|  |  |
| --- | --- |
|  | **Contract for the provision of individual expertise services as part of an international cooperatIon project** |
|  |
|  | **Number :** |
|  | |
|  | **OBJECT OF THE INDIVIDUAL EXPERTISE MISSION:**  Support to project development on Human Resources for Health (HRH) in Rwanda |
| |  | | --- | | **Notification date:** |       This contract is subject to the French Code of Public Procurement (CPP) in its latest version in force as enacted by Order No. 2018-1074 of 26 November 2018 (legislative section) and Decree No. 2018-1075 of 3 December 2018 (regulatory section) of the CPP.  The tender is carried out according to the “adapted procedure” in application of Articles L. 2123-1 and R. 2123-1 3 referring to the “specific services” | |

**This document constitutes an individual expertise contract concluded *intuitu personae*:**

|  |  |
| --- | --- |
|  | **Individual expert in charge of the mission: surname and first name**  (Hereinafter referred to as the “Designated Expert”) |

**Between:**

|  |
| --- |
| **Expertise France sas**  (Hereinafter referred to as “Expertise France”)  40, Boulevard de Port-Royal, 75005 PARIS, France  A simplified joint-stock company with share capital of €828,933 registered under the following numbers:   * SIRET no.: 808 734 792 00035 * Intra-community VAT number: FR36 808734792   Represented by Mr Jérémie PELLET, Chief Executive Officer,  **of the first part,** |

**and:**

|  |
| --- |
| **Contractor’s name**  (Hereinafter referred to as the “Contractor”)  Represented by:   * Address of head office: * Registration number in the Trade and Companies Register: * Intra-Community VAT number (if applicable):   **of the other part,** |

(Hereinafter referred to collectively as the “Parties”,)

**Accordingly, it has been agreed as follows:**

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1. **SPECIAL CONDITIONS**
   1. **Object of the individual expertise service contract**

## Object of the contract

The object of the present service Contract (hereinafter referred to as the “Contract”) is the implementation of a mission carried out by a designated individual expert concerning “*Support to project development on Human Resources for Health (HRH) in Rwanda*” which forms part of “*L’Initiative – Sida – Tuberculose – Paludisme”* (hereinafter referred to as the “main contract”).

## Form of the contract

The Contract consists of a single item or several items forming an inseparable and indivisible whole.

**Contractual documents**

This Contract consists of the contractual documents listed below, in decreasing order of precedence:

1. The present document and its annexes:
   1. Annex 1 (attached): Description of the individual expertise mission;
   2. Annex 2 (attached): Expert’s CV;
2. Contractor’s offer of XX/XX/XXXXX

These documents constitute the entire agreement between the Parties relating to the present Contract. They supersede all communications, procedures, agreements, commitments, guarantees or arrangements, both oral and written, relating to its subject matter and facts, by a Party or on its behalf, with regard to the other Party, which may have occurred before the notification date of the present contract. These documents are acknowledged by the Parties as being the sole, comprehensive exposition of the terms of their agreement.

Without prejudice to the general rules applicable to administrative contracts, any change in the Contract or any waiver of a right resulting from the Contract shall be covered by an addendum duly signed by an officially authorized representative of each Party.

* 1. **Duration of the contract and entry into force**

The duration of the Contract is 6 months starting from date of notification to the Contractor by Expertise France.

The Contract will end upon complete and full performance of the Contractor’s services and the extinguishment of the rights and obligations of each party arising from the Contract. If all or some of the services are not carried out within the specified deadline, the Contractor shall immediately take all necessary steps to make up the delay and may not claim any compensation on these grounds.

**Financial provisions**

## Contract amount

This contract is concluded for a **total fixed price**.

The amount of the contract covers the performance of all the services necessary for its full and complete performance.

This amount also includes all costs and charges (including any taxes of any kind) to which the co-Contractor is subject under this agreement, with the exception of the reimbursable costs detailed below. The *reimbursable costs* and the *ancillary costs covered by Expertise France* defined below are the only expenses covered by Expertise France under this contract in addition to the expertise fixed rate.]

## Reimbursable costs

No reimbursable costs will be covered by Expertise France under the present Contract.

## Ancillary costs directly covered by Expertise France

No ancillary costs will be borne by Expertise France.

## Advances

An advance of €XXXXXX (5% of the total amount of the Contract) is granted to the Contractor at the time of notification of this Contract.

A possible renewal or extension of the duration of the Contract does not confer any right to an additional advance.

The advance must be paid back in one single payment as soon as the contract is notified. The repayment of the advance is by deductions from the sums due to the holder as part of the performance of this contract (interim payments, partial payments or remaining balance). The advance must be paid back in its entirety when the amount reaches 60%.

