar days before the deadline for submitting the Initial Tenders	4 (four) calendar days before the deadline for submitting the Initial Tenders

3.4. If in the case provided for in Article 74 (3) of the Law on Procurement shorter deadlines for submission of Requests apply (see Section 8 of the Special Terms and Conditions) and/or the deadlines for submission of Initial Tenders agreed upon between the Buyer and the suppliers are shorter than those stipulated in Article 74 (4) of the Law on Procurement, the request to clarify/revise the Procurement Documents must be submitted and the Procurement Documents must be clarified/revise within the deadlines specified in Section 8 of the Special Terms and Conditions.

3.5. In the event that the published information is updated, the Buyer publishes the correction notice and if necessary (significant changes to the Procurement Documents have been made, i.e. clarification/revision has a significant impact on the preparation of the Requests/Tenders), extends the term for submission of Requests/Tenders for a reasonable period of time during which the suppliers could, when making Requests/Tenders, take the revisions into account. If the Buyer clarifies (revises) the Procurement Documents and cannot submit the clarifications (revisions) of the Procurement Documents in such a way that all suppliers receive them no later than by terms specified in Clause 3.3 of this Section (except for cases provided for in Clause 3.4 of the Section and cases when the Procurement Documents are revised due to the term for submission of Requests/Tenders), the Buyer postpones the term for submission of Requests/Tenders for a period during which the suppliers could take into account the following clarifications (revisions) when preparing Requests/Tenders. Notices about the term for submission of Requests/Tenders are also announced by CPP IS and sent to interested suppliers. Buyer is not required to extend the term when additional information was not requested in due time.

3.6. Buyer, clarifying or revising the Procurement Documents by means of CPP IS, does not specify the supplier who submitted the question.

3.7. Buyer will not make any appointments with suppliers regarding clarifications of the Procurement Documents, unless the Special Terms and Conditions specify otherwise.

#### **4. GROUNDS FOR THE ELIMINATION OF SUPPLIERS AND REQUIREMENTS FOR SUPPLIERS' QUALIFICATION**

4.1. Supplier (also all members of the suppliers' group if the Tender is submitted by the suppliers' group) and the economic entities whose capacity is based on by the supplier participating in the Procurement must meet the requirements for the absence of the grounds for elimination set out in Annex 5 to the Special Terms and Conditions.

4.2. Supplier intending to take part in the Procurement must confirm the absence of supplier elimination grounds and have sufficient experience and qualifications for the proper execution of

the Procurement Contract and, if applicable, comply with the quality management system and/or environmental management system standards. Supplier participating in the Procurement must meet the qualification requirements specified in Annex 6 to the Special Terms and Conditions.

4.3. If the Special Terms and Conditions specifies that the Procurement object is divided into parts, the requirements indicated in Clauses 4.1 and 4.2 of this Section are applicable to all parts of the Procurement object, unless otherwise specified in the Special Terms and Conditions.

4.4. The supplier, at the time of submitting a Request must also submit the ESPD, confirming that there is no reason to eliminate it from the Procurement due to elimination grounds listed in Annex 5 to the Special Terms and Conditions and that the supplier meets the qualification requirements specified in Annex 6 to the Special Terms and Conditions.

4.5. The ESPD form is provided in Annex 4 to the Special Terms and Conditions (ESPD is completed by uploading it to the website <https://ebvpd.eviesiejipirkimai.lt/espd-web/> and after completing and downloading it, is submitted by the supplier with the Tender)<sup>1</sup>.

4.6. **If a joint Request is submitted by a group of suppliers** operating under a joint venture (partnership) agreement, the supplier must, together with the Request, submit the ESPD for each member of the suppliers' group separately.

4.7. If the supplier has indicated in the Request that it **intends to use sub-suppliers or other entities whose capacity is based on** <sup>2</sup>, the supplier must also provide the ESPD of these entities in the Request together with the supplier's ESPD. If the supplier uses experts (natural persons) who are intended to be employed at the supplier's company in the event of a winning of Procurement and conclusion of the Procurement Contract, the ESPD of such experts (natural persons) is not required.

4.8. Buyer does not check the absence of the grounds for elimination and compliance with the qualification requirements for sub-suppliers, the capacity of which the supplier does not rely on.

4.9. Buyer eliminates the supplier from the Procurement procedure at any stage of the Procurement procedure if it turns out that due to its actions or omission before or during the Procurement procedure it meets at least one of the grounds for elimination set out in Annex 5 to the Special Terms and Conditions.

4.10. If the supplier does not meet the requirements specified in Clauses 1.1, 1.3–1.9 of the Annex 5 to the Special Terms and Conditions, the Buyer does not eliminate it from the Procurement procedure when both of these conditions are met:

1) supplier has provided the Buyer with information about the fact that it has taken the following measures:

- a) voluntarily paid or undertook to pay compensation for damage caused by an offense or violation, specified in Clauses 1.1, 1.3–1.9 of the Annex 5 to the Special Terms and Conditions (if applicable);
- (b) collaborated, actively assisted or took other measures to investigate, clarify the offense or violation (if applicable);
- (c) has taken technical, organizational and personnel management measures to prevent further offenses or violations.

2) Buyer has assessed the information provided by the supplier pursuant to Clause 4.10 (1) of this Section and has taken a reasoned decision on the adequacy of the measures taken by the supplier in order to prove its credibility. The adequacy of these measures is assessed in the light of the seriousness of the offense or violation and the circumstances. Buyer shall provide the supplier with a reasoned decision in

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<sup>1</sup> ESPD completion recommendations <http://vpt.lrv.lt/lt/naujienos/ebvpd-pildymo-rekomendacijos>.

<sup>2</sup>Supplier may rely on the capacity of the economic entity to meet the requirement for a special permit or a requirement to be a member of certain organizations, financial, economic, technical and/or professional capacity (if such requirements are raised) (Article 62 (1) of the Law on Procurement).

writing not later than within 10 days from receipt of the supplier's information specified in Clause 4.10 (1) of this Section.

4.11. The ESPD must be provided by all suppliers involved in the Procurement, while relevant documents confirming the information provided by the ESPD (regarding the absence of grounds for elimination and compliance with qualification requirements), the Buyer will require only from the supplier whose Tender based on the assessment results can be recognized as a winner (if it is not specified in Section 3 of the Special Terms and Conditions that these documents must also be submitted by all suppliers along with the Tender. These documents will have to be submitted within a reasonable term set by the Buyer (the supplier will have to submit digital copies of requested documents in electronic form via CPP IS correspondence means). Buyer reserves the right to request original copies of digital documents submitted.

