D.2. – ELIGIBILITY STATEMENT

Service contract entitled:

**“Study on the bottlenecks affecting the competitiveness and sustainability of Ethiopian horticultural exports”**

**Ref.: COLEAD/AO/251386**

Participation is open on the same terms to all natural and legal persons who are nationals of, or legal persons established in, an ACP State or a Member State of the European Union and/or listed in document A.3.  In the case of a consortium, all members (i.e., the leader and all other partners) are jointly and severally liable to the contracting authority.

The participation of an ineligible natural or legal person will result in the automatic exclusion of the candidate concerned. If this ineligible person is a member of a consortium, the entire consortium will be excluded.

**1. Situation of exclusion concerning the person**

1. he/she is bankrupt, subject to insolvency or winding up procedures; their assets are being administered by a liquidator or by a court; he/she is in an arrangement with creditors; their business activities are suspended or are in any analogous situation arising from a similar procedure provided for under national legislation or regulations;
2. it has been established by a final judgement or a final administrative decision that the person is in breach of their obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which the person 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
3. 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 their professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:
4. 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;
5. entering into agreement with other persons with the aim of distorting competition;
6. violating intellectual property rights;
7. attempting to influence the decision-making process of the contracting authority during the award procedure;
8. attempting to obtain confidential information that may confer upon it undue advantages in the award procedure.
9. it has been established by a final judgement, that the person is guilty of the following:
10. 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;
11. corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of EU Member States, 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 legal provisions of the country where the contracting authority is located, the country in which the person is established or the country of the performance of the contract;
12. participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA;
13. money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council;
14. 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;
15. 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.
16. be included on the lists of financial sanctions adopted by the United Nations, the European Union and/or France\* in particular in the fight against the financing of terrorism and against attacks on international peace and security;

*\* Lists of Financial Sanctions: mean the lists of persons, groups or entities subject to financial sanctions by the United Nations, the European Union and France.*

*For information only, and without entitling the person to use the references below:*

*For the United Nations, consolidated United Nations Security Council Sanctions list:* [*https://www.un.org/securitycouncil/content/un-sc-consolidated-list*](https://www.un.org/securitycouncil/content/un-sc-consolidated-list)

*For the European Union, the lists can be consulted under the following address:* [*https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions\_fr*](https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions_fr)

*For France, see:* [*http://www.tresor.economie.gouv.fr/4248\_Dispositif-National-de-Gel-Terroriste*](http://www.tresor.economie.gouv.fr/4248_Dispositif-National-de-Gel-Terroriste)

1. be subject to an exclusion ruling issued by the World Bank and be included on the list published at the following address: http://www.worldbank.org/debarr (in the event of such an exclusion ruling, we may attach to this Declaration of Integrity additional information that would make it possible to consider that this exclusion ruling is not relevant in the context of the Contract);
2. the person 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.
3. 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.
4. for the situations of grave professional misconduct, fraud, corruption, other criminal offences, significant deficiencies in the performance of the contract or irregularity, the tenderer is subject to:
5. 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;
6. ii. 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;
7. iii. decisions of the ECB, the EIB, the European Investment Fund or international organisations;
8. iv. decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law; or
9. v. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body

**2. Situations of exclusion concerning natural persons with power of representation, decision-making or control over the legal person**(not applicable to natural persons, Member States and local authorities)

1. declares that a natural 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 company directors, members of management or supervisory bodies, and cases where one natural person holds a majority of shares) is in one of the following situations:
2. Situation (c) above (grave professional misconduct)
3. Situation (d) above (fraud, corruption or other criminal offence)
4. Situation (e) above (significant deficiencies in performance of a contract)
5. Situation (f) above (irregularity)

**3. 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:
2. Situation (a) above (bankruptcy)
3. Situation (b) above (breach in payment of taxes or social security contributions)

