**EXHIBIT 4**

**DECLARATION**

**FOR**

**THE ABSENCE OF GROUNDS FOR EXCLUSION UNDER ART. 60 OF CONCESSIONS ACT**

I, the undersigned **[*full names of the representative of the Bidder*],**

In the capacity of **[*registered / authorized*]** representative of **[*****name of Bidder*],**

with identification code/No**. [*UIC / registration or company number at a commercial register / equivalent identification number*],**

having a seat and registered office at **[*country, town, No. str., other*],**

in relation to participation of the company I represent in a tender for **Selection of Cargo Operator at Sofia International Airport,**

hereby declare the following circumstances:

**Part I: Grounds for exclusion under Art. 60, para. 2 of CA**

**applicable to subcontractors under Art.134, para 2 of CA[[1]](#footnote-1)**

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| --- |
| ***Under Art. 60, para. 2 of the Concessions Act (CA), grounds for exclusion shall be:***   1. ***Conviction by final judgment*** *effective for the applicant or bidder, or a member of its management or supervisory body, who has powers of representation, decision or control therein, for a committed crime under Art. 108а, Art. 159а – 159d, Art. 192а, Art. 212, Par.. 3, Art. 248а, Art. 253, Art. 253а, Art. 254b, Art. 301 - 302а, Art. 304 - 305а, Art. 307, Art. 321 and Art. 321а of the Penal Code, or a final judgment or other judicial act for analogous crime in another Member State of the European Union or a third country;* 2. ***Enforced judicial or administrative act****, establishing that the applicant or bidder has not met the obligations relating to the payment of taxes or mandatory social security contributions within the meaning of Art. 162, para. 2, item 1 of the Tax Insurance Procedure Code and the interests accrued thereon applicable in the Republic of Bulgaria, or similar obligations under the legislation of the country in which the applicant or bidder is established;* 3. ***Enforced administrative or judicial act****, by which the applicant or bidder is not allowed to participate in any public procurement or concessions award procedures under the national laws of the country where it is established, or in another Member State of the European Union;* 4. ***Enforced administrative or judicial act*** *establishing that the applicant or bidder:* 5. *Is guilty of grave professional misconduct, or* 6. *Has not met the obligations in the field of environmental, social and labour law, established by the national legislation, the European Union law, collective agreements or by international conventions in the social field and in the field of environment under Annex No. 5, or* 7. *Has entered into an agreement with one or more other economic operators distorting competition;* 8. ***Material breach*** *by the applicant or bidder* ***of an obligation under a concession contract or public procurement contract****, resulting in the termination of the respective contract;* 9. ***Registration of the applicant or bidder, or of parties related thereto, in a jurisdiction with a preferential tax regime*** *within the meaning of § 1, item 64 of the Additional Provisions of the Corporate Income Taxation Act;* 10. ***Declared bankruptcy or liquidation, or initiated insolvency proceedings*** *for the applicant or bidder, or a similar procedure under the national laws of the country in which they are established.*   ***Under Art. 60, para. 4 of CA, the grounds for exclusion shall not be applicable, where:***   1. ***in the cases under item 1,*** *the applicant or bidder is rehabilitated, as well as when 5 years have expired or will have expired from the effective date of the criminal conviction by the end of the procedure leading to the choice of subcontractor and the applicant or bidder has provided evidence that they have paid the due compensation for the damages resulting from the committed criminal offence;* 2. ***in the cases under item 2****:* 3. *5 years have expired or will have expired from the entry into force of the relevant act by the end of the procedure leading to the choice of subcontractor and the applicant or bidder has provided evidence that they have met their obligations, including for accrued interests or fines, or* 4. *The term under letter “a” has not yet expired, yet the applicant or bidder has provided evidence that:*   *аа) it has met its obligations by having paid or by having ensured deferred or rescheduled payment or security of debt, including for accrued interests or fines, or*  *bb) it has been notified of the exact amount due as a result of the breach at a time when it was unable to apply a measure under letter “a” prior to the expiry of the term for the submission of the application;*   1. ***In the cases under item 3,*** *the term of the exclusion has expired;* 2. ***In the cases under item 4, letters “a” and “b” and item 5,*** *three years have expired or will have expired from the entry into force of the relevant act under item 4 by the end of the procedure leading to the choice of subcontractor, or respectively until the termination of the contract or imposing a penalty under item 5, and the applicant or bidder has provided evidence that it has paid the due compensations, including for damages resulting from the breach;* 3. ***In the cases under item 4, letter “b”,*** *the applicant or bidder has provided evidence that it has met the obligation or that by the end of the procedure leading to the choice of subcontractor three years will have expired from the entry into force of the act establishing the breach, as well as evidence that it has paid the due compensations, including for the damages resulting from the breach;* 4. ***In the case under item 6,*** *the applicant or bidder has provided evidence of the existence of any of the circumstances under Art. 4 of the Act on the Economic and Financial Relations with Companies Registered in Preferential Tax Regime Jurisdictions, the Persons related to them and their Beneficial Owners.* |

