**Annex 4 - Declaration on honour on
exclusion criteria and selection criteria**

**Procedure reference number: EGI/2023/001**

**Procedure title: Purchase of software services for image analysis in phenological research with implementation, licensing, support and maintenance**

1. Declaration on honour on exclusion criteria

*[the candidate or tenderer must be a legal person]*

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

Full official name:

Official legal form:

Statutory registration number**:**

Full official address:

VAT registration number:

Small and medium-sized enterprises (SMEs): Yes / No[[1]](#footnote-0)

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 |
| --- | --- | --- |
| 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 law;
 | ☐ | ☐ |
| 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 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 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; | ☐ | ☐ |
| (iii) violating intellectual property rights; | ☐ | ☐ |
| (iv) attempting to influence the decision-making process of the EGI FOUNDATION 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, 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; | ☐ | ☐ |
| (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; | ☐ | ☐ |
| (iii) conduct related to a criminal organisation, as referred to in Article 2 of Council Framework Decision 2008/841/JHA; | ☐ | ☐ |
| (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; | ☐ | ☐ |
| (v) terrorist offences or offences related to terrorist activities as well as of inciting, aiding, abetting or attempting to commit such offences as defined in Articles 3, 14 and Title III of Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism; | ☐ | ☐ |
| (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; | ☐ | ☐ |
| 1. 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) 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 in 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. 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).
 | ☐ | ☐ |
| 1. declares that, for the situations referred to in points (1) (c) to (1) (h) above, in the absence of a final judgement or a final administrative decision, the person is[[2]](#footnote-1):
 | YES | NO |
| 1. subject to facts established in the context of audits or investigations carried out by the European Public Prosecutor's Office, the Court of Auditors, 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;
 | ☐ | ☐ |
| 1. 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;
 | ☐ | ☐ |
| 1. subject to facts referred to in decisions of entities or persons being entrusted with EU budget implementation tasks;
 | ☐ | ☐ |
| 1. subject to information transmitted by Member States implementing Union funds;
 | ☐ | ☐ |
| 1. 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;
 | ☐ | ☐ |
| 1. 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.
 | ☐ | ☐ |

II – Situations of exclusion concerning legal persons with power of representation, decision-making or control over the legal person and beneficial owners

| 1. declares that a 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 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) | ☐ | ☐ | ☐ |
| Situation (1)(d) above (fraud, corruption or other criminal offence) | ☐ | ☐ | ☐ |
| Situation (1)(e) above (significant deficiencies in performance of a contract ) | ☐ | ☐ | ☐ |
| Situation (1)(f) above (irregularity) | ☐ | ☐ | ☐ |
| Situation (1)(g) above (creation of an entity with the intent to circumvent legal obligations) | ☐ | ☐ | ☐ |
| Situation (1)(h) above (person created with the intent to circumvent legal obligations) | ☐ | ☐ | ☐ |

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

| 1. declares that a 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) | ☐ | ☐ | ☐ |
| Situation (b) above (breach in payment of taxes or social security contributions) | ☐ | ☐ | ☐ |

IV – Other grounds for rejection from this procedure

| 1. declares that the 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.  | ☐ | ☐ |

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. 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 (1) (d) of this declaration.

VI – Evidence upon request

Upon request and within the time limit set by the EGI FOUNDATION the person must provide information on legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control, including legal persons within the ownership and control structure and beneficial owners and appropriate evidence that none of those persons are in one of the exclusion situations referred to in (1) (c) to (f).

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

* 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, 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 that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.
1. Declaration on honour on selection criteria

I – Selection criteria

**Selection criteria applicable to the tenderer/candidate as a whole-consolidated assessment**

***(to be filled ONLY by the sole candidate/tenderer or the group leader in case of a joint tender)***

The person, being a sole candidate/tenderer/the group leader of a joint tender/request to participate, submitting a request to participate/tender for the above procedure, declares that:

| the candidate/tenderer, including all members of the group in case of joint tender/request to participate, subcontractors and entities on whose capacity the tenderer intends to rely if applicable: | YES | NO |
| --- | --- | --- |
| 1. fulfils all the selection criteria for which a consolidated assessment will be made as provided in the tender specifications.
 | ☐ | ☐ |
| 1. is not subject to conflicting interests which may negatively affect the contract performance.
 | ☐ | ☐ |

In case of a procedure with lots the above statements apply to the lot(s) for which the request to participate/tender is submitted.

II – Evidence upon request

The person must be able to provide the selection criteria supporting documents listed in the relevant sections of the tender specifications.

Where the evidence is not required to be provided with the request to participate/tender, the person is invited to prepare in advance the documents related to the evidence, since the EGI FOUNDATION may request to provide these in a short deadline.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure of the same EGI FOUNDATION[[3]](#footnote-2). The documents must have been issued no more than one year before the date of their request by the EGI FOUNDATION and must still be valid at that date.

The person is not required to submit the evidence if it can be accessed on a national database free of charge.

The signatory declares that the following internet address of the database/identification data provide access to the evidence required.

| Internet address of the database | Identification data of the document  |
| --- | --- |
| *Insert as many lines as necessary.* |  |

1. Declaration on honour on established debt to the union

 ***(to be filled ONLY by the sole candidate/tenderer or the group leader in case of a joint tender)***

The person, being a sole candidate/tenderer/the group leader of a joint tender/request to participate, submitting a request to participate/tender for the above procedure, declares that:

| the candidate/tenderer, including each member of the group in case of joint tender/request to participate, subcontractors, | YES | NO |
| --- | --- | --- |
| does not have an established debt to the Union. | ☐ | ☐ |

***The above-mentioned person must immediately inform the EGI FOUNDATION 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:

*The declaration is to be signed with:*

1. *Electronic signature (recommended option):*

*In case you have the possibility to sign the declaration using a qualified electronic signature (QES), please have it signed electronically by your authorised representative(s). Please note that only the qualified electronic signature (QES) within the meaning of Regulation (EU) No 910/2014 (eIDAS Regulation) will be accepted.*

1. *Handwritten signature:*

*In case you do not have the possibility to sign the declaration using a qualified electronic signature (QES), please fill it in electronically, then print it and have it signed and dated by your authorised representative(s) using a hand-written signature.*

1. As defined in the EU recommendation 2003/361. Consult <https://ec.europa.eu/growth/smes/sme-definition_en> for further information, including the EC [self-assessment tool](https://ec.europa.eu/growth/tools-databases/SME-Wizard/smeq.do;SME_SESSION_ID=8Rvm_vxjsfRvFkKn1hAuq4jS7LgMRcRTI53z0LkvMZznt9fjQbq4!321346242?execution=e1s1). [↑](#footnote-ref-0)
2. The declaration under this point (2) is voluntary and it cannot have adverse legal effect on the economic operator until the conditions of Article 141(1) (a) FR are met. [↑](#footnote-ref-1)
3. The same institution or agency. [↑](#footnote-ref-2)