**4. Exclusion situation in connection with the awarding and performance of the Contract**

1. Commit a deceitful manoeuvre (action or omission) intended to intentionally deceive others, to intentionally conceal elements from them, to surprise or vitiate their consent or to circumvent legal or regulatory obligations and/or to violate their internal rules in order to obtain an illegitimate benefit.
2. Commit a deceitful manoeuvre (action or omission) contrary to legal or regulatory obligations and/or internal rules in order to obtain an illegitimate benefit.
3. Promise, offer or give directly or indirectly to (i) any Individual with a legislative, executive, administrative or judicial mandate in the State of the person, whether appointed or elected, permanently or otherwise, whether or not they are paid and regardless of their hierarchical level, (ii) any other person who performs a public function, including for a public body or a public enterprise, or who provides a public service, or (iii) any other individual defined as a public official in the State of the person, an undue advantage of any kind, for themselves or for another person or entity, to carry out or refrain from carrying out an act in the performance of their official duties.
4. Promise, offer or grant, directly or indirectly, to any person who heads or works for any entity in the private sector, in any capacity whatsoever, an undue advantage of any kind, for themselves or for any other Person or entity, to perform or refrain from performing an act in violation of their legal, contractual or professional obligations.
5. Commit an act likely to influence the procurement process and, in particular, no anti-competitive practices having the purpose or effect of preventing, restricting or distorting competition, in particular by limiting access to the Contract or the free exercise of competition by other companies.
6. Acquire or supply equipment and intervene in sectors under embargo of the United Nations, the European Union or France.
7. Fail to respect and enforce by all its subcontractors the environmental and social standards recognised by the international community, including the fundamental conventions of the International Labour Organization (ILO) and international conventions for the protection of the environment, consistent with the laws and regulations applicable to the country of completion of the Contract. In addition, the person does not commit to implementing environmental and social risk mitigation measures when they are indicated in the environmental and social management plan provided by COLEAD.
8. In the case of a public institution or a public company, to participate in a competitive bidding procedure, not be able to certify that they have the legal and financial autonomy and that they are managed according to the rules of commercial law.
9. The person and any members of their group as well as their suppliers, contractors, consultants and subcontractors, are in one of the following conflicts of interest situations:
10. Have business or family relationships with a member of COLEAD's staff involved in the procurement process or the resulting oversight, unless the resulting conflict has been brought to the attention of the donor and resolved to its satisfaction;
11. Control or be controlled by another tenderer or consultant, be under the control of the same firm as another tenderer or consultant, receive grants from another tenderer or consultant or award grants to another tenderer or consultant directly or indirectly, have the same legal representative as another tenderer or consultant, directly or indirectly maintain contact with another tenderer or consultant allowing us to have and to give access to the information contained in our respective offers or proposals, to influence them, or to influence the decisions of COLEAD;
12. Be appointed for a mission of intellectual services which, by its nature, may be incompatible with the missions on behalf of COLEAD;
13. In the case of a procedure for awarding a contract for works, supplies or equipment:
    1. Have prepared or been associated with a consultant who prepared the specifications, plans, calculations and other documents used in the procurement process
    2. That the person or one of the firms to which the person is affiliated, is recruited, or to be recruited, by COLEAD to perform the supervision or control of the work under the Contract.

**5. Grounds for rejection from this procedure**

1. declares that the above-mentioned person has distorted competition by being previously involved in the preparation of procurement documents for this procurement procedure.

The signatory declares that the above-mentioned person is able to provide the necessary supporting documents. The person is not required to submit the evidence if it has already been submitted for another procurement procedure. 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 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.

***I, the undersigned, make the sworn statement that the tenderer I represent does not fall into any of the categories listed above.***

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| **Name of the tendering structure[[1]](#footnote-1)** |  |
| **Name of authorised signatory[[2]](#footnote-2)** |  |
| Signature |  |
| Date |  |

1. *The legal or registered name of the entity or individual submitting the tender proposal, whether it is a company, organisation, independent consultant, or freelancer. (This should match the name used in legal documents, registrations, and any official correspondence. It identifies who is responsible for the bid and, if successful, for executing the contract).* [↑](#footnote-ref-1)
2. *An individual who has the legal authority to sign documents on behalf of the tendering entity (company, organisation, or individual consultant).* *A company executive (e.g. CEO, director, manager) formally designated to represent the organisation or for independent consultants/freelancers, the individual themselves, acting in their own name.* [↑](#footnote-ref-2)