



GENERAL CONDITIONS FOR CTA CONTRACTS

1. OBLIGATIONS OF THE CONTRACTOR

The Contractor shall provide all activities/services defined in the contract with the utmost care, efficiency and diligence, in keeping with the best professional practices.

The Contractor shall maintain the discretion usual in contractual matters and keep secret all information relating to CTA acquired during or after the execution of the contract.

The Contractor shall keep at CTA's disposal the evidence that the persons working for him in the context of the present contract are covered by an adequate insurance scheme against any risk of civil liability.

CTA shall not be liable for any tort or other act resulting or likely to result in claims for financial and/or moral losses suffered by a third person.

2 INDEMNITY AGAINST THIRD PARTIES

At his own expense, the Contractor shall hold harmless, protect and defend CTA from and against all actions, claims or losses resulting from his implementation of the contract.

In the event of the Contractor's failure to fulfil his contractual obligations, the Contractor shall, at his own expense at the request of CTA, remedy any such failure noted in the performance of the services and any prejudice which may be incurred as a result of any such failure.

After performing the services, the Contractor shall remain liable for any default in his contractual obligations for a period determined by the law governing the contract.

3. SUB-CONTRACTING

- a. The Contractor may not, without prior written authorisation from CTA, sub-contract, in part or in its entirety, the execution of the contract.
- b. Even where such authorisation is granted, the Contractor is not in any way discharged from his contractual obligations towards CTA.
- c. The Contractor is under no circumstances habilitated to act as a legal representative of CTA, be it vis-à-vis a sub-contractor or any other natural or legal person. Should the Contractor conclude a sub-contracting agreement, either formally or *de facto*, without prior authorisation, CTA may cancel the contract without formal notice and, if need be, demand compensation and interest. These amounts can be deducted from any sums owing to the Contractor or from the guarantee deposited.
- d. The Contractor shall apply all obligations set out in 1. above to his sub-contractor(s).

4. OBLIGATIONS OF CTA

CTA shall lend the Contractor appropriate support within the limits of the purpose of the contract, CTA's technical capacity and its staff availability. Said support does not in any way discharge the Contractor from his contractual duties.

5 CONTRACT AMENDMENTS

Any amendment to the contract considered as substantial by CTA must be recorded in a written agreement duly signed by the contracting parties. All amendments requested by the Contractor must be submitted to CTA at least 30 days before the scheduled entry into force of the modification, except in circumstances duly justified by the Contractor and accepted by CTA in writing.

However, if the amendment does not change the fundamental object of the contract, CTA may order any modification of any part of the services which may be necessary for the proper execution of the contract, without changing the object or scope of the contract. These contractual changes may consist of additions, deletions, substitutions, changes to the quality or quantity of the scheduling, method or calendar for the performance of the services.

No modifications may be made a posteriori. Any modification to the contract not made by way of a written request, followed by an amendment agreement shall be considered as null and void.

Changes of address and bank accounts (bank details) shall be notified before the change becomes effective, without prejudice to the possibility for CTA to oppose the choice of account made by the Contractor.

6 ASSIGNMENT

The Contractor may not, without CTA's prior written agreement, assign all or part of the contract. The approval by CTA of any assignment shall not discharge the Contractor from his obligations for the part of the contract already carried out or for the part which has not been assigned. If the Contractor has assigned his contract without authorisation, CTA shall apply ipso jure, without prior formal



notice, penalties for non-performance and claim compensation for any damage caused as a result.

Assignees must satisfy the eligibility criteria applying to the procurement proceedings and may not fall within the scope of any of the situations excluding them from participating in procurement proceedings.

