Declaration of honour on exclusion criteria 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 the same contracting authority, 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** |
|  |  |

I – Situations of exclusion concerning the person

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| --- | --- | --- |
| 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 Union or 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: |  | |
| (i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of eligibility or selection criteria or in the performance of a contract or an agreement; |  |  |
| (ii) entering into agreement with other persons 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 award procedure; |  |  |
| (v) 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 any of the following: |  | |
| (i) fraud; |  |  |
| (ii) corruption; |  |  |
| (iii) conduct related to a criminal organisation; |  |  |
| (iv) money laundering or terrorist financing; |  |  |
| (v) terrorist offences or offences linked to terrorist activities, or inciting, aiding, abetting or attempting to commit such offences; |  |  |
| (vi) child labour or other offences concerning trafficking in human beings; |  |  |
| (vii) creating a shell company and being a shell company. |  |  |
| 1. it has shown significant deficiencies in complying with the main obligations in the performance of a contract or an agreement financed by SPREP, 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 SPREP; |  |  |
| 1. it has been established by a final judgment or final administrative decision that the person has committed an irregularity; |  |  |
| 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 a Court or the internal auditor, or any other check, audit or control performed under the responsibility of SPREP; 3. 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; 4. facts referred to in decisions of entities or persons being entrusted with any of SPREP’s donor budget implementation tasks; 5. information transmitted by Member States of SPREP; or 6. decisions of exclusion by an authorising officer of SPREP donor partners. |  |  |
| 1. it is subject to an exclusion decision of the World Bank and being listed on the website http://www.worldbank.org/debarr (in the event of such exclusion, the person may attach to this Declaration of Honour supporting information showing that this exclusion is not relevant in the context of this Contract) |  |  |
| 1. Has created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the selection process of this Contract. |  |  |
| 1. neither it, nor any of the members of its joint venture or any of its suppliers, contractors, subcontractors, consultants or subconsultants are listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security.[[1]](#footnote-1) |  |  |

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 to natural persons, Member States and local authorities***

|  |  |  |  |
| --- | --- | --- | --- |
| 1. 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 or legal 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) |  |  |  |
| Situation (i) above |  |  |  |
| Situation (j) above (World Bank debarment) |  |  |  |
| Situation (k) above (misrepresentation in the context of this Contract) |  |  |  |
| Situation (l) above (presence on a Financial Sanctions List UN, EU or France) |  |  |  |

III – Situations of exclusion concerning natural or legal persons assuming unlimited liability for the debts of the legal person

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| --- | --- | --- | --- |
| 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 [***If yes, please indicate in annex to this declaration which situation and the name(s) of the concerned person(s) with a brief explanation***]: | YES | NO | N/A |
| Situation (a) above (bankruptcy) |  |  |  |
| Situation (b) above (breach in payment of taxes or social security contributions) |  |  |  |

IV – Grounds for rejection from this procedure

|  |  |  |  |
| --- | --- | --- | --- |
| 1. declares that the above-mentioned person: | YES | NO | N/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. |  |  |  |

V – 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.

VI – Undertakings

1. The person certifies that its funds and funds invested in the Project by the Contracting Authority are not illicit origin, namely funds obtained through:

a) The commission of any predicate offence as designated in the FATF 40 recommendations Glossary under "designated categories of offenses"[[2]](#footnote-2)

b) any act of corruption, or

c) any fraud against the financial interests of the European Community, if or when applicable, being referred to as any intentional act or omission intended to damage the European Union budget and involving (i) the use or presentation of false, inaccurate or incomplete statements or documents, which has as it effect the misappropriation or wrongful retention of funds or in any illegal reduction in resources of the general budget of the European Union; (ii) the non-disclosure of information with the same effect; and (iii) misappropriation of such funds for purposes other than those for which such funds were originally granted.

2. Neither the person nor any of the members of its joint venture or any of its suppliers, contractors, subcontractors, consultants or subconsultants shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or France.

3. The person commits to comply with and ensure that all of its suppliers, contractors, subcontractors, consultants or subconsultants comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties. Moreover, the person shall implement environmental and social risks mitigation measures when specified in the environmental and social commitment plan (ESCP) provided by the Contracting Authority.

4. The person certifies that its internal procedures, if applicable, provide that its suppliers, contractors, subcontractors, or staff members are instructed that it shall not receive or agree to receive from any person, nor offer or agree to offer or procure any gift, advantage, commission or any payment as an incitation or reward to perform or refrain from performing any act in relation to the Contract, for himself or another Person or entity.