**1. Grounds relating to criminal convictions**

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| --- | --- |
| ***Grounds under Art. 60, para. 2, item 1 of CA:*** | ***Answer:*** |
| **Is there an effective conviction by final judgment served** against the Bidder or a member of its management or supervisory body, or a person who has powers of representation, decision or control therein, relating to any of the grounds listed hereinabove? | [] Yes [] No |
| **If yes,** please, indicate[[2]](#footnote-2):  а) date of judgment, which of the crimes referred to in Art. 60, para. 2, item 1 of CA it is related to and the ground(s) based on which the judgment has been served;  b) indicate the person, who has been convicted [ ]; | a) date: [ ], crime(s): [ ], ground(s):[ ]  b) [……]  *If the relevant documentation is available electronically, please indicate: (web address, issuing authority or body, precise reference of the documentation): [……][……][……][……][[3]](#footnote-3)* |
| If there is an effective conviction by final judgment, **are there reasons not to apply these grounds for exclusion**, in compliance with Art. 60, para. 4, item 1 of CA? | [] Yes [] No |
| **If yes**, please indicate the relevant reasons not to apply the grounds for exclusion, more precisely:  а) the convicted person is rehabilitated; **or**  b) 5 years have expired at the date of this Declaration or will have expired by the end of the procedure leading to the choice of subcontractorfrom enforcing the conviction served **and** the Bidder has presented evidence that the due compensation for the damages resulting from the crime have been paid (if applicable). | Grounds: [……]  Evidence: [……]  *If the relevant documentation is available electronically, please indicate: (web address, issuing authority or body, precise reference of the documentation): [……][……][……][……][[4]](#footnote-4)* |

**2. Grounds related to the payment of taxes and social security contributions**

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| --- | --- | --- |
| ***Grounds under Art. 60, para. 2, item 2 of CA:*** | ***Answer:*** | |
| **Is there an effective judicial or administrative act served** against the Bidder, establishing that the Bidder has not met its obligations related to the payment of taxes and of mandatory social security contributions within the meaning of Art. 162, para. 2, item 1 of the Tax Insurance Procedure Code and the interests accrued thereto in the Republic of Bulgaria, or similar obligations under the legislation in the country where the Bidder is established? | [] Yes [] No | |
| **If yes,** please indicate[[5]](#footnote-5):  а) the respective country or Member State;  b) the size of the respective amount;  c) the way in which the breach of obligations has been established – by a court decision or administrative act;  d) date of the decision/act: | **Taxes** | **Social security contributions** |
| a) [……]  b) [……]  c) [……]  d) [……] | a) [……]  b) [……]  c) [……]  d) [……] |
| If there is an effective judicial or administrative act, **are there reasons not to apply these grounds for exclusion** in compliance with Art. 60, para. 4, item 2 of CA? | [] Yes [] No | |
| **If yes,** please indicate the relevant reasons not to apply the grounds for exclusion, more precisely:   1. 5 years have expired from the entry into force of the respective act or will have expired by the end of the procedure leading to the choice of subcontractor **and** the Bidder has provided evidence that it has met the obligations, including those for accrued interests or fines, **or** 2. the term under letter “a” above has not yet expired, yet the Bidder has provided evidence that:   аа) has met its obligations by having paid or by having ensured deferred or rescheduled payment or security of debt, including for accrued interests or fines, **or**  bb) has been notified of the exact amount of obligations due as a result of the breach, at a time when it has been unable to apply a measure under letter “a” prior to the expiry of the term for the submission of the application. | a) [] Yes [] No Evidence: [……]  b) [] Yes [] No  аа) [] Yes [] No  Evidence: [……]  bb) [] Yes [] No Evidence: [……] | |
| *If the relevant documentation concerning the payment of taxes or social security contributions is available electronically, please indicate:* | *(web address, issuing authority or body, precise reference of the documentation):* *[……][……][……][……][[6]](#footnote-6)* | |