4.12. If the supplier, whose Tender can be recognized as the winner, at the request of the Buyer will provide all documents proving the absence of grounds for elimination and documents confirming the qualification proving the compliance of the supplier with the information provided within the ESPD, the absence of other suppliers' grounds for elimination and documents confirming qualification will not be verified. However, the Buyer has the right at any time during the Procurement procedure to ask suppliers to provide all or part of the documents in accordance with the ESPD, confirming the absence of the grounds for their elimination and/or compliance with the qualification requirements and, if applicable, the quality management system and/or environmental management system standards if this is necessary to ensure the proper conduct of the Procurement procedure.

4.13. Buyer does not require the supplier to provide documentation confirming the absence of the grounds for its elimination and/or the compliance with the qualification requirements and, if applicable, the quality management system/environmental management system standards, if it:

4.13.1. has access to these documents or information directly and free of charge by connecting to the national database in any Member State or through the use of CPP IS means;

4.13.2. these documents already come from previous Procurement procedures.

4.14. The absence of the grounds for the elimination of foreign suppliers, the documents certifying the qualification requirements are legalized in accordance with the Procedure for the Legalization and Approval of Documents (*Apostille*), approved by the Government of the Republic of Lithuania in Resolution No. 1079 dated 30 October 2006, and the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, unless the document is exempted from the legalization and/or approval mark (*Apostille*) in accordance with international treaties of the Republic of Lithuania or European Union legislation.

4.15. If the Tender documents are required and the supplier cannot submit the documents referred to in Article 51 (2) of the Law on Public Procurement, because in a Member State or in the respective country such documents are not issued or documents issued in that country do not cover all questions raised in Articles 46 (1), Article 46 (3), Article 46 (6)(2) of the Law on Public Procurement (if similar questions are raised in the Procurement Documents), they may be replaced by a declaration of oath or an official supplier's declaration if the oath declaration is not used in the country. The official declaration must be certified by a competent legal or administrative institution, notary public or a competent professional or trade organization of the Member State or supplier's country of origin, or the country where the supplier is registered (digital copies of the documents are provided in electronic form).

4.16. If Annex 6 to the Special Terms and Conditions sets the requirements for suppliers for economic and financial capacity and the supplier cannot provide the required documents proving its financial and economic capacity for justified reasons, it has the right (with the consent of the Buyer that the reasons indicated by the supplier are justified) to submit other documents acceptable to the Buyer.



4.17. If the supplier's qualification for the right to engage in the relevant activity has not been verified or inspected in all of its scope, the supplier commits to the Buyer that the Procurement Contract will be carried out only by persons having such right.

## **5. RELIANCE ON THE CAPACITIES OF OTHER ECONOMIC ENTITIES AND INVOKING SUB-SUPPLIERS**

5.1. Supplier may rely on the capacity of the economic entity to meet the requirement for a special permit or to be a member of certain organizations, to meet the requirements of financial, economic, technical and/or professional capacity (if such requirements are raised), irrespective of the legal nature of the relationship with these economic entities (Law on Procurement Article 62 (1)).

5.2. Supplier may rely on the capacity of other economic entities to meet the requirements for education, professional qualifications and/or professional experience (if such requirements are specified in the Procurement Documents) only if the entities themselves provide services/perform works (depending on the object of the Procurement), which require their own capacity.

5.3. Under the conditions specified in Clauses 5.1 and 5.2 of this Section, the group of suppliers may rely on the capabilities of the group's participants or other economic entities.

5.4. If the supplier relies on the capacity of another economic entity, when submitting a Request, it must provide evidence to prove that the supplier's economic resources will be available throughout the period of performance of the contractual obligations. Such evidences may include an economic entity's obligation (declaration) that it will have the necessary resources, contract with the supplier, letters of intent, or other equivalent documents confirming that after the Procurement has been won, the resources of other economic entities will be available to the supplier during the performance of the Procurement Contract (a scanned document in digital form is provided).

5.5. If the supplier relies on the capacity of other economic entities, considering the requirements of economic and financial capacity specified in the Procurement Documents, the supplier and the economic entities whose capacity is relied upon must assume joint and several liability for the fulfilment of the Procurement Contract (unless otherwise specified in Section 3 of the Special Terms and Conditions).

5.6. Buyer does not require the supplier and the economic entities whose capacity is relied upon to obtain a certain legal form in case of their tender to be recognised as a winner and a receipt of proposal to conclude the Procurement contract.

5.7. By completing the Request form provided for in Annex 1 to the Special Terms and Conditions, the supplier must specify:

**5.7.1. economic entities whose capacity is relied upon by the supplier** in order to meet the requirements of financial, economic, technical and/or professional capacity (if such requirements are raised). These entities also include experts who, in the event of a Procurement win and a conclusion of Procurement Contract, will be recruited by the supplier;

**5.7.2. to which part of the Procurement Contract and which subcontractors, if they are known**, it intends to invoke. The supplier is not obliged to indicate in the Request what subcontractors it will use for the execution of the Procurement Contract and will be able to provide this information if the winner is determined and a Contract will be concluded with it. Subcontractors are not considered to be economic entities whose capacity is relied on by the supplier, if they only perform contractual obligations of the supplier and the supplier does not rely on their capacity to meet the requirements of financial, economic, technical and/or professional capacity (if such requirements are raised).

5.8. In a case when the supplier intends to invoke a subcontractor for an activity that requires certifications, licences, permits or other documents of a similar nature specified in Annex 6 to the Special Terms and Conditions or by the ESPD, or one of the members of the group of suppliers intends to perform the previously specified activity, the qualification requirements provided for in Annex 6 to the Special Terms and Conditions or by the ESPD must be met by the subcontractor or a member of the group of suppliers who will carry out the specific activity.

5.9. Upon conclusion of the Procurement Contract, but no later than the Procurement Contract is commenced to execute, the supplier undertakes to inform the Buyer of the names, contact details and representatives of the subcontractors known at that time. The supplier must inform about the change of this information during the entire execution of the Contract, as well as about the new subcontractors whom it intends to invoke later. Other requirements for the use of subcontractors are provided for in the Special Terms and Conditions.

5.10. If an economic entity is not indicated in the Request the capacity of this entity cannot be relied upon. However, if the economic entity indicated in the Request does not meet the requirements raised for it, it can be replaced by the eligible entity in the reasonable term set by the Buyer through the means of CPP IS correspondence.