7 INTELLECTUAL PROPERTY RIGHTS

- a. All documents, objects and other material that belong to CTA and which are made available to the Contractor, as specified in a written repertoire, remain CTA's property; the Contractor shall treat them with care and return them to CTA on expiry of the contract. Any transportation costs involved in returning them to CTA shall be borne by the Contractor.
- b. All the documents drawn up by the Contractor within the framework of the implementation of the contract shall be the exclusive property of CTA, unless agreed otherwise. Once the contract has been completed, the Contractor shall transmit all these documents and all these data to CTA. The Contractor may neither keep copies of these documents and data, nor use them for purposes unrelated to the contract without CTA's prior written consent.
- c. All documents produced and/or published as a result of CTA's contribution within the framework of this contract, will bear visible and specific acknowledgement thereof.
- d. CTA reserves all rights of property for all documents, objects and other material, including any multimedia information (sound, images, software, etc.) it has commissioned in the framework of this contract including partial or incomplete works, except where property rights are owned by third parties.
- e. Except where otherwise stipulated, no document produced on behalf of CTA may be published, duplicated, utilised or referred to without CTA's prior written consent.
- f. It is a matter for the Contractor to carry out his contractual obligations in full respect of any property right of third parties.

8 SPECIFICATIONS, PATENTS AND LICENCES

The Contractor shall ensure that the specifications and designs, as well as any documentation relative to the provision of goods and services for the project, are drawn up in an impartial way so as to promote competition in the tendering process.

Unless stipulated otherwise in the Special Conditions, the Contractor shall hold CTA harmless from and against any claims resulting from the use, as stipulated by the contract, of patents, licences, plans, models, trademarks or other marks, except in the case of infringements resulting from conformity with the design or specifications supplied by CTA .

The Contractor shall hold harmless, protect and defend, at his expense, CTA, the representatives and staff members of CTA from and against any action, claim or loss or any damage resulting from an act committed or failure to act by the Contractor in the performance of the services, in particular from an infringement of legal provisions or a breach of a third party's rights, with regard to patents, trademarks and/or other forms of intellectual property, such as copyright.

9. FINANCIAL PROVISIONS

- a. Unless the Special Conditions stipulate otherwise, all contractual prices are fixed and non-negotiable.
- b. When the contractual fees are fixed in terms of the duration of the services, the parts of the month for which services were not provided must be deducted pro rata based on a thirtieth of the monthly unit price.
- c. The Special Conditions fix the terms under which travel expenses and costs for the transport of luggage, documents, equipment, etc. may be covered by CTA.
- d. All payments are made in Euros (€), any conversions in currencies other than Euros are to be specified in the contract budget. In principle, contracts are concluded in Euro, apart from exceptional cases duly justified and agreed by CTA. If the Contractor asks to be paid in a currency other than the Euro, the conversion and transfer costs as well as any inconvenience from potential delays are borne by the Contractor.
- e. The activities/services performed give rise to the payment of an instalment on the basis of the activities/services performed. The total payments on account should not exceed 90% of the total value of the services/activities performed; the remaining 10% retained makes up the maximum final balance to be paid upon satisfactory completion of the services/activities.
- f. However, advance payments may be granted at the request of the Contractor, on signature of the contract by both parties in order to allow the Contractor to cover large expenses arising before the activities/services warrant the payment of an instalment.
- g. No advance payment may be granted before the contract has been signed by both parties. In principle, the total advance payments may not exceed 30% of the total amount of the contract, barring exceptional, duly justified cases. CTA shall decide, on a case by case basis, whether or not the advance payment should be guaranteed by the Contractor who would put up a joint and several guarantee in favour of CTA. This guarantee may take the form of a bank guarantee, a bank or certified cheque, a bond issued by an insurance or surety company, an irrevocable letter of credit, a deposit in cash, etc.
- h. In any case, the guarantee must be valid and effective for at least sixty days after the approval of the final report has been sent to the Contractor and the final acceptance certificate has been issued. State bodies, semi-official or assimilated bodies are exempt from surety guaranteeing an advance payment.
- i. The guarantee on an advance payment is released as the reimbursement of the advance payment proceeds. The reimbursement must take place as soon as possible and no later than when the payment of the balance is effected.
- j. If for any reason whatsoever the contract is cancelled, not executed or partially executed, and a balance on payments is still outstanding by the Contractor at this point in time, the guarantee set aside for the advance payments must be reimbursed at once.
- k. Should the Contractor be unable to execute the contract, for whatever reason, the advance must be reimbursed immediately.
- l. The Special Conditions fix the methods of payment of advances, instalments and the payment of the balance in full settlement.
- m. All requests for payment, submitted by the Contractor, must necessarily be signed by the duly authorised representative of the Contractor. These requests must be accompanied by all original supporting documents, such as receipts, bills, detailed statements of expenditure per budgetary heading, corresponding to the sums to be paid out and indicate all the relevant details, preferably presented as an excel sheet, together with a list of annexes. These original supporting documents can be sent back to the Contractor after approval by CTA and upon request.