## Interim payments

Periodic interim payments may be made to the Contractor:

|  |  |
| --- | --- |
| **Amount** | **Date of payment** |
| 30% of the total amount of the contract | Submission and validation of deliverable n°1, 2 and 3 (literature review report, list of priorities and main project components and summary) |
| 40% of the total amount of the contract | Submission and validation of deliverable n°4 (project documents) |

The total amount of interim payments must not exceed 90% of the amount of the Contract.

## Bank transfer

***For the Contractor***

The payment for the invoiced services shall be made to the Contractor’s bank account, identified as follows:

|  |  |  |
| --- | --- | --- |
| Bank code | Sort code | Account number |
| To be filled in by the Contractor | To be filled in by the Contractor | To be filled in by the Contractor |

IBAN: To be filled in by the Contractor

BIC: To be filled in by the Contractor

* 1. **Specific implementation procedures**

## Verification operations

Service verification operations are carried out in accordance with the provisions of the general conditions of the present Contract.

These are carried out by:

* the Project Coordinator : Adeline Battier (adeline.battier@expertisefrance.fr)

## Place of performance

The Designated Expert service shall be carried out mainly in Kigali, Rwanda.

## Point of contact and communication

Any notice or communication between the Parties under the terms of the Contract must be in written form, either by exchange of email or by registered letter with acknowledgement of receipt (this second form being stipulated in certain cases by the contract), and will be deemed valid from the time it is received by the recipient.

All correspondence shall be sent to the following addresses, with all delivery charges fully paid:

|  |  |
| --- | --- |
| For Expertise France: | Expertise France  Adeline Battier  Health Department / L’Initiative  40 boulevard de Port-Royal  75005 Paris - France |
| For the Designated Expert | To be filled in by the Designated Expert |
| For the Contractor: | To be filled in by the Contractor |

Each Party may modify its address at any time, while informing the other Party in writing of the change.

## Table of Deliverables

|  |  |  |
| --- | --- | --- |
| 1 | Literature review report | 30/04/2024 |
| 2 | List of priorities established in relation to the literature review and inputs from MoH and L’Initiative | 30/04/2024 |
| 3 | Main project components and summary (3 pages) | Deadline (to be confirmed) : 06/05/2024 |
| 4 | Project documents according to the templates providing:   * Narrative description/Action Plan * Budget * Logical Framework * Schedule * Monitoring and Evaluation survey’s needs * Administrative forms on project applicants and partners | Deadline (to be confirmed) : 21/06/2024 |
| 5 | Report on the Project development workshop | 10 days after the workshop |
| 6 | A report (maximum 10 pages using the template provided) after each field visit or key milestone within 10 days, according to the template provided.  This report, written in English, will be distributed to all partners involved in the assignment, following approval by Expertise France. | After each field visit or each key milestone of the assignment, within 10 days. |

* 1. **Review clause**

In application of Articles R.2194-1 et seq. of the French Code of Public Procurement, Expertise France may modify the provisions of this contract under the following conditions:

* Updates to technical elements (specifications about deliverables, definition of manufacturing techniques, technical data sheets, changes to instructions, etc.).

The Contractor shall be notified of these changes by any means set by Expertise France that guarantee the traceability of the exchanges.

* 1. **Provision of similar services**

In application of Article R.2122-7 of the French Code of Public Procurement, the Contractor may be allocated a contract for the provision of similar services without prior advertisement or a competitive tender process.

* 1. **Final provisions**

## Declaration

The Contractor declares that it:

* agrees that the performance of the mission required under the present Contract constitutes a provision of services implying no subordinate relationship with the Designated Expert and that consequently the present Contract does not constitute and **is not intended to constitute an employment contract.**
* subscribes to and will comply with all the contractual documents defined in §I.2.
* accepts, if applicable, the notification of the contract, according to the usual procedures, in dematerialized form.

Under penalty of automatic termination of the Contract with no entitlement to compensation, the Contractor declares that:

* neither it nor the Designated Expert falls within the scope of the prohibitions arising from Articles 2141-1 to L 2141-5 and L. 2141-7 to L. 2141-11 et seq. of The French Code of Public Procurement or an equivalent prohibition imposed in another country;
* the commitments made in connection with the present contract do not place either it or the Designated Expert in a position of conflict of interest which might impact the performance of the contract;
* neither it nor the Designated Expert has committed any act that might influence the implementation of the Project to the detriment of the Beneficiary, and in particular no agreement has been reached or will be reached;
* the negotiation, award and performance of the Contract have not resulted in and will not result in an act of corruption as defined by the United Nations Convention Against Corruption of 31 October 2003.