5.11. Buyer does not restrict the ability of suppliers to use subcontractors and/or members of the group of suppliers to carry out essential tasks, unless otherwise is specified in the Special Terms and Conditions.

## **6. PARTICIPATION OF THE GROUP OF SUPPLIERS IN PROCUREMENT PROCEDURES**

6.1. If a group of suppliers participates in the Procurement procedures, in such a case, the member of the group of suppliers, submitting a joint Request, shall at the same time submit a digital copy of the joint venture agreement. The joint venture agreement must specify the composition of the group of suppliers, the obligations of each party to this agreement after entering into the Procurement Contract with the Buyer, the share of the value of these obligations, expressed as a percentage of the total value of the contract. The joint venture agreement must provide for the joint liability of all parties to this agreement for failure to fulfil obligations to the Buyer. Also, the joint venture agreement must stipulate which member of the group of suppliers represents it (with whom the Buyer should communicate during the evaluation of the Request/Tender, provide information related to the Request/Tender evaluation and sign the Procurement Contract) and include the prohibition to change the composition of the group of suppliers until the conclusion of the Procurement Contract and the provision that without the prior written consent of the Buyer, the modification of the members of the group of suppliers established by the joint venture agreement is deemed to be a material breach of the Procurement Contract, except for the exceptions provided for in the laws of the Republic of Lithuania.

## **7. PREPARATION, SUBMISSION, MODIFICATION OF REQUESTS AND TENDERS**

7.1 By submitting the Request/Tender, the supplier agrees to the General and Special Terms and Conditions and confirms that the information provided in its Request/Tender is correct and includes everything necessary for the proper execution of the Procurement Contract.

7.2. Buyer requires the submission of Requests/Tenders only by electronic means using CPP IS. Requests/Tenders submitted on paper or not by electronic means indicated by the Buyer will not be evaluated.

7.3. The Requests/Tenders by electronic means can be provided only by suppliers registered in CPP IS at the address available: <https://pirkimai.eviesiejipirkimai.lt>. CPP IS registration is free.

7.4. Documents provided or digital copies of documents must be available in non-discriminatory, universally accessible data file formats (e.g. pdf, jpg, doc, etc.). Buyer reserves the right to request original documents.

7.5. The Request/Tender must be signed by the supplier's manager or its authorized person. Buyer requires that, along with the Request/Tender, the supplier submits a document confirming that the person (if he/she is not the supplier's manager) who signed the Request/Tender had the right (he/she was given a power of attorney) to sign the Request/Tender. The Tender validity security document (if submission is provided for in the Special Terms and Conditions) is signed in accordance with the procedure set out in Clause 9.1 of the General Terms and Conditions.

7.6. Supplier's Request/Tender and other correspondence are provided in Lithuanian, except in the cases specified in the Special Terms and Conditions (if such cases are provided for). If the relevant documents are issued in another language, a properly certified translation into the Lithuanian language must be provided. Buyer will assume that the translation is certified correctly if the translation is confirmed by the translator's signature and the seal of the translation agency (if the seal is mandatory) or the signature of the supplier's manager and the supplier's stamp (if the seal is mandatory) (digital copies of the documents are provided). Buyer, in case of suspicion regarding the quality of the translation of the submitted documents and/or their conformity with the original content, reserves the right to request the translation of documents certified by the translator's signature and the seal of the translation agency (if the stamp is mandatory).

7.7. The supplier may submit only one Request/Tender (if the Special Terms and Conditions specify that the procurement object is divided into parts, then it can submit only one Request/Tender for separate parts of the procurement object) – individually or as a member of the group of suppliers. If the supplier submits more than one Request/Tender or a member of the group of suppliers is involved in the submission of multiple Requests /Tenders, any such Request/Tender will be rejected. The supplier is deemed to have submitted more than one Request/Tender if the same Request/Tender has been submitted in writing (paper form, envelopes) and using CPP IS tools.

7.8. The supplier is not allowed to submit alternative Tenders unless otherwise provided for in the Special Terms and Conditions. Upon submission of an alternative Tender by the Supplier, its Tender and alternative Tender (alternative Tenders) are rejected (except for cases where alternative Tenders are allowed in accordance with the Special Terms and Conditions).

7.9. The price or costs of the Tender shall be indicated in euro, expressing and calculating them as specified in Annex 2 to the Special Terms and Conditions. The Tender price or costs must include all costs incurred by the supplier in connection with the execution of the Procurement Contract and all fees, including the fee (s) for the provision of invoicing via the E-Account system.

7.10. All prices or expenses (and their components) in Tenders must be indicated by two decimal places, unless otherwise specified in Section 10 of the Special Terms and Conditions.

7.11. The term for submission of Requests is specified in the Special Terms and Conditions.

7.12. The term for submission of Tenders is specified in the Special Terms and Conditions.

7.13. The supplier has the right to amend or withdraw the Request/Tender submitted by CPP IS means by the term for the submission of Requests/Tenders specified in the Special Terms and Conditions by the CPP IS means. In order to withdraw or change the Request/Tender, the supplier presses "withdraw Tender" in the CPP IS Tender window. To re-submit the withdrawn and amended Request/Tender the supplier must re-submit it. After the term for the submission of Requests/Tenders, the change or notice that the Request/Tender is withdrawn will not be recognized as valid. If the supplier amends or withdraws its Tender, after the expiration of the term for the submission of Tenders, it loses the right to the guarantee of the Tender (if it is required).

7.14. The supplier must indicate the Tender expiry date in the Tender. The Tender must be valid for at least the time specified in the Special Terms and Conditions. If the Tender does not specify its expiry date, the Tender is deemed to be valid as provided for in the Procurement Documents.

7.15. Until the expiration of the Tenders, the Buyer has the right to request suppliers to extend the validity of their Tenders until the specified date. The supplier may reject such a request

without losing the security of its Tender (if required) or by informing in writing that it agrees to extend the duration of its Tender.

7.16. The Supplier, who agrees to extend the term of its Tender validity, informing the Buyer thereof in writing, extends the term of the Tender security or submits a new document confirming the validity of the Tender, if required.

7.17. If the supplier fails to respond to the Buyer's request to extend the term of the Tender, does not renew it or refrain from providing a new Tender security (if it was required), it is considered that it has rejected the request to extend the validity of its Tender. The Tender of the supplier which has rejected the Buyer's request, is not further considered and evaluated.

