**ANNEX 04**

**Declaration on Honour**

**on Exclusion and Selection Criteria**

*[Instructions:*

* *Please, remember to insert the number of the procedure in the header;*
* *Text in yellow means that text needs to be entered;*
* *Text between [ ] and in yellow means that there are options of which one shall be chosen;*
* *Text between [ ], in italics and in green are instructions/clarifications.*

*Ensure that all instructions and optional text which is not applicable is deleted before issuing the document.]*

**Declaration on Honour**

**on Exclusion and Selection Criteria**

The undersigned [insert name of the signatory of this form], representing:

|  |  |
| --- | --- |
| (*only for natural persons*) himself or herself | (*only for legal persons*) the following legal person: |
| ID or passport number:  …  (‘the person’) | Full official name: …  Official legal form: …  Statutory registration number: …  Full official address: …  VAT registration number:…  (‘the person’) |

The person is not required to submit the declaration on exclusion criteria if the same declaration has already been submitted for the purposes of another award procedure of Fusion for Energy, provided the situation has not changed, and that the time that has elapsed since the issuing date of the declaration does not exceed one year.

In this case, the signatory declares that the person has already provided the same declaration on exclusion criteria for a previous procedure and confirms that there has been no change in its situation:

|  |  |
| --- | --- |
| **Date of the declaration** | **Full reference to previous procedure** |
| … | … |

1. Situation of exclusion concerning the person

|  |  |  |
| --- | --- | --- |
| 1. **declares that the above-mentioned person is in one of the following situations:** | YES | NO |
| 1. it is bankrupt, subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under national legislation or regulations; |  |  |
| 1. it has been established by a final judgement or a final administrative decision that the person is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law ; |  |  |
| 1. it has been established by a final judgement or a final administrative decision that the person is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibity where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following: | | |
| 1. fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract or an agreement; |  |  |
| 1. entering into agreement with other persons with the aim of distorting competition; |  |  |
| 1. violating intellectual property rights; |  |  |
| 1. attempting to influence the decision-making process of the contracting authority during the award procedure; |  |  |
| 1. attempting to obtain confidential information that may confer upon it undue advantages in the award procedure; |  |  |
| 1. it has been established by a final judgement that the person is guilty of the following: | | |
| 1. fraud, within the meaning of Article 3 of Directive (EU) 2017/1371 and Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995; |  |  |
| 1. corruption, as defined in Article 4(2) of Directive (EU) 2017/1371 and Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997, and conduct referred to in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the applicable law; |  |  |
| 1. conduct related to a criminal organisation, as referred to in Article 2 of Council Framework Decision 2008/841/JHA; |  |  |
| 1. money laundering or terrorist financing, within the meaning of Article 1(3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council; |  |  |
| 1. terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision; |  |  |
| 1. child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council; |  |  |
| 1. it has shown significant deficiencies in complying with the main obligations in the performance of a contract financed by the Union’s budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an Authorising Officer, OLAF or the Court of Auditors; |  |  |
| 1. it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95; |  |  |
| 1. it has been established by a final judgment or final administrative decision that the person has created an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business; |  |  |
| 1. (*only for legal persons*) it has been established by a final judgment or final administrative decision that the person has been created with the intent provided for in point (g). |  |  |
| 1. for the situations referred to in points (c) to (h) above the person is subject to: 2. facts established in the context of audits or investigations carried out by the Court of Auditors, OLAF or internal audit, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body; 3. non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics; 4. facts referred to in decisions of entities or persons being entrusted with EU budget implementation tasks 5. information transmitted by Member States implementing Union funds; 6. decisions of the Commission relating to the infringement of Union competition law or of a national competent authority relating to the infringement of Union or national competition law; or 7. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body. |  |  |

1. Situations of exclusion concerning natural or legalpersons with power of representation, decision-making or control over the legal person and beneficial owners[[1]](#footnote-1)

***Not applicable to natural persons, Member States and local authorities***

|  |  |  |  |
| --- | --- | --- | --- |
| 1. **The signatory declares that a natural or legal person who is a member of the administrative, management or supervisory body of the above-mentioned legal person, or who has powers of representation, decision or control with regard to the above-mentioned legal person (this covers e.g. company directors, members of management or supervisory bodies, and cases where one natural person holds a majority of shares)** or a beneficial owner of the person **is in one of the following situations:** | YES | NO | N/A |
| Situation (c) above (grave professional misconduct) |  |  |  |
| Situation (d) above (fraud, corruption or other criminal offence) |  |  |  |
| Situation (e) above (significant deficiencies in performance of a contract ) |  |  |  |
| Situation (f) above (irregularity) |  |  |  |
| Situation (g) above (creation of an entity with the intent to circumvent legal obligations) |  |  |  |
| Situation (h) above (person created with the intent to circumvent legal obligations) |  |  |  |

1. Situations of exclusion concerning natural or legal persons assuming unlimited liability for the debts of the legal person

|  |  |  |  |
| --- | --- | --- | --- |
| 1. **declares that a natural or legal person that assumes unlimited liability for the debts of the above-mentioned legal person is in one of the following situations:** | YES | NO | N/A |
| Situation (a) above (bankruptcy) |  |  |  |
| Situation (b) above (breach in payment of taxes or social security contributions) |  |  |  |

1. Grounds for rejection from this procedure

|  |  |  |
| --- | --- | --- |
| 1. **declares that the above-mentioned person:** | YES | NO |
| Was previously involved in the preparation of the procurement documents used in this award procedure, where this entailed a breach of the principle of equality of treatment including distortion of competition that cannot be remedied otherwise. |  |  |

1. Remedial measures

If the person declares one of the situations of exclusion listed above, it must indicate measures it has taken to remedy the exclusion situation, thus demonstrating its reliability. This may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines or of any taxes or social security contributions. The relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to this declaration. This does not apply for situations referred in point (d) of this declaration.