- n. Non budgeted items are ineligible for reimbursement, unless a prior, well-founded request has been submitted by the Contractor and approved by CTA. The Contractor shall also submit such request in case of doubt as to whether a good or service is eligible.

10 RECORDS

The Contractor shall systematically keep full and accurate statements and accounts covering the provision of the services, in a form and way that makes it possible to establish accurately that the number of days worked, if applicable broken down according to the various tasks, and the actual expenses incurred and shown on the Contractor's invoice(s) have been duly devoted to the performance of the contract.

As regards price per unit contracts, the Contractor must keep attendance sheets showing the days or hours worked by his staff. The attendance sheets must be approved by CTA on a monthly basis. The amounts invoiced by the Contractor must correspond to these attendance sheets.

11 RECOVERY OF AMOUNTS OWED BY THE CONTRACTOR

The Contractor undertakes to repay to CTA any amounts paid to him in excess of the final amount due within the time limit specified in the debit note which corresponds to 45 days after the date of issuance of the said debit note.

If the Contractor fails to make repayment by the abovementioned deadline, CTA may increase the amounts due by late payment interest at the rate applied by the European Central Bank for its main refinancing operations in euros as published in the Official Journal of the European Union, series C, increased by three and half percentage points. This rate to which the increase is added is that in force on the first day of the month during which the deadline expires. The late payment interest covers the period between the expiry date of the deadline fixed by CTA, exclusive, and the date when payment is actually made, inclusive. Any partial payment shall be applied first of all against the late payment interest thus determined.

CTA may offset any amounts whatsoever due to the Contractor against amounts due to be repaid to it, without prejudice to any rescheduling agreed between the Parties. All bank charges incurred in connection with the repayment of amounts due to CTA shall be borne solely by the Contractor.

12 TAX PROVISIONS

- CTA is exempt from Value Added Tax in accordance with Article 15, paragraph 10 of European Union Directive 77/388/EEC and the Headquarters Agreement signed between the Kingdom of the Netherlands and CTA on 7.8.1984.
- CTA is exempt from VAT in ACP countries.

During the financial reporting (cf Annex II, C.2.2.) two cases may apply when VAT is paid by the Contractor:

1. If VAT can be reclaimed by the Contractor, amounts reported in the financial statement shall be ex VAT.
2. If VAT cannot be reclaimed by the Contractor, amounts reported in the financial statement shall include VAT and the Contractor shall provide CTA with an official document certifying that VAT is not reclaimed.

It is the responsibility of the Contractor to pay any taxes, social security contributions and similar financial charges due as a result of his activities in the framework of the present contract.

13 CHECKS AND CONTROLS BY CTA

The Contractor undertakes to provide CTA, at the latter's request, with originals of all supporting documents relative to the conditions of performance of the contract. CTA may carry out any documentary and on-the-spot checks it deems necessary to find evidence in cases of suspected unusual commercial expenses or to validate invoicing.

14 DELAY AND NON-PERFORMANCE OF CONTRACT

The Contractor shall notify CTA in a written and detailed manner of any delays in execution of the contract and seek CTA's written approval on any grounds for this delay and/or the reasons for non-performance put forward by the Contractor.

If the grounds are not deemed satisfactory by CTA or if the Contractor fails to respect CTA's instructions within the given timeframe, the latter reserves the right to apply a daily fine amounting to 1/1000 of the total value of the contract up to a maximum of 20% of the total contract value, meaning the total amount payable for the agreed activities/services. Written notice shall be served to the Contractor by CTA in this regard.

The Contractor is not deemed to have failed or infringed the contractual obligations if he can prove that *force majeure* prevented him from complying with his obligations and/or completing his tasks in a timely manner. The Contractor is bound to inform CTA by registered letter as soon as a case of *force majeure* arises.

If the Contractor fails to execute the contract after receiving a formal request to carry out his contractual activities/services, CTA reserves the right to cancel the contract without further formal notice or entering any legal proceedings and to claim any damages and interest that may be due.