## **8. PRICING AND PAYMENT TERMS**

8.1. Pricing and payment terms are specified in Section 11 of the Special Terms and Conditions.

## **9. TENDER VALIDITY SECURITY**

9.1. Supplier, together with the initial Tender, must submit (if Section 6 of the Special Terms and Conditions does not specify that the Tender validity security document is not required from the suppliers) a document guaranteeing the validity of the Tender – a bank guarantee or an insurance guarantee letter from the insurance company in an electronic form, presented in a separate file, signed by the original secure electronic signature of the bank issuing the guarantee or the insurance company, certified by a valid qualified certificate that meets the requirements set out in Article 34 (11)(2) and Article 34 (11)(3) of the Law on Procurement. Tender validity security is provided both for the Initial and the Final Tender.

9.2. The value of the Tender validity security is specified in Section 6 of the Special Terms and Conditions. If the Procurement object is divided into parts, the Tender must be secured for each part of the Procurement object separately.

9.3. Buyer must be given unhindered opportunity to verify the secure electronic signature of the bank or insurance company issuing the Tender validity security. If the supplier submits a document confirming the validity of the Tender issued by the insurance company, along with the the suretyship insurance letter of the Tender the supplier shall also submit a signed insurance policy together with a document confirming the payment.

9.4. Supplier must provide a document confirming the validity of the Tender (specified in Clause 9.1 of this Section) in accordance with the form or other form presented in the Special Terms and Conditions, while maintaining the conditions specified in the Special Terms and Conditions and meeting the requirements set out in this Section.

9.5. The Tender validity security must be submitted by the term specified in the Special Terms and Conditions.

9.6. Before submitting the Tender validity security, the supplier may ask the Buyer to confirm by the CPP IS that it agrees to accept the Tender validity security submitted by CPP IS. In such a case, the Buyer must respond to the supplier by means of CPP IS not later than within 3 (three) business days from the day the request is received. This confirmation does not detract from the right of the Buyer to subsequently reject the Tender validity security upon receipt of information that the economic entity securing the Tender has become insolvent or has failed to fulfil its obligations to the Buyer or other economic entities or has not executed them properly.

9.7. The Tender validity security must make it obligatory to pay to the Buyer the amount specified in Section 6 of the Special Terms and Conditions if:

9.7.1. the supplier will withdraw its Tender during its validity term;

9.7.2. the supplier whose Tender is declared to be a winner will refuse to conclude a Procurement Contract in writing, will not conclude the Procurement Contract before

the specified term, or will not provide the Procurement Contract security specified in the Procurement Documents (if required) or refuse to conclude a Procurement Contract in accordance with the terms and conditions specified in the Procurement Documents.

9.8. Buyer waives the requirements of Tender validity security document if at least one of the following conditions are present:

9.8.1. the Tender validity security expires;

9.8.2. the Procurement Contract enters into force and the performance of the Procurement Contract is secured (if required);

9.8.3. Procurement procedures were cancelled;

9.8.4. all Tenders are rejected.

9.9. The validity term of Tender validity security document shall not be shorter than the validity term of the supplier's Initial and Final Tender.

9.10. The Tender validity security document is not returned because it is provided in electronic form.

## 10. ENCRYPTION OF TENDER PRICE

10.1. During the submission of the Final Tender for the procurement by CPP IS, the supplier may use the opportunity to encrypt its Tender (except in cases where the Buyer has specified in Section 10 of the Special Terms and Conditions that it determines the fixed price or fixed costs itself, while the suppliers compete and the most economically advantageous Tender is selected on the basis of quality criteria only). Supplier who decides to submit an encrypted Final Tender must:

10.1.1. no later than **by the term for the submission of Final Tenders** specified in the Buyer's notice submit the encrypted Final Tender (to encrypt all the attached Tender documents) using the CPP IS means or encrypt only the completed attached Tender document, containing the price or costs of the Tender prepared in accordance with Annex 2 to the Special Terms and Conditions<sup>3</sup>;

10.1.2. **before the beginning of the procedure (meeting) for introduction with the Final Tenders**, specified in the Buyer's notice, provide a password by the means of CPP IS correspondence with which the Buyer will be able to decipher the supplier's encrypted Final Tender (hereinafter referred to as the password).

10.2. If the supplier encrypts:

10.2.1. the entire Final Tender and before the beginning of the procedure (meeting) for introduction with the Final Tenders does not submit the password (due to its own fault) or submit an incorrect password, using which the Buyer was unable to decipher the Final Tender, the Tender will be considered not submitted and will not be evaluated;

10.2.2. the Tender document specifying the final price or costs of the Tender and submits the other Tender documents without encrypting them and before the beginning of the procedure (meeting) for introduction with the Final Tenders does not submit the password (due to its own fault) or submit the incorrect password, using which the Buyer was unable to decipher the Final Tender document – the Buyer will reject the supplier's Final Tender as non-compliant with the requirements set out in the Procurement Documents (the supplier has not provided the Final Tender price or costs), unless otherwise specified in the Special Terms and Conditions.

10.3. In the event of technical problems of CPP IS, when the supplier is not able to provide the Buyer with a password by the means of CPP IS correspondence, the supplier has the right to provide the Buyer with a password using other means: via e-mail of a Buyer's person responsible

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<sup>3</sup> Instructions on how to encrypt a document can be found at:

[http://vpt.lrv.lt/uploads/vpt/documents/files/2\\_pdfsam\\_Naudojimosi%20CVPI%20taisikles.pdf](http://vpt.lrv.lt/uploads/vpt/documents/files/2_pdfsam_Naudojimosi%20CVPI%20taisikles.pdf).

for the Procurement (specified in the Special Terms and Conditions) or in writing (J. Jasinskio st. 16, 03500 Vilnius, for Procurement department). In such a case, the supplier should be active to ensure that the provided password reaches the contact person in time (for example, by contacting the Buyer with the official phone number and/or other means).

10.4. The Supplier can provide the password not by the means of CPP IS correspondence only if technical problems have been recorded (a technical problem is a recorded CPP IS disruption, which causes more than 10 registered users (in different organizations) not perform the necessary functions, i.e. it is impossible to connect to the CPP IS (<https://pirkimai.eviesiejipirkimai.lt/>), the CPP IS correspondence function does not work, the window of Tender submission does not open, or other disruptions of necessary functions and information about the CPP IS disruption is published on the website of the Public Procurement Office (<http://vpt.lrv.lt>)).

