

## CLEAN HYDROGEN JOINT UNDERTAKING

### Annex III

# Declaration of Honour

## Call for Applications for Receiving Project Development Assistance Support as part of Hydrogen Valleys Facility

### Instructions

*This form must be filled out and signed (via qualified electronic signature or in hand-written form) by an authorised representative of the lead developer. The signed document is to be uploaded as part of the application documents to the designated Application Area in PDF form. The Declaration of Honour will be assessed as part of the Eligibility Criteria.*

The undersigned [*insert name and surname of the signatory of this form*], representing the following legal person:

**Full official name of the legal person:** [*insert full official name of the legal entity of the lead developer*]

**Official legal form:** [*insert official legal form*]

**Statutory registration number:** [*insert statutory registration number*]

**Full official address:** [*insert full official address*]

**VAT registration number:** [*insert VAT registration number*]

Referred to below as ‘**the person**’.

### I – SITUATIONS OF EXCLUSION CONCERNING THE PERSON

(1) declares that the person is in one of the following situations:	YES	NO
(a) 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 Union or national law;	<input type="checkbox"/>	<input type="checkbox"/>
(b) 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;	<input type="checkbox"/>	<input type="checkbox"/>
(c) 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 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	<input type="checkbox"/>	<input type="checkbox"/>

eligibility or selection criteria or in the performance of a contract or an agreement;		
(ii) entering into agreement with other persons or entities with the aim of distorting competition;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) violating intellectual property rights;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) unduly influencing or attempting to unduly influence the decision-making process to obtain Union funds by taking advantage, through misrepresentation, of a conflict of interests involving any financial actors or other persons referred to in Article 61(1) FR;	<input type="checkbox"/>	<input type="checkbox"/>
(v) attempting to obtain confidential information that may confer upon its undue advantages in the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(vi) incitement to discrimination, hatred or violence against a group of persons or a member of a group or similar activities that are contrary to the values on which the Union is founded enshrined in Article 2 TEU, where such misconduct has an impact on the person's integrity which negatively affects or concretely risks affecting the performance of a contract or an agreement;	<input type="checkbox"/>	<input type="checkbox"/>
(d) it has been established by a final judgment that the person is guilty of any of the following:		
(i) 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;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) corruption, as defined in Article 4(2) of Directive (EU) 2017/1371 or active corruption within the meaning of 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, or conduct referred to in Article 2(1) of Council Framework Decision 2003/568/JHA, or corruption as defined in other applicable laws;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) conduct related to a criminal organisation, as referred to in Article 2 of Council Framework Decision 2008/841/JHA;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) 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;	<input type="checkbox"/>	<input type="checkbox"/>
(v) terrorist offences or offences related to terrorist activities as defined in Articles 3 to 12 of Directive (EU) 2017/541 of the European Parliament and of the Council, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 14 of that Directive;	<input type="checkbox"/>	<input type="checkbox"/>
(vi) child labour or other offences concerning trafficking in human beings as referred to in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(e) it has shown significant deficiencies in complying with the main obligations in the performance of a contract or an agreement 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 a contracting authority, the European Anti-Fraud Office (OLAF), the Court of Auditors or the European Public Prosecutor's Office (EPPO);	<input type="checkbox"/>	<input type="checkbox"/>