1. Evidence upon request

Upon request and within the time limit set by Fusion for Energy (F4E) the person must provide information on natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control, including legal and natural persons within the ownership and control structure and beneficial owners.

It must also provide the following evidence concerning the person itself and the natural or legal persons on whose capacity the person intends to rely, or a subcontractor and concerning the natural or legal persons which assume unlimited liability for the debt of the person:

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

For the situation described in point (b), production of recent certificates issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the person is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The person is kindly asked to consult the Guidance on supporting documentation for the Exclusion Criteria available on the F4E Industry Portal, Key Reference Documents section (<https://industryportal.f4e.europa.eu/IP_PAGES/keyreference.aspx>).

The person is not required to submit the evidence if it has already been submitted for another award procedure of Fusion for Energy. The documents must have been issued no more than one year before the date of their request by F4E and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

|  |  |
| --- | --- |
| **Document** | **Full reference to previous procedure** |
| [Insert as many lines as necessary] | … |

1. Selection criteria

|  |  |  |  |
| --- | --- | --- | --- |
| **(1) declares that the above-mentioned person complies with the selection criteria applicable** to it individually as provided **in the *Invitation****[[2]](#footnote-2)***:** | YES | NO | N/A |
| 1. It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in the *Invitation*; |  |  |  |
| 1. It fulfills the applicable economic and financial criteria indicated in the *Invitation*; |  |  |  |
| 1. It fulfills the applicable technical and professional criteria indicated in the *Invitation*. |  |  |  |
| 1. [It fulfills the applicable Quality criteria indicated the *Invitation.*] |  |  |  |
| 1. [It fulfills the applicable [Nuclear] Safety criteria indicated the *Invitation.*] |  |  |  |

*[Adapt the table above to the criteria indicated in the Invitation.]*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **(2) if the above mentioned person the tenderer or the Group Leader (in case of a joint Submission**[[3]](#footnote-3)**), declares that:** | YES | NO | N/A | |
| (f) the tenderer, including all members of the group in case of joint tender and including Other Entities and subcontractors if applicable, complies with all the selection criteria for which a consolidated asseessment will be made as provided in the *Invitation*. |  |  | |  |

1. Documentation for selection

The signatory declares that the above-mentioned person is able to provide the necessary supporting documents listed in the relevant sections of the *Invitation* and which are not available electronically upon request and without delay.

The person is not required to submit the documentation if it has already been submitted for another procurement procedure of Fusion for Energy. The documents must have been issued no more than one year before the date of their request by F4E and must still be valid at that date.

The signatory declares that the person has already provided the documentation for a previous procedure and confirms that there has been no change in its situation:

|  |  |
| --- | --- |
| **Document** | **Full reference to previous procedure** |
| [Insert as many lines as necessary] | … |

***The above mentioned person may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial penalty) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.***

1. EU restrictive measures

The signatory declares under honour that there is no Russian involvement in the entity (or entities) they represent, nor in the contract resulting from this procedure (if awarded to the entity/entities they represent), exceeding the limits set in Article 5k of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, as amended by Council Regulation (EU) No 2022/578 of 8 April 2022.

In particular they declare that:

1. the tenderer they represent, alongside all members of their consortium, if any, are not Russian nationals, nor a natural or legal person, entity or body established in Russia;
2. the tenderer they represent, alongside all members of their consortium, if any, are not a legal person, entity or body whose proprietary rights are directly or indirectly owned for more than 50 % by an entity referred to in point a) of this paragraph;
3. neither them nor the company they represent are a natural or legal person, entity or body act on behalf or at the direction of an entity referred to in point a) or b) above,
4. there is no participation of over 10 % of the contract value of subcontractors, suppliers or entities whose capacities the contractor they represent relies on by entities listed in points a) to c).

|  |
| --- |
| Name and position .……….…………………………….…………………………………  Duly authorised to represent and act on behalf of the economic operator: …  Name of the company/organisation  .……….…………………………….……………………………………………………………  Date and signature .……….…………………………….………………………………… |

1. A ‘beneficial owner’ is defined in point 6 of the Article 3 of Directive (EU) No 2015/849 as any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted. For further description of this definition please check the article at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0849> [↑](#footnote-ref-1)
2. The *Invitation* details the Tender Conditions for a procurement procedure and refers to:

   * the invitation to Participate(first step of the restricted procedure, competitive procedure with negotiation, innovation partnership, negotiated procedure with publication and the competitive dialogue - selection phase);
   * the invitation to Tender / Negotiate / Dialogue(only step in the open procedure and second step of the restricted, competitive procedure with negotiation, innovation partnership, negotiated procedure and competitive dialogue).

   [↑](#footnote-ref-2)
3. A *Joint Submission* is submitted by a group of natural or legal persons (*Group Members*), regardless of the link they may have between them [↑](#footnote-ref-3)