15 SUSPENSION OF THE CONTRACT

When there is a risk that the execution of the contract is or might be vitiated by substantial errors, irregularities, fraud or an event of force majeure, CTA may suspend the execution of the contract. When such errors, irregularities or fraud are the responsibility of the Contractor, CTA may, in addition, refuse to make payments or may recover amounts already paid, in proportion to the seriousness of the errors, irregularity or fraud.

CTA may in addition suspend the implementation of the contract when it considers that such a suspension is in the interests of the project.

16 TERMINATION BY CTA

CTA may, after having given 7 days written notice to the Contractor, terminate the contract, without compensation, in any of the following cases:

- a. the Contractor does not substantially fulfil his obligations with regard to the execution of this contract;
- b. the Contractor fails to comply, within a reasonable time, with a request from CTA to remedy any negligence or failure to fulfil his contractual obligations which seriously undermines the proper implementation of the tasks within the prescribed time limits;
- c. the Contractor refuses or fails to execute requests made by CTA;
- d. the Contractor assigns the contract or sub-contracts without CTA's written authorisation;
- e. the Contractor is bankrupt or being wound up, is having his affairs administered by the courts, has suspended business activities, is the subject of proceedings concerning these matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- f. the Contractor has been convicted of an offence concerning his professional conduct by a judgment having the force of res judicata;
- g. the Contractor has been guilty of serious professional misconduct proven by any means that CTA can justify;
- h. the Contractor has been the subject of a judgment having the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to CTA's financial interests;
- i. the Contractor, following another procurement procedure or grant award procedure financed by the CTA budget, has been declared to be in a serious breach of contract for failure to comply with his contractual obligations;
- j. a change in the company's organisation results in a change in legal personality, nature or control of the Contractor, unless an amendment to that effect is signed;
- k. another legal incapacity impedes the implementation of the contract;
- l. the Contractor fails to provide the guarantee;
- m. after the award of the contract, the award procedure or the performance of the contract proves to have been vitiated by substantial errors or irregularities or by fraud.

CTA may then conclude another contract with a third party on behalf of the Contractor. The Contractor shall cease immediately to be liable for delays in execution upon termination, without prejudice to any liability he may have incurred previously in this regard.

CTA shall have no obligation to make other payments to the Contractor as long as the services have not been performed in full.

This contract shall be terminated automatically if it has not given rise to any payment within three years after its signature.

When termination is not the result of an act or failure to act of the Contractor, an event of force majeure or other circumstances beyond CTA's control, the Contractor shall be entitled to claim compensatory damages, in addition to the amounts due to him for the tasks already performed.

17 CONFLICT OF INTERESTS

The Contractor shall take the necessary measures to prevent any situation which could affect the impartial and objective performance of the contract, or put an end to it. Such conflict of interests may arise in particular as a result of economic interest, political or national affinity, family or emotional reasons, or any other type of relationship or shared interest. A conflict of interests that might occur during the performance of the contract must be notified promptly in writing to CTA.

CTA reserves the right to check whether these measures are appropriate and may require the Contractor to adopt additional measures, if necessary. The Contractor must ensure that his staff, including his managers, are not in a position which could give rise to a conflict of interests. The Contractor shall replace immediately, without compensation from CTA, any member of his staff exposed to such a situation.

The Contractor shall refrain from any relationship likely to compromise his independence or that of his staff. If the Contractor ceases to be independent, CTA may terminate the contract without further formal notice and without the Contractor having any claim to compensation as a result of termination.

After the completion or termination of the contract, the Contractor shall limit his intervention to the activity, service or product related to the project. Without CTA's written authorisation, the Contractor or any other contractor or supplier with which he is associated or linked may not carry out work, deliver supply or supply other services for the project, in any way whatsoever, including for the submission of a tender for any part of the project.

The Contractor and any person participating, under his authority or his control, in the implementation of the contract or any other activity must be excluded from a CTA financing in the framework of the same project, unless they can prove to CTA that involvement in the previous stages of the project does not constitute unfair competition.



18 ETHICS CLAUSES

The Contractor must at all times act impartially and as a faithful adviser in accordance with the code of conduct of his profession. He must refrain from making public statements about the project, activities, services or supplies without CTA's prior approval. He may not commit CTA in any way without its prior written consent.