## **11. CONFIDENTIALITY OF REQUESTS/TENDERS AND INTRODUCTION TO REQUESTS/TENDERS OF OTHER SUPPLIERS**

**11.1. Suppliers must indicate in the Request/Tender what information contained in the Request/Tender is confidential, if there is any.** Supplier shall indicate the confidential documents on the Request form prepared in accordance with Annex 1 to the Special Terms and Conditions and on the Tender form prepared in accordance with Annex 2 to the Special Terms and Conditions. By submitting the Request/Tender the Supplier must clearly specify on the Request/Tender form which parts of the Request/Tender are confidential, since the winning supplier's Tender and the Procurement Contract and its amendments are publicized by the CPP IS in accordance with the procedure laid down by laws.

11.2 Confidential information may be, for example, a commercial (industrial) secret and confidential aspects of the Tender. The entire Request/Tender of the supplier cannot be considered as confidential. The information required to be published by the laws of the Republic of Lithuania may not be indicated by the supplier as confidential. The information specified in Items 1–4 of Article 32 (2) of the Law on Procurement cannot be considered confidential. If the supplier does not indicate which information is confidential, then it is considered that there is no such information in the Request/Tender.

11.3. If the Buyer has doubts about the confidentiality of the information contained in the supplier's Request/Tender, it asks the supplier to prove why the information given is confidential. If the supplier does not provide such evidence or provides incorrect evidence within the term specified by the Buyer, which cannot be shorter than 5 business days, such information is deemed to be non-confidential. If the supplier has indicated the information listed in Items 1–4 of Article 32 (2) of the Law on Procurement as confidential, the Buyer has the right to make it public without seeking additional evidence from the supplier.

11.4. No later than within 6 months after the conclusion of the Procurement Contract, Stakeholders may request the Buyer to familiarize them with the Tender or the Request of the winning supplier (Candidates – with Requests of other suppliers invited to submit Tenders). If the Buyer receives the request of the Candidate or Stakeholder during the term specified in this Clause, it will allow him to familiarize with the information requested, except the information, which the winning Participant, without violating the provisions of Article 32 (2) of the Law on Procurement, has indicated as confidential.

11.5. If, in the Procurement Documents, samples of goods are requested to be submitted, after the evaluation of the Tender, the determination of ranking of the Tenders and the decision on the winning Tender, before the conclusion of the Procurement Contract, it is permissible for all Participants (in writing, upon request to the Buyer) to familiarize themselves with the samples provided.

## **12. PROCEDURE FOR ACCESS TO REQUESTS/TENDERS**

12.1. **Requests** submitted by the means of CPP IS will be accessed electronically at the address and time specified in the Special Terms and Conditions.

12.2. Familiarization with the **Initial Tenders** submitted by suppliers by the means of CPP IS will take place electronically. The place and time of familiarization with the Initial Tenders will be indicated by a separate Buyer's notification sent to the supplier by the means of CPP IS.

12.3. Familiarization with the **Final Tenders** submitted by suppliers by CPP IS will take place electronically after the negotiation procedure. The place and time of familiarization with the Final Tenders will be indicated in the separate Buyer's notification sent to the supplier by the means of CPP IS.

12.4. The procedure for familiarization with the Initial and Final Tenders is carried out in the absence of suppliers and/or their authorized representatives that submitted the Request, Initial and Final Tenders.

12.5. Subsequent procedures of examination and evaluation of the Requests, Initial and Final Tenders are performed in the absence of suppliers and/or their authorized representatives.

12.6. After the procedure of familiarization with the Requests, Initial and Final Tenders, the Buyer does not provide suppliers with information about the suppliers who submitted the Requests, Initial and Final Tenders, the offered prices or costs until the Final Tenders are evaluated and the order of the Tenders is determined. Information about the procurement Participants and the prices or costs of the Final Tenders submitted by them is provided by the Buyer only after the evaluation of the Final Tenders and the determination of the order of the Tenders with the same means which are used for the performance of the Procurement.

## **13. EXAMINATION, EVALUATION AND REASONS FOR REJECTION OF REQUESTS**

13.1. Requests will be examined and evaluated confidentially, in the absence of suppliers and/or their authorized representatives. If the Special Terms and Conditions specify that the Procurement object is split into parts – the Requests for each part of the Procurement object are examined, evaluated and compared separately.

13.2. The Commission examines the Requests in the following order:

13.2.1. assesses the provided ESPD information;

13.2.2. assesses the compliance of the Request with the requirements set out in the Procurement Documents.

13.3. If the supplier, together with the ESPD, has submitted documents confirming the absence of grounds for elimination and compliance with the qualification requirements, the Buyer does not evaluate them in the stage of the procedures referred to in Clause 13.2.1 of this Section (except in cases where the Buyer verifies such documents in accordance with Section 3 of the Special Terms and Conditions).

13.4. If the supplier has not provided the ESPD (or provided only one economic entity's ESPD, for example, the suppliers' group provided only one partner's ESPD), the Commission addresses to the supplier and requests this document to be submitted within a reasonable term which is sufficient for the supplier to fill in the ESPD.

13.5. If the supplier, by filling out the ESPD, fails to indicate that it has met the requirement (s) or if the data provided in the submitted ESPD is inaccurate, then the Commission may ask the supplier to explain ESPD within a reasonable term.

13.6. Commission, after having assessed the information provided by the ESPD, shall make a decision on each supplier that submitted a Request and within three (3) business days at the latest shall notify the results of this verification in writing to each of them.

13.7. After notifying the results of the evaluation referred to in Clause 13.6 of this Section, the Buyer shall assess whether the supplier's Request complies with the requirements for

preparation and submission of the Request (if according to the Special Terms and Conditions the Qualification Selection is being carried out – the Buyer performs this procedure in compliance with the procedure specified in the Special Terms and Conditions) and determines the suppliers which are going to be invited to submit the Initial Tenders (invitation to submit Initial Tenders shall be sent by the means of CPP IS correspondence). The Buyer shall inform the suppliers regarding the results of this evaluation (including the information whether the supplier is invited/not invited to submit an Initial Tender) no later than within 3 (three) business days after the decision is made.