**3. Grounds relating to a ban from participation in public procurement or concession award procedures**

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| --- | --- |
| ***Grounds under Art. 60, para. 2, item 3 of CA:*** | ***Answer:*** |
| **Is there an effective administrative or judicial act issued** against the Bidder, which bans the Bidder from taking part in public procurement or concession award procedures under the national laws of the country in which it is established, or at any other country – a Member State of the European Union? | [] Yes [] No |
| **If yes,** please indicate[[7]](#footnote-7):  а) the respective country or Member State, where the act has been issued;  b) what is the act imposing the ban – a court decision or an administrative act;  c) the date of the decision/act: | a) [……]  b) [……]  c) [……] |
| If there is an effective administrative or judicial act, **is there a reason not to apply this ground for exclusion** under Art. 60, para. 4, item 3 of CA, more precisely: has the term of exclusion expired? | [] Yes [] No |
| **If yes,** please, indicate the date of expiry of the term of exclusion, and the document/s establishing this (*if applicable*): | Date: [……]  Evidence: [……] |
| *If the relevant documentation concerning the ban for participation in public procurement or concession award procedures is available electronically, please, indicate:* | *(web address, issuing authority or body, precise reference of the documentation):* *[……][……][……][……][[8]](#footnote-8)* |

**4. Grounds relating to other breaches**

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| --- | --- |
| ***Grounds under Art. 60, para. 2, item 4 of CA:*** | ***Answer:*** |
| 1. **Is there an effective administrative or judicial act issued** against the Bidder, establishing that the Bidder:   a)Is guilty of a grave professional misconduct[[9]](#footnote-9), or  b) Has not met its obligations in the field of environmental, social and labour law, established by the national legislation, the European Union law, collective agreements or international conventions in the social field and in the field of the environment under Annex No. 5 to CA, or  c) Has entered into an agreement with one or more other economic operators aimed at distorting competition? | 1. [] Yes [] No 2. [] Yes [] No 3. [] Yes [] No |
| 1. **If yes,** please indicate[[10]](#footnote-10):   а) the respective country or Member State where the act has been issued;  b) what is the act establishing the breach – a court decision or an administrative act;  c) date of the decision/act: | a) [……]  b) [……]  c) [……] |
| 1. If there is an effective administrative or judicial act, **is there a reason not to apply this ground for exclusion** under Art. 60, para. 4, item 4 or item 5 of CA? | [] Yes [] No |
| 1. **If yes,** please indicate the relevant reason not to apply the ground for exclusion, more precisely: 2. In the cases under letters “a” and “c” of para. (1) hereinabove - 3 (three) years have expired or will have expired by the end of the procedure leading to the choice of a subcontractor from the date of entry into force of the relevant act, **and** the Bidder has provided evidence that it has paid the due compensation, including for damages, resulting from the respective breach; 3. In the cases under letter “b” of para. (1) hereinabove, the Bidder has provided evidence that it has met its obligation or that 3 (three) years will have expired by the end of the procedure for leading to the choice of subcontractor from the date of entry into force of the act establishing the breach, as well as evidence that it has paid the due compensations including for the damages resulting from the breach? | a) [] Yes [] No  Evidence: [……]  b) [] Yes [] No  Evidence: [……] |
| *If the relevant documentation is available electronically, please indicate:* | *(web address, issuing authority or body, precise reference of the documentation):* *[……][……][……][……][[11]](#footnote-11)* |