(f) 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;	<input type="checkbox"/>	<input type="checkbox"/>
(g) it has been established by a final judgment or final administrative decision that the person has created an entity in a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations, including those related to working rights, employment and labour conditions, in the jurisdiction of its registered office, central administration or principal place of business;	<input type="checkbox"/>	<input type="checkbox"/>
(h) ( <i>only for legal persons</i> ) it has been established by a final judgment or final administrative decision that the person has been created with the intent referred to in point (g);	<input type="checkbox"/>	<input type="checkbox"/>
(i) the person has intentionally and without proper justification resisted an investigation, check or audit carried out by the contracting authority or its representative or auditor, OLAF, the EPPO, or the Court of Auditors. It shall be considered that the person resists an investigation, check or audit when it carries out actions with the goal or effect of preventing, hindering or delaying the conduct of any of the activities needed to perform the investigation, check or audit. Such actions shall include, in particular, refusing to grant the necessary access to its premises or any other areas used for business purposes, concealing or refusing to disclose information or providing false information.	<input type="checkbox"/>	<input type="checkbox"/>
(2) declares that, for the situations referred to in points (1)(c) to (1)(i) above, in the absence of a final judgement or a final administrative decision, the person is <sup>1</sup> :	YES	NO
i. subject to facts established in the context of audits or investigations carried out by the European Public Prosecutor's Office in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the Court of Auditors, OLAF, or the internal auditor, 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;	<input type="checkbox"/>	<input type="checkbox"/>
ii. subject to non-final judgments or 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;	<input type="checkbox"/>	<input type="checkbox"/>
iii. subject to facts referred to in decisions of entities or persons being entrusted with EU budget implementation tasks;	<input type="checkbox"/>	<input type="checkbox"/>
iv. subject to information transmitted by Member States implementing Union funds, in particular facts and findings established in the context of a final judgment or final administrative decision at national level as to the presence of the exclusion situations referred to in points (c)(iv) or (d);	<input type="checkbox"/>	<input type="checkbox"/>
v. subject to 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;	<input type="checkbox"/>	<input type="checkbox"/>
vi. informed, by any means, that it is subject to an investigation by the European Anti-Fraud office (OLAF): either because it has been given the opportunity to comment on facts concerning it by OLAF, or it has been subject to on-the-spot checks by OLAF in the course of an investigation, or it has been notified of the opening, the closure or of any circumstance related to an investigation of the OLAF concerning it.	<input type="checkbox"/>	<input type="checkbox"/>

<sup>1</sup> The declaration under this point (2) is voluntary and it cannot have adverse legal effect on the economic operator until the conditions of Article 143(1) (a) FR are met.

**II – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS WITH POWER OF REPRESENTATION, DECISION-MAKING OR CONTROL OVER THE LEGAL PERSON AND BENEFICIAL OWNERS**

**Not applicable when ‘the person’ is a Member State or a local authority.**

(3) declares that a natural or legal person who is a member of the administrative, management or supervisory body of the person, or who has powers of representation, decision or control with regard to the person (this covers e.g. company directors, members of management or supervisory bodies, and cases where one natural or legal person holds a majority of shares), or a beneficial owner of the person (as defined by point 6 of Article 3 of Directive (EU) No 2015/849) is in one of the following situations:	YES	NO	N/A
Situation (1)(c) above (grave professional misconduct)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (1)(d) above (fraud, corruption or other criminal offence)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (1)(e) above (significant deficiencies in performance of a contract)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (1)(f) above (irregularity)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (1)(g) above (creation of an entity with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (1)(h) above (person created with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation 1(i) above (intentionally and without proper justification resisted an EU investigation, check or audit)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**III – SITUATIONS OF EXCLUSION CONCERNING LEGAL PERSONS ASSUMING UNLIMITED LIABILITY FOR THE DEBTS OF THE LEGAL PERSON**

**Not applicable when ‘the person’ is a Member State, a local authority or legal persons with limited liability.**

(4) declares that a natural or legal person that assumes unlimited liability for the debts of the person is in one of the following situations:	YES	NO	N/A
Situation (a) above (bankruptcy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (b) above (breach in payment of taxes or social security contributions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

#### IV – OTHER GROUNDS FOR REJECTION FROM THIS PROCEDURE

(5) declares that the person:	YES	NO
(a) 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.	<input type="checkbox"/>	<input type="checkbox"/>

#### V – REMEDIAL MEASURES

If the person declares one of the situations of exclusion listed above, it may indicate remedial measures it has taken to remedy the exclusion situation, in order to allow the authorising officer to determine whether such measures are sufficient to demonstrate 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.

Without prejudice to the assessment of the authorising officer responsible, the person or entity shall submit remedial measures that have been assessed by an external independent auditor or have been considered sufficient by a decision of a national or Union authority. The relevant documentary evidence, which illustrates the remedial measures taken and their assessment, must be provided in annex to this declaration. Remedial measures do not apply for situations referred in point (1)(d) of this declaration.

#### VI – EVIDENCE ON EXCLUSION CRITERIA

The following evidence could serve as evidence:

- For situations described in points (1): (a), (c), (d), (f), (g) and (h) above, 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 establishment of the person showing that those requirements are satisfied.
- For the situations described in point (1) (a), (b), recent certificates issued by the competent authorities of the the country of establishment. 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 of establishment, it may be replaced by a sworn statement made before a judicial authority or notary or, failing Declaration on honour on selection criteria.

Date:

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[Signature]

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