13.8. If the supplier has submitted inaccurate, incomplete or incorrect documents or data on compliance with the requirements of the Procurement Documents or such documents or data are missing, the Commission must, without prejudice to the principles of equality and transparency, request the supplier to revise, supplement or explain these documents or data within a reasonable term. Only new documents or data regarding the absence of the supplier's grounds for elimination, compliance with qualification requirements, quality management system and environmental management system standards, also the supplier's authorization to sign the Request, joint venture agreement and documents not related to the object of procurement, its technical characteristics, the terms of the performance of the Contract or the price of the Tender may be revised, supplemented, explained and submitted.

13.9. In the event of questions regarding the content of the Requests and upon request of the Commission by the means of CPP IS correspondence, suppliers will have to submit supplementary explanations by the means of CPP IS correspondence within the term indicated by the Commission, without changing the substance of the Request.

**13.10. The Commission will reject the Request if:**

13.10.1. the supplier shall not meet the requirements of the ESPD set out in the Procurement Documents or shall provide inaccurate or incomplete data of ESPD in the Request and within the term specified by the Buyer, shall not clarify, supplement, explain or submit the documents along with the Request as specified in Clauses 13.8 and 13.9 of this Section:

13.10.1.1. when the supplier has indicated in the ESPD that it does not meet the requirement (for example, it does not meet the qualification requirement or there is a ground for elimination when the supplier has not indicated that it applies the measures referred to in Article 46 (8) of the Law on Public Procurement), the Commission informs such supplier about the elimination of its Request and does not examine it any further;

13.10.1.2. when the supplier did not provide the ESPD (or provided the ESPD of a single entity, for example, a group of suppliers provided the ESPD of only one partner) at the request of the Commission, did not clarify the ESPD, or after clarifying it indicated that there are grounds for elimination and/or it does not meet the qualification requirements;

13.10.2. the supplier's Request does not meet the requirements set out in the Procurement Documents.

## **14. EXAMINATION, EVALUATION AND REASONS FOR REJECTION OF INITIAL TENDERS**

14.1. Tenders will be examined and evaluated confidentially, in the absence of suppliers and/or their authorized representatives. If the Special Terms and Conditions specify that the Procurement object is split into parts – the Tenders for each part of the Procurement object are examined, evaluated and compared separately.

14.2. If the supplier has provided inaccurate, incomplete or false documents or data on compliance with the requirements of the Procurement Documents or there is a lack of such documents or data, the following conditions shall be followed:



14.2.1. without prejudice to the principles of equality and transparency, Commission must request the supplier to clarify, supplement or explain these documents or data within the reasonable term set by it. Supplier must reply to the request by the term set by the Buyer and clarify, supplement or explain the Tender, as required by the Buyer (otherwise its Tender is rejected);

14.2.2. only documents or data that are not related to the Procurement object, its technical characteristics, conditions for the execution of the Procurement Contract or the price of the Tender, also the supplier's power of attorney to sign the Tender, the joint venture agreement, the document securing the Tender validity may be amended, supplemented, clarified and submitted new;

14.2.3. other documents or data of the supplier's Tender (not specified in Clause 14.2.2 of this Section) may be amended, supplemented or clarified (no new documents or data may be submitted) in accordance with Article 64 (9) of the Law on Procurement. By amending, supplementing or clarifying these documents and data, it is not allowed to change the substance of the Tender – to change the price or to make other changes that would render a Tender which does not meet the requirements of the Procurement Documents to become compliant with the requirements of the Procurement Documents.

14.3. If, in the initial Tender submitted, the Commission finds errors in the calculation of the price or costs (if it is required) indicated in the Tender, it shall be corrected during the procedure of negotiations.

**14.4. The Commission may reject the Initial Tender if:**

14.4.1. the supplier shall not specify, supplement, explain or submit the documents indicated in the Procurement Documents that should be submitted together with the Tender within the term specified by the Buyer, how it is required in Clause 14.2 of this Section;

14.4.2. the supplier's Initial Tender shall not meet the Minimum Requirements.

14.5. Buyer, having evaluated the Initial Tenders submitted by the suppliers and having notified the results of this evaluation, invites for negotiations the suppliers whose Initial Tenders have met the Minimum Requirements.

## **15. NEGOTIATIONS AND PROVISION OF FINAL TENDERS**

15.1. After analysing the Initial Tenders, the Commission by the means of CPP IS invites the suppliers whose Initial Tenders meet the Minimum Requirements to negotiate the terms of the Tender. During the negotiations, the Tender price and other terms of the Tender may be negotiated with the supplier in order to obtain the best result in accordance with the requirements of the Procurement Documents. Minimum Requirements, the final negotiation result recorded in the minutes of the negotiations or in the Final Tender submitted after negotiations set out in the Procurement Documents cannot be negotiated.

15.2. Negotiations can be made at a meeting/in written form by the means of CPP IS or by e-mail/conference phone and/or online. The negotiation procedure for this Procurement is indicated in Section 10 of the Special Terms and Conditions and in the invitation sent to the supplier by the means of CPP IS correspondence. Information on whether the negotiation stages will be applied at the time of Procurement to reduce the number of Tenders under Article 75 (4) of the Law on Procurement and information on the stages of the negotiations is provided in Section 10 of the Special Terms and Conditions.

15.3. If the negotiations are conducted orally at a meeting, the invitation to enter the negotiations shall indicate the place of negotiations, the exact time. If the representative of the supplier cannot arrive at the time specified in the invitation, it must immediately inform the Commission and agree on the other time.

15.4. If the negotiations are conducted orally at the place designated by the Buyer, they shall be recorded. The minutes of the negotiations are signed by the Chairman of the Buyer's Commission, the members of the Commission, Procurement experts who participated in the negotiations, and authorized representative of the supplier with whom it was negotiated. Negotiations may be conducted by the supplier's manager or its authorized employees that have provided an appropriate power of attorney which is signed by the manager.

15.5. Negotiations shall not be recorded into minutes if they are conducted by e-mail or via CPP IS.

15.6. Until the submission of the Final Tenders, the Buyer does not disclose to third parties any information about agreements reached without the consent of the supplier, however, the information required to be published by the laws of the Republic of Lithuania cannot be indicated by the supplier as confidential and the Buyer has the right to publish it.

15.7. All suppliers involved in the negotiations are subject to the same requirements, equal opportunities and uniform information.

15.8. If Section 10 of the Special Terms and Conditions specifies that the negotiations will take place in successive stages, the Buyer will reduce the number of Tenders to be negotiated in accordance with the criteria set out in the Special Terms and Conditions. The Buyer shall inform the suppliers who are not called to the next stage in writing within 3 (three) business days from the date of the relevant decision is made about the selected Tenders and the reasons for their selection.