**5. Grounds relating to the default on a concession contract or a public procurement contract**

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| --- | --- |
| ***Grounds under Art. 60, para. 2, item 5 of CA:*** | ***Answer:*** |
| Has the Bidder committed in the past a **material breach of an obligation under a concession contract or a public procurement contract,** that has resulted in the termination of that contract? | [] Yes [] No |
| **If yes,** please, describe in detail[[12]](#footnote-12): | [……] |
| In the event of the above circumstance, **is there a reason not to apply the ground for exclusion** under Art.60, para. 4, item4 of CA, more precisely: 3 (three) years have expired or will have expired until the end of the procedure leading to the choice of subcontractor from the date of termination of the relevant contract **and** the Bidder has presented evidence that it has paid the due compensations, including for the damages resulting from the relevant breach? | [] Yes [] No |
| **If yes**, please indicate the date of expiry of the term and provide document/s to certify the payment of the due compensations (*if applicable*): | Date: [……]  Evidence: [……] |
| *If the relevant documentation is available electronically, please indicate:* | *(web address, issuing authority or body, precise reference of the documentation):* *[……][……][……][……][[13]](#footnote-13)* |

**6. Grounds relating to the registration in a jurisdiction with preferential tax regime**

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| --- | --- |
| ***Grounds under Art. 60, para. 2, item 6 of CA:*** | ***Answer:*** |
| Does the Bidder or any persons related thereto[[14]](#footnote-14) have a **registration in a jurisdiction with preferential tax regime** within the meaning of § 1, item 64 of the Additional Provisions of the Corporate Income Tax Act[[15]](#footnote-15)? | [] Yes [] No |
| **If yes,** please describe in detail[[16]](#footnote-16): | [……] |
| In the event of the above circumstance, **is there a reason not to apply this exclusion ground** under Art. 60, para. 4, item 6 of CA? | [] Yes [] No |
| **If yes,** please provide evidence for any of the circumstances under Art. 4 of the Act on the Economic and Financial Relations with Companies Registered in Jurisdictions with Preferential Tax Regime, the Persons related with them and their Beneficial Owners: | Evidence: [……] |
| *If the relevant documentation is available electronically, please indicate:* | *(web address, issuing authority or body, precise reference of the documentation):* *[……][……][……][……][[17]](#footnote-17)* |

**7. Grounds relating to insolvency**

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| --- | --- |
| ***Grounds under Art. 60, para. 2, item 7 of CA:*** | ***Answer:*** |
| There is in relation to the Bidder:  а) **declared insolvency**, or  b) initiated **liquidation** procedure, or  c) **initiated insolvency proceedings**, or  d) **a similar procedure** pursuant under the national laws of the country in which it is established[[18]](#footnote-18)? | 1. [] Yes [] No   b) [] Yes [] No   1. [] Yes [] No 2. [] Yes [] No |
| *If the relevant documentation is available electronically, please indicate:* | *(web address, issuing authority or body, precise reference of the documentation): [……][……][……][……]* |

**Part II: ACKNOWLEDGEMENT AND DECLARATION**

The undersigned declares that the information referred to hereinabove is true and correct and is presented with clear understanding of the implications of presenting false information.

The undersigned officially declares that is able upon request and without any delay to provide the specified certificates and other forms of documentary evidence, save in the cases when SOF Connect may obtain the specified documents by accessing directly the relevant national data-base at any Member State, which is accessible for free[[19]](#footnote-19).