Furthermore, the Contractor, its affiliates, suppliers, contractors, consultants and subcontractors (including directors, employees and agents of such entities) certify that:

* they do not acquire and don't supply/will not acquire or supply equipment and do not intervene/will not intervene in sectors under embargo by the United Nations, the European Union or France. For information, the list can be found at: <https://www.sanctionsmap.eu> ;
* they are not included in the lists of financial sanctions adopted by the United Nations, the European Union, France and/or the United States, notably in the fight against the financing of terrorism and against attacks on national peace and security. For information, the lists can be consulted at the references below:
* for the United Nations, the United Nations Security Council sanctions lists: <https://www.un.org/sc/suborg/fr/sanctions/un-sc-consolidated-list>,
* for the European Union, the lists can be consulted at the following address: <https://www.sanctionsmap.eu>,
* for France, see: <http://www.tresor.economie.gouv.fr/4248_Dispositif-National-de-Gel-Terroriste>,
* for the United States, see: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information>;
* they are not subject to a World Bank exclusion order and are not on the list published by the World Bank. For information, the list can be consulted at the following address: <https://www.worldbank.org/en/projects-operations/procurement/debarred-firms>

*In the hypothesis of such a decision of exclusion, we can join to the present declaration on honor the additional information which would allow to consider that this decision of exclusion is not relevant within the framework of the market.*

The Contractor, its affiliates, suppliers, contractors, consultants and subcontractors (including directors, employees and agents of such entities) acknowledge and accept that the above-mentioned situations may lead to the automatic termination of the contract.

They undertake to inform Expertise France without delay of any change in our situation during the execution of the Contract with regard to the present declaration.

## Signatures of the Parties

|  |
| --- |
| **For the Contractor:**  Handwritten words “Read and approved”:  Done in.....………....….., on...…….....20.... Signature[[1]](#footnote-2):  First Name/Surname of signatory:  Position: |
| **For Expertise France:**  Done in.....………....….., on...…….....20.... Signature:  First Name/Surname of signatory:  Position: |

**Drawn up in a single original copy kept by Expertise France.**

1. **General conditions**
   1. **Undertakings of the Contractor vis-à-vis the Designated Expert**

As part of the performance of the Contract, the Contractor undertakes to ensure that the Designated Expert:

* makes himself/herself available throughout the duration of the Contract, as set out in the special provisions;
* complies with the terms of reference and carries out the services expected under the present Contract in a diligent, efficient and cost-effective manner and in compliance with generally accepted techniques and practices;
* uses appropriate modern techniques and safe and effective processes to meet his/her performance obligation. Should the resources implemented by the Designated Expert not be suited to the performance of the services, Expertise France shall be entitled to request that they be modified;
* immediately informs Expertise France in writing of any communication or instruction received from the Client or a third party relating to the services; the Designated Expert shall comply with any such communication or instruction only after consultation with Expertise France and after having received its written approval;
* reports any difficulty, of any nature, which he/she may encounter in the fulfilment of his/her obligations under the terms of the Contract;
* complies with the laws and regulations in force in the country where the services are carried out and upholds an attitude and conduct towards third parties in accordance with the interests of Expertise France, to ensure that Expertise France will not be held liable in this regard by the beneficiary or any other party appointed by it;
* presents itself to the Beneficiary, partners and local authorities as a member of the team of experts mandated by Expertise France, protects the best interests of Expertise France vis-à-vis the BENEFICIARY, and acts in general as a faithful advisor to Expertise France;
* undertakes to comply with the health and safety recommendations and guidelines in the Safety Guide appended to this Contract and complies with any recommendations and guidelines which may be communicated by Expertise France when necessary. Before going on a mission in a sensitive area in the course of the performance of the present Contract, the Designated Expert must in particular:
  + obtain a mission order signed by the Expertise France Safety Department, together with a safety sheet;
  + register with the “Fil d’Ariane” tracking scheme set up by the French Ministry of Europe and Foreign Affairs;
  + submit a professional identity sheet to the Expertise France Safety Department;
* applies Expertise France’s commitments as expressed in its Ethical Charter attached to this Contract.
  1. **Characteristics of the individual expertise mission**

**Designated Expert responsible for carrying out the mission**

This Contract is concluded *intuitu personae* following the selection of the Designated Expert. The expertise mission shall be carried out by the Designated Expert whose CV is appended to the present Contract.

Consequently, the Contractor may not subcontract, assign or transfer all or part of its rights and obligations under the present Contract to a third party.

In accordance with Article II.1., the conclusion of the present Contract between Expertise France and the Contractor constitutes a commitment that the Designated Expert will be available for the whole period of implementation. Unavailability of the Designated Expert constitutes grounds for termination for breach of contract under the conditions defined in Article II. 14 of the general conditions.

**Contractual documents and terms of the agreement**

The contractual documents named in Article 1.2 of the special conditions constitute the entire agreement between the Parties relating to the Contract. They supersede all communications, procedures, agreements, commitments, guarantees or arrangements, both oral and written, relating to its subject matter and facts, by a Party or on its behalf, with regard to the other Party, which may have occurred prior to its entry into force. These contractual documents are acknowledged by the Parties to be the sole and comprehensive exposition of the terms of their agreement.