15.9. The Final Tender is provided by the means of CPP IS within the term specified by the Buyer via CPP IS.

15.10. The Final Tender must be signed by the supplier's manager or its authorized person. If the Tender is submitted not by the supplier's manager, the Tender must include a digital copy of power of attorney granting the right to the supplier's representative to submit and sign the Tender and other documents.

15.11. If the supplier does not enter the negotiations and/or fails to submit the Final Tender by the means of CPP IS, its Initial Tender will be treated as final.

## **16. EXAMINATION, EVALUATION AND REASONS FOR REJECTION OF FINAL TENDERS**

16.1. The Final Tenders will be examined and evaluated confidentially, in the absence of suppliers and/or their authorized representatives who submitted the Final Tenders. If the Special Terms and Conditions specify that the Procurement object is divided into parts, the Final Tenders for each part of the Procurement object are examined, evaluated and compared separately.

16.2. The criterion for evaluating the most economically advantageous Tender, which will be used to evaluate the non-withdrawn Final Tenders of suppliers and in choosing the winner, are specified in Section 10 of the Special Terms and Conditions.

16.3. The prices or costs indicated in the Tenders will be valued in euro excluding VAT. If prices or costs are denominated in foreign currencies, they will be converted into euros according to the reference euro/foreign currency exchange ratio published by the European Central Bank and, in cases where the European Central Bank does not publish the reference euro/foreign currency exchange ratio, – in accordance with the reference euro and foreign currency exchange ratio set by the Bank of Lithuania on the last day of the term for submission of Tenders.

16.4. When analysing the Final Tender submitted by the supplier and determining that the supplier has submitted inaccurate, incomplete or incorrect documents or data regarding compliance with the requirements of the Procurement Documents or that these documents or data are missing, the procedures specified in Clause 14.2 of the General Terms and Conditions shall be followed.

16.5. If in the submitted Final Tender the Commission finds errors or miscalculations in the prices or costs, they must be corrected. By correcting arithmetic errors, the supplier may correct

the price or costs components, but has no right to refuse the price or costs components or to supplement the price or costs with new components.

16.6. The Commission may not evaluate the entire Tender of the supplier, if after checking part of it, it determines that the Tender must be eliminated in accordance with the requirements of the Procurement Documents.

16.7. After evaluating the compliance of the submitted Final Tender with the requirements set out in the Procurement Documents and finding that the Final Tender contains an unusually low final (or component) price or costs, the Commission may ask the supplier to justify an abnormally low price or costs of the Final Tender by the means of CPP IS correspondence within a term indicated by the Commission. The Buyer has to evaluate the risk whether the supplier, in whose Final Tender an abnormally low final price or costs is indicated, will be able to properly execute the Procurement Contract and to ensure that the distortion of competition is prevented. The final price or costs indicated in the Tender may be considered abnormally low if it is 30% or more lower than the arithmetic mean of the proposed final prices or costs of all suppliers whose Final Tenders have not been rejected for other reasons and the price or costs offered do not exceed the Procurement funds established and documented in the documents prepared by the Buyer prior to commencement the Procurement procedure. When evaluating whether the final price or costs indicated in the Final Tender submitted by the supplier is abnormally low, the Buyer follows the provisions of Article 66 (2) and Article 66 (4) of the Law on Procurement.

16.8. After an abnormally low price or cost assessment procedure the Commission, within the reasonable term set by it, requests by the means of CPP IS correspondence from a supplier, whose Tender can be recognized as a winner in accordance with the result of the evaluation, to provide documents confirming the absence of grounds for elimination and evidence of compliance with qualification requirements (unless such documents are not requested in accordance with Clause 4.13.1 of the General Terms and Conditions or have been previously familiarized with in accordance with Clause 4.13.2 of the General Terms and Conditions or the provisions of Section 3 of the Special Terms and Conditions).

16.9. If the supplier, whose Tender can be recognized as the winner, has provided inaccurate or incomplete data on the absence of grounds for elimination and compliance with minimum qualification requirements, the Commission must, without violating the Procurement principles, request the supplier by the means of CPP IS correspondence to add or explain this data within a term set out by the Commission. If the supplier, at the request of the Commission, did not clarify the inaccurate or incomplete data provided to the Commission regarding the absence of the grounds for elimination and conformity with the qualification requirements, the Commission rejects the Tender of such supplier and addresses to another supplier, which on the evaluation results could have been recognized as the winner, for the submission of documents according to the ESPD;

16.10. If the supplier whose Tender according to the evaluation results can be recognized as a winner does not submit the documents confirming the absence of the grounds for elimination and compliance with the qualification requirements within the term set by the Commission, submits false documents or false ESPD, its Tender is rejected and the Commission will contact the supplier in the order after the rejected supplier for the submission of documentation in accordance with the ESPD, or if the supplier has provided the documents in accordance with the ESPD, the Commission will evaluate the absence of the grounds for its elimination and compliance with qualification requirements.

16.11. After evaluating the Final Tenders of the suppliers and the absence of grounds for elimination of the supplier, whose Tender may be recognized as the winner, and the documents proving compliance with qualification requirements, the Buyer shall determine the ranking of Tenders (except in cases where the Tender is submitted by only one supplier). If the Special Terms and Conditions specify that the Procurement object is divided into parts, the order of Tenders is determined for each part of the Procurement object. If the economic value of several submitted

Tenders are the same, by establishing the order of Tenders, the supplier whose Final Tender has been submitted the earliest shall be placed highest in the order.

16.12. Buyer identifies the winner with the most economically advantageous Tender if it satisfies all of the following conditions:

16.12.1. The Final Tender complies with the requirements, conditions and criteria set out in the Procurement Documents (taking into account also the requirements of the Special Terms and Conditions for alternative Tenders, if the Special Terms and Conditions indicate that such Tenders may be submitted);

16.12.2. the supplier has not been eliminated in accordance with the grounds for elimination specified in the Special Terms and Conditions;

16.12.3. the supplier meets the qualification requirements specified in the Special Terms and Conditions and/or the quality management system and/or environmental management system standards (if such requirements have been raised by the Buyer);

16.12.4. the supplier clarified, supplemented, explained the information, as indicated in Clause 16.4 of the General Terms and Conditions, within the term specified by the Buyer;

16.12.5. the price offered is not too high and unacceptable to the Buyer. The price offered is deemed to be excessive and unacceptable if it exceeds the funds allocated by the Buyer for the Procurement, determined and documented in the documents prepared by the Buyer prior to the start of the Procurement procedure. If the price indicated in the most economically advantageous Tender is too high and unacceptable and the Procurement Documents do not indicate the amount of funds for the Procurement, the other Tenders in the order cannot be determined as the winners;

16.12.6. after examining the documents submitted by the supplier in accordance with Clause 16.7 of the General Terms and Conditions, the Buyer determines that:

16.12.6.1. the supplier has provided adequate evidence of the feasibility of the proposed minimum price or costs;

16.12.6.2. the supplier's Tender complies with environmental, social and/or labour law obligations established by European Union and national law, collective agreements and international conventions referred to in Annex 7 to the Law on Procurement.