5. The person shall use its best efforts not to provide, directly or indirectly, any material/financial support nor any other resource to any person or entity who undertakes, attempts to undertake, advocates, facilitates or takes part in Acts of Terrorism, or has otherwise undertaken, attempted to undertake, advocated, facilitated or taken part in such Acts. Act of Terrorism meaning: (i) Any act prohibited by Conventions and Protocols of the United Nations Organization related to the fight against terrorism (which may be consulted on the following website: https://legal.un.org/ola/Default.aspx); or (ii) Any offence referred to be articles 3 to 10 of Directive (EU) 2017/541 of the European Parliament of 15 March 2017 on combating terrorism; or (iii) Any other action done with the object of killing or severely injuring a civilian or any other person who does not participate in hostilities in a situation of armed conflict, which, by its nature or context, aims to intimidate a population or to unduly compel a government or an international organisation to perform or abstain from performing any act.

6. The person as well as members of its joint venture and its suppliers, contractors, subcontractors, consultants or subconsultants authorises AFD to inspect accounts, records and other documents relating to the selection process and performance of the contract and to have them audited by auditors appointed by AFD.

VII – Evidence upon request

Upon request and within the time limit set by SPREP 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 debts 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 not required to submit the evidence if it has already been submitted for another award procedure of the same contracting authority. The documents must have been issued no more than one year before the date of their request by the contracting authority 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.* |  |

VIII – Selection criteria

|  |  |  |  |
| --- | --- | --- | --- |
| 1. declares that the above-mentioned person complies with the selection criteria applicable to it individually as provided in the procurement documents: | 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 Terms of Reference; |  |  |  |
| 1. It fulfills the applicable economic and financial criteria indicated in Terms of Reference; |  |  |  |
| 1. It fulfills the applicable technical and professional criteria indicated in Terms of Reference. |  |  |  |

IX – Evidence for selection

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

The person is not required to submit the evidence if it has already been submitted for another procurement procedure of the same contracting authority. The documents must have been issued no more than one year before the date of their request by the contracting authority 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.* |  |

***The above-mentioned person must immediately inform SPREP of any changes in the situations as declared.***

***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.***

Full name Date Signature

Declaration of Integrity

Reference name of the contract: “Consultancy services to develop a social media awareness campaign on Nature-based Solutions for Climate Change Adaptation in the Pacific” (The "**Contract**")

To: SPREP (The "**Contracting Authority**")

1. We recognise and accept that *Agence Française de Développement* ("AFD") only finances projects of the Contracting Authority subject to its own conditions which are set out in the Financing Agreement which benefits directly or indirectly to the Contracting Authority. As a matter of consequence, no legal relationship exists between AFD and our company, our joint venture or our suppliers, contractors, subcontractors, consultants or subconsultants. The Contracting Authority retains exclusive responsibility for the preparation and implementation of the selection process and performance of the Contract.
2. We hereby certify that neither we nor any other member of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations:

2.1) Being bankrupt, wound up or ceasing our activities, having our activities administered by the courts, having entered into receivership, reorganisation or being in any analogous situation arising from any similar procedure;

2.2) Having been:

a. convicted within the past five years by a court decision, which has the force of *res judicata* in the country where the Contract is implemented, of fraud, corruption or of any other offense committed during a selection process or performance of a contract (in the event of such conviction, you may attach to this Statement of Integrity supporting information showing that this conviction is not relevant in the context of this Contract);

b. subject to an administrative sanction within the past five years by the European Union or by the competent authorities of the country where we are constituted, for fraud, corruption or for any other offense committed during a selection process or performance of a contract (in the event of such sanction, you may attach to this Statement of Integrity supporting information showing that this sanction is not relevant in the context of this Contract);

c. convicted within the past five years by a court decision, which has the force of *res judicata,* of fraud, corruption or of any other offense committed during the selection process or performance of an AFD-financed contract;

2.3) Being listed for financial sanctions by the United Nations, the European Union and/or France for the purposes of fight-against-terrorist financing or threat to international peace and security; For information purposes only, the Contracting Authority is providing the following references: For the lists maintained by the United Nations, the following website may be consulted: <https://www.un.org/securitycouncil/fr/content/un-sc-consolidated-list>; For the lists maintained by the European Union, the following website may be consulted: <https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions_fr>; For the lists maintained by France, the following website may be consulted: <https://www.tresor.economie.gouv.fr/services-aux-entreprises/sanctions-economiques/dispositif-national-de-gel-des-avoirs>.

2.4) Having been subject within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;

2.5) Not having fulfilled our fiscal obligations regarding payments of taxes in accordance with the legal provisions of either the country where we are constituted or the Contracting Authority's country;

2.6) Being subject to an exclusion decision of the World Bank and being listed on the website <http://www.worldbank.org/debarr> (in the event of such exclusion, you may attach to this Statement of Integrity supporting information showing that this exclusion is not relevant in the context of this Contract);

2.7) Having created false documents or committed misrepresentation in documentation requested by the Contracting Authority as part of the selection process of this Contract.

1. We hereby certify that neither we, nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants are in any of the following situations of conflict of interest:

3.1) Being an affiliate controlled by the Contracting Authority or a shareholder controlling the Contracting Authority, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;

3.2) Having a business or family relationship with a Contracting Authority's staff involved in the selection process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of AFD and resolved to its satisfaction;

3.3) Being controlled by or controlling another bidder or consultant, or being under common control with another bidder or consultant, or receiving from or granting subsidies directly or indirectly to another bidder or consultant, having the same legal representative as another bidder or consultant, maintaining direct or indirect contacts with another bidder or consultant which allows us to have or give access to information contained in the respective applications, bids or proposals, influencing them or influencing decisions of the Contracting Authority;

3.4) Being engaged in a consulting services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the Contracting Authority;

3.5) In the case of the Contract involving my purchase of goods, works or plants:

1. Having prepared or having been associated with a consultant who prepared specifications, drawings, calculations and other documentation to be used in the selection process of this Contract;
2. Having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract;
3. If we are a state-owned entity, and to compete in a selection process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
4. We certify that the origin of the funds of the company legal entity and the company founder(s) and chief executive officer is not due to a crime or misdemeanour, including any act or omission intended to damage the European Union budget and involving (i) the use or presentation of false, inaccurate or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or any illegal reduction in resources of the general budget of the European Union; (ii) the non-disclosure of information with the same effect; and (iii) misappropriation of such funds for purposes other than those for which such funds were originally granted .
5. We undertake to bring to the attention of the Contracting Authority, which will inform AFD, any change in situation with regard to points 2 to 5 here above and will take all necessary measures to remedy the situation.
6. In the context of the selection process and performance of the corresponding contract:

7.1) We have not and we will not engage in any dishonest conduct (act or omission) deliberately indented to deceive others, to intentionally conceal items, to violate or vitiate someone's consent, to make them circumvent legal or regulatory requirements and/or to violate their internal rules in order to obtain illegitimate profit;

7.2) We have not and we will not engage in any dishonest conduct (act or omission) contrary to our legal or regulatory obligations or our internal rules in order to obtain illegitimate profit;

7.3) We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to (i) any Person who holds a legislative, executive, administrative or judicial mandate within the State of the Contracting Authority regardless of whether that Person was nominated or elected, regardless of the permanent or temporary, paid or unpaid nature of the position and regardless of the hierarchical level the Person occupies, (ii) any other Person who performs a public function, including for a State institution or a State-owned company, or who provides a public service, or (iii) any other person defined as a Public Officer by the national laws of the Contracting Authority’s country, an undue advantage of any kind, for himself or for another Person or entity, for such Public Officer to act or refrain from acting in his official capacity;

7.4) We have not promised, offered or given and we will not promise, offer or give, directly or indirectly to any Person who occupies an executive position in a private sector entity or works for such an entity, regardless of the nature of his/her capacity, any undue advantage of any kind, for himself or another Person or entity for such Person to perform or refrain from performing any act in breach of its legal, contractual or professional obligations;

7.5) We have not and we will not engage in any practice likely to influence the contract award process to the detriment of the Contracting Authority and, in particular, in any anti-competitive practice having for object or for effect to prevent, restrict or distort competition, namely by limiting access to the market or the free exercise of competition by other undertakings;

7.6) Neither we nor any of the members of our joint venture or any of our suppliers, contractors, subcontractors, consultants or subconsultants shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or France;

7.7) We commit ourselves to comply with and ensure that all of our suppliers, contractors, subcontractors, consultants or subconsultants comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the environmental and social commitment plan (ESCP) provided by the Contracting Authority.

7.8) In the context of the project financed through the Contracting Authority, we undertake to bring to the attention of the Contracting Authority, which will inform AFD, any acts in relation to sections 7.1 to 7.7 above which we become aware or suspect that any third party has committed in relation to the project, and to take all necessary measures to remedy the situation.

1. We, as well as members of our joint venture and our suppliers, contractors, subcontractors, consultants or subconsultants authorise AFD to inspect accounts, records and other documents relating to the selection process and performance of the contract and to have them audited by auditors appointed by AFD.

*[Signature Page Follows]*

Name: In the capacity of:

Duly empowered to sign in the name and on behalf of[[3]](#footnote-3):

Signature: Dated:

1. for information purposes, the Contracting Authority is providing the following references:

   - for the lists maintained by the United Nations : <https://www.un.org/securitycouncil/content/un-sc-consolidated-list>

   - for the EU : : <https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions_fr>

   -for France : <https://www.tresor.economie.gouv.fr/services-aux-entreprises/sanctions-economiques/dispositif-national-de-gel-des-avoirs> [↑](#footnote-ref-1)
2. http://www.fatf-gafi.org/media/fatf/documents/recommendations/Recommandations\_GAFI.pdf [↑](#footnote-ref-2)
3. In case of joint venture, insert the name of the joint venture. The person who will sign the application, bid or proposal on behalf of the applicant, bidder or consultant shall attach a power of attorney from the applicant, bidder or consultant. [↑](#footnote-ref-3)