ANNEX II - DECLARATION OF HONOUR (ON EXCLUSION CRITERIA & ABSENCE OF CONFLICT OF INTEREST)

*(To be completed by tenderer and any consortium members)*

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| **Name of the individual** |  |
| representing the following legal person: *(only if the economic operator is a legal person)* |
| **Name of Company / Organisation:** |  |
| **Legal address:** |  |
| **Registration number/ID Card No.:**  |  |
| **VAT number:** |  |

Declares on oath that the above-mentioned natural/legal person is not in one of the following situations:

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

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

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

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

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

(iii) violating intellectual property rights;

(iv) attempting to influence the decision-making process of the contracting authority during the procurement procedure;

(v) attempting to obtain confidential information that may confer upon it undue advantages in the procurement procedure;

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

(i) fraud, within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;

(ii) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997, and in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the law of the country where the contracting authority is located, the country in which the economic operator is established or the country of the performance of the contract;

(iii) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA; (iv) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council;

(v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;

(vi) child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;

(e) the economic operator has shown significant deficiencies in complying with main obligations in the performance of a contract financed by the budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an authorising officer, OLAF or the Court of Auditors; (f) it has been established by a final judgment or final administrative decision that the economic operator has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95.

* declares that the natural persons with power of representation, decision-making or control[[1]](#footnote-1) over the above-mentioned legal entity are not in the situations referred to in b) and e) above;
* declares that the above-mentioned legal/natural person:
1. has **no conflict of interest** in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinity, family, emotional life or any other shared interest;
2. will inform the Contracting Authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
3. has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to award of the contract;
4. provided accurate, sincere and complete information to the Contracting Authority within the context of this procurement procedure;
* acknowledges that the above-mentioned legal/natural person may be subject to administrative penalties[[2]](#footnote-2) if any of the declarations or information provided prove to be false.

In the case of contract award we/I undertake to submit without delay and certainly by no later than 15 days following notification of award and prior to the signature of the contract all the documents requested by the S2R JU in accordance with the tender specifications, including in particular:

* **consortium agreement (in case of a consortium); and**
* the following **documentary proofs** expected from the successful tenderer (and in case of a consortium **from each of the partners to the consortium**) to confirm the declaration on exclusion criteria:
* for points a), b) and e) from the list of exclusion criteria in section 3.1 of the tender specifications a **recent extract from** the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that the requirements are satisfied; and
* for point d) from the list of exclusion criteria in section 3.1 of the tender specifications a **recent certificate issued by** the competent authority of the State concerned; on the understanding that **where** the extract/document or certificate referred to above is not issued in the country concerned, it **may be replaced by** a sworn or, failing that, a solemn statement **made** by the interested party **before** a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

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| --- | --- |
| **Name**  |  |
| **Date & Signature**  |  |

1. This covers the company directors, members of the management or supervisory bodies, and cases where one natural person holds a majority of shares. [↑](#footnote-ref-1)
2. As provided for in Article 109 of the Financial Regulation (EU, Euratom) 966/2012 and Article 145 of the Rules of Application of the Financial Regulation. [↑](#footnote-ref-2)