The undersigned gives official consent to SOF Connectto be granted access to the documentation supporting the information presented in hereinabove of this Declaration for the purposes of the procedure for **“*Selection of Cargo Operator at Sofia International Airport*”**

Date, place:

[…………………………………]

Signature(s)

[…………………………………]

1. *The text is unofficial translation from Bulgarian. The official wording of the Bulgarian Concessions Act at the date of the declaration will be the valid reference.* [↑](#footnote-ref-1)
2. Please, repeat as many times as necessary. [↑](#footnote-ref-2)
3. Please, repeat as many times as necessary. [↑](#footnote-ref-3)
4. Please, repeat as many times as necessary. [↑](#footnote-ref-4)
5. Please, repeat as many times as necessary. [↑](#footnote-ref-5)
6. *Please, repeat as many times as necessary.* [↑](#footnote-ref-6)
7. *Please, repeat as many times as necessary.* [↑](#footnote-ref-7)
8. *Please, repeat as many times as necessary.* [↑](#footnote-ref-8)
9. *Under §1 item18 of the Additional Provisions of CA, “****a grave professional misconduct****” shall be a breach by the Bidder of the applicable laws or regulations, or ethical standards of the profession to which the Bidder belongs, as well as of the intellectual property rights.* [↑](#footnote-ref-9)
10. *Please, repeat as many times as necessary.* [↑](#footnote-ref-10)
11. *Please, repeat as many times as necessary.* [↑](#footnote-ref-11)
12. *Please, repeat as many times as necessary.* [↑](#footnote-ref-12)
13. *Please, repeat as many times as necessary.* [↑](#footnote-ref-13)
14. *Under §1 item 16 of the Additional Provisions of CA,* ***“related persons”*** *are:*

    *a) relatives in the direct line to an unlimited degree;*

    *b) relatives in the collateral line up to the fourth degree included;*

    *c) relatives by marriage up to the second degree included;*

    *d) spouses or persons in statutory cohabitation;*

    *e) partners;*

    *f) the persons, one of whom takes part in the management of the company of the other person;*

    *g) a company and a person holding more than 5% of the voting stock or shares issued at the company;*

    *h) a company whose capital is 100% public or municipal ownership, and a person exercising the rights of the state, or of the municipality, respectively, in this company.”*  [↑](#footnote-ref-14)
15. *Under § 1, item 64 of the Additional Provisions of the Corporate Income Tax Act, „****Jurisdictions with Preferential Tax Regime”*** *shall be the states/territories, which are not Member States of the European Union, and do not exchange information with the Republic of Bulgaria by virtue of Directive 2011/16/EU of the Council of 15 February 2011 on Administrative Cooperation in the Field of Taxation and repealing Directive 77/799/EEC (ОВ, L 64/1 of 11 March 2011) and its subsequent amendments and supplements and meet two of the following conditions:*

    *а) there is no effective double taxation avoidance agreement between the Republic of Bulgaria and the relevant state/territory or an effective bilateral or multilateral agreement for exchange of information on request between the Republic of Bulgaria or the European Union and the relevant state/territory;*

    *b) there is an effective double taxation avoidance agreement between the Republic of Bulgaria and the respective state/territory and an effective bilateral or multilateral agreement for exchange of information on request between the Republic of Bulgaria or the European Union and the respective country/territory, yet the respective state/territory refuses or does not have the capacity to exchange information on request;*

    *c) the due income or corporate tax or their substitute income taxes under Art. 12, para. 9 or under Art. 8, para. 11 of the Income Taxes on Natural Persons Act, which the non-resident person has realized or will realize, is by 60% lower than the income or corporate tax on such income in the Republic of Bulgaria.*

    *The list of states/territories is validated by an order of the Finance Minister at the proposal of the Executive Director of the National Revenue Agency and is promulgated in the State Gazette.*  [↑](#footnote-ref-15)
16. *Please, repeat as many times as necessary.* [↑](#footnote-ref-16)
17. *Please, repeat as many times as necessary.* [↑](#footnote-ref-17)
18. *Under §1 item 17 of the Additional Provisions of CA „****a similar procedure under the national laws of the country in which it is established”*** *is a procedure similar to the insolvency or liquidation* *proceedings within the meaning of the Commerce Act, where the assets of the Bidder are managed by a liquidator, by a trustee or by the court, when there is an arrangement with the creditors and its economic operation has been wound up, or other, pursuant to the national laws of the Bidder.*  [↑](#footnote-ref-18)
19. *On condition that the Bidder has provided the required information (web address, issuing authority or body, precise reference of the documentation), which allows to SOF Connect to do this.* [↑](#footnote-ref-19)