Throughout the contract, the Contractor and his staff must respect human rights and undertake not to offend the political, cultural and religious mores of the recipient state.

The Contractor may accept no payment connected with the contract other than that provided for therein. The Contractor and his staff must not exercise any activity or receive any advantage inconsistent with their obligations to CTA.

The Contractor and his staff are obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents received or drawn up by the Contractor in connection with the performance of the contract are confidential, unless stipulated otherwise in the contract.

CTA reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award procedure. For the purposes of this provision, corrupt practices are understood to mean any offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of the contract.

Contractors found to have paid unusual commercial expenses on a project funded by CTA are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from all CTA contracts.

Failure to comply with one or more of the ethics clauses may result in the exclusion of the Contractor from other CTA funded contracts. The Contractor must be informed of the fact in writing.

The Contractor undertakes to supply CTA on request with supporting evidence regarding the conditions in which the contract is being performed. CTA may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in cases of suspected unusual commercial expenses.

19 EVENTS OF FORCE MAJEURE

Neither of the parties to the contract shall be held in breach of their contractual obligations if they are prevented from fulfilling them by an event of force majeure occurring, either after the date of notification of the award of the contract, or after its date of entry into force.

Force majeure shall mean strikes, lock-outs or other labour disputes, acts of enemies, wars whether declared or not, blockades, uprisings, riots, epidemics, landslides, earthquakes, storms, thunder, flooding, washouts, civil unrest, explosions and any other similar unforeseeable event beyond the control of the parties and which proves insurmountable in spite of their due diligence.

The Contractor shall not be liable to pay lump sum compensation and the contract may not be terminated on the grounds of his non-performance if and insofar as his delay in performance or any other failure to fulfil his contractual obligations results from an event of force majeure. Similarly, CTA shall not be liable to pay late payment interest, shall have no liability towards the Contractor for non-performance and the contract may not be terminated by the Contractor on the grounds of default by CTA, if the delay by CTA or any other failure to fulfil its obligations results from an event of force majeure.

If either of the parties considers that an event of force majeure that could affect the performance of his or its obligations has occurred, the said party shall inform the other party promptly, specifying the nature, probable duration and foreseeable effects of the event. Unless instructed otherwise in writing by CTA, the Contractor shall continue to fulfil his obligations pursuant to the contract, to the extent reasonably possible, and try to find any other reasonable means of fulfilling the obligations incumbent upon him which the event of force majeure does not prevent him from fulfilling. He shall only implement these other means if CTA gives him written instructions to that effect.

If an event of force majeure has materialised and continues during a period of 180 days, notwithstanding any extension of the deadline for the implementation of the contract which the Contractor may have obtained as a result thereof, each party shall be entitled to give the other party 30 days notice of termination of the contract. If, at the end of the 30-day period, the event of force majeure persists, the contract shall be terminated and, pursuant to the law governing the contract, the parties shall accordingly be released from their obligation to pursue the implementation of the contract.

20 DEATH

When the Contractor is a natural person, the contract shall be terminated ipso jure on his death. However, CTA shall examine any proposal from the heirs or beneficiaries when they have notified it of their intention to continue the contract. Such notification must be given in writing within 30 days after the Contractor's death. CTA's decision shall be notified to the interested parties within thirty days after receipt of such a proposal. These persons shall be jointly liable for the satisfactory performance of the contract, in the same way as the initial Contractor.

21 SETTLEMENT OF LITIGATION

In case of any difference of views on the rights and obligations laid down in this contract the parties will proceed as follows, it being understood that they are bound by the sequence of steps:



1. The parties will try to solve such difference by way of an amicable solution. The latter will be put in writing and will become part of the contract.
2. In case the parties did not reach an amicable solution within the meaning of 1. above they will submit the matter to an arbitrator in the Netherlands. The parties agree that the arbitration decision, if accepted by the parties, becomes part of the contract.
3. In case the parties do not accept the arbitration decision within the meaning of 2. above they will submit the matter to the ICC International Court of Arbitration (ICA) in Paris, for final arbitration, the parties being bound by the ICC ICA's arbitration decision.