16.13. Buyer may decide not to conclude a Procurement Contract with the supplier who submitted the most economically advantageous Tender, if it turns out that the Tender does not meet the environmental, social and labour law obligations specified in Article 29 (2)(2) of the Law on Procurement.

16.14. Supplier who cannot be determined as the winner in accordance with the provisions of Clause 16.12 of this Section, is rejected.

16.15. Supplier is informed in writing about the rejection of the Tender and the reasons for such rejection by the means of CPP IS correspondence.

## **17. INFORMATION ABOUT THE RESULTS OF PROCUREMENT PROCEDURES**

17.1.17.1. Buyer shall immediately, but not later than within 5 business days, notify Stakeholders in writing via CPP IS about the decision taken to determine the winning Tender, which will result in the conclusion of the Procurement Contract, shall provide the summary of relevant information specified in Article 68 (2) of the Law on Procurement, which has not yet been provided during the Procurement procedure, shall indicate the Tender order (if the Special Terms and Conditions specify that the Procurement object is divided into parts, the order of the Tenders is determined for each part of the Procurement object), the winning Tender (if the Special Terms and Conditions specify that the Procurement object is divided into parts, the winner is determined for

each parts of the Procurement object) and information on the exact term of the deferment. Buyer must also indicate the reasons for the decision not to conclude the Procurement Contract.

17.2. Buyer, upon receipt of the request submitted by the Stakeholder in writing, shall provide the following information in detail within 15 (fifteen) days from the date of receipt of the request:

17.2.1. to the candidate – the reasons for rejection of his/her request;

17.2.2. to the supplier whose Tender was not rejected:

17.2.2.1. the characteristics and relative advantages, including the price, of the winning Tender for which this Tender has been recognized as the best, as well as the names of the Participant or contracting party who submitted this Tender;

17.2.2.2. information on the process and progress of the negotiations;

17.2.3. the supplier whose Tender was rejected – the reason for the rejection of the Tender, including, if applicable, information that Clause 16.6 of the General Terms and Conditions has been used, and in cases referred to in Article 50 (6) and (7) of the Law on Procurement – also the reasons for the decision on inequality or a decision that the Procurement object does not meet the provided description of the results or functional requirements.

## **18. DECISION ON THE CONCLUSION OF A PROCUREMENT CONTRACT**

18.1. The winning supplier will have to sign a Procurement Contract within the term specified by the Buyer. The time for signing the Procurement Contract will be determined by a separate written notice sent by the means of CPP IS or indicated in the notice on the winning Tender.

18.2. If the supplier whose Tender is declared to be the winner, in writing or by the means of CPP IS correspondence refuses to conclude the Procurement Contract, does not sign the Procurement Contract before the time indicated by the Commission, does not provide the Contract performance security (if it is required) specified in the Procurement Documents or refuses to conclude the Procurement Contract under the terms and conditions set out in the Procurement Documents, the supplier will be deemed to have refused to conclude the Procurement Contract. In such a case, the Buyer will propose to conclude the Procurement Contract with the supplier whose Tender in accordance with the established order of Tenders will be the first after the supplier who refused to conclude the Procurement Contract if the conditions set forth in Article 58 (1) of the Law on Procurement are fulfilled.

18.3. The Procurement Contract will be concluded immediately, but not earlier than the time limit for the deferment of the award of the Procurement Contract expires – it is the time limit of 10 (ten) days (in the case of international procurement)/ 5 (five) business days (in case of simplified procurement procedure) from the date of sending the notification of the decision to award the Procurement Contract. The term of the deferment may be waived when the sole Participant concerned is the one with whom the Procurement Contract is concluded and there is no Interested Candidate.

18.4. The main conditions of the Procurement Contract are provided in the Special Terms and Conditions.

18.5. The Procurement Contract must not endanger the national security interests. If there is a possibility that the Procurement Contract endangers the national security interests, before the award of the Contract the Buyer shall, in accordance with the provisions of the Law on the protection of objects important to the national security of the Republic of Lithuania, perform a procedure confirming that (i) the Contract intended to be concluded is compliant with the national security interests and such Contract may be concluded and executed or (ii) if the Contract intended to be concluded does not comply with the national security interests it may not be concluded as

long as the causes that endanger the national security interests are not eliminated if such causes can be eliminated. The verification of the conformity of the Procurement Contract with the national security interests shall be performed in the following cases:

a) when the value of the Procurement Contract exceeds 10 (ten) percent of the Buyer's annual revenue for the previous financial year;

b) termination of the Procurement Contract could result to the Buyer in additional costs or losses, value of which would exceed 2.5 percent of the Buyer's annual revenue for the previous financial year;

c) on the basis of the Procurement Contract the other Contract party or third parties is (are) entitled to service, access or otherwise to reach the essential information technologies, their systems or infrastructure, databases or data contained in the Buyer's Security Plans;

d) in other cases, when the Buyer has information that the Procurement Contract may endanger the national security interests.

## **19. DISPUTE SETTLEMENT PROCEDURE**

19.1. Supplier who considers that the Buyer has not complied with the requirements of the Law on Procurement, thereby violating or breaching its legitimate interests, has the right, prior to the conclusion of the Procurement Contract, to make a claim to the Buyer regarding the actions of the Buyer or the decisions made. The procedure for the settlement of disputes is established in Section VII of the Law on Procurement.

19.2. Buyer only examines the claims of the suppliers that were received before the day the Procurement Contract was concluded.

19.3. After receiving the claim, the Buyer immediately stops the Procurement procedure until the claim and decision have been examined.

19.4. Disputes are heard in the courts of the Republic of Lithuania. The laws of the Republic of Lithuania are applied to the settlement of a dispute.

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