Without prejudice to the general rules applicable to administrative contracts, any change in the Contract or any waiver of a right resulting from the Contract shall be covered by an addendum duly signed by an officially authorised representative of each Party.

**Definition of services and performance obligation**

The Contractor is subject to a performance obligation regarding the performance of all the services due under the present Contract, defined in particular in Annex 1 “Description of the individual expertise mission”, and specified again if necessary by each purchase order.

Except in the event of termination by one or the other of the Parties, the Contract will end upon complete and full performance of the services by the Designated Expert and extinguishment of the rights and obligations of each party resulting from the Contract.

If all or some of the services are not carried out within the specified deadlines stated in Article I.5 of the special conditions of the Contract, the Contractor and the Designated Expert shall immediately take all necessary steps to make up the delay, without being able to claim any remuneration on these grounds.

**Functional coordination relationship**

The expertise mission entrusted to the Designated Expert under the present Contract is part of a cooperation project implemented by Expertise France. Consequently, the Designated Expert shall comply with the organisational, logistical and functional instructions given by Expertise France in order to usefully ensure that his/her intervention fits in with the context of the project.

The Designated Expert reports directly on his/her mission to the Expertise France contact point named in the special conditions of the Contract.

* 1. **Duration of the contract**

**Entry into force of the contract**

Unless otherwise specified in the special conditions, the Contract shall enter into force upon its notification to the Contractor following its signature by the Parties. The services due under the Contract shall not commence prior to its entry into force.

**Counting the duration of the contract**

Unless otherwise specified in the special conditions, the time periods and durations set out in the Contract are expressed in business days, weeks or calendar months.

**Contract renewal procedures**

If the specific clauses provide for the renewal of the Contract, this occurs tacitly.

Expertise France reserves the right not to renew a period of validity. In the event of non-renewal, Expertise France shall notify its decision no later than two months prior to the end of the current period of validity by registered letter with acknowledgement of receipt. Non-renewal of a period of validity of the Contract will not lead to any entitlement to compensation for the Contractor or the Designated Expert.

* 1. **Procedures for issuing purchase orders**

If the specific clauses provide for this, purchase orders shall be issued by Expertise France based on its needs arising in connection with the Main Contract and shall be notified by email to the Contractor and to the Designated Expert.

Purchase orders shall include:

* The reference of the Contract and the Main Contract,
* The name of the expertise mission requested,
* The amount and breakdown of the purchase order (quantity ordered *x* unit price),
* The place of performance of the expertise mission,
* The period of performance of the expertise mission.
  1. **FINANCIAL PERFORMANCE OF THE CONTRACT**

**Form of prices**

Prices are firm and may not be revised.

**Interim payments**

Interim payments may be made to the Contractor in accordance with the periodicity set out in the special conditions of the Contract.

The total amount of the interim payments shall not exceed the value of the services provided by the Designated Expert and validated by Expertise France.

Unless otherwise stated in the special conditions of the Contract, the total amount of interim payments made must not exceed 90% of the flat-rate amount of the Contract or, where appropriate, the relevant purchase order.

An interim payment itself does not constitute proof of reception, even partial, and does not relieve the Contractor of its obligations under the Contract and the relevant purchase order.

**Balance**

The Contract or, where appropriate, each purchase order issued under the Contract, gives rise to a final payment corresponding to the balance. This is made after the receipt and final validation of all the corresponding services.

**Billing**

Invoices pertaining to the Contract include, in addition to the legal notices (registration number in the Registry of Companies, intra-community VAT number), the following information:

* The Contractor’s official name, address and registered office,
* The registration number in the Trade and Companies Register (SIRET or equivalent),
* The bank details,
* The service code corresponding to the ordering department (indicated in Article I.5 SPECIFIC IMPLEMENTATION PROCEDURES - § Point of contact and communication),

|  |  |  |  |
| --- | --- | --- | --- |
| **DEPARTEMENTS - DO** | **CODE SERVICE** | **DEPARTEMENTS DFT + DG** | **CODE SERVICE** |
| Human Capital and Social Development | CHDS | Financial Affairs | AFFG |
| Sustainable Developmen | DDU | General Resources – Ops. | MGFG |
| Democratic Governance and Human Rights | GDDH | General Resources – Invest. | MGINV |
| Economic and Financial Governance | GEFI | Human Resources | RHFG |
| Twinning and Bilateral Admin Activities | JUM | IT services – Ops. | 5IFG |
| Peace, Stability and Security | P2S | IT services – Invest. | SIINV |
| Expert Relations | REX | Transversal Roles Directorate | DFT |
| Health | SAN | Communications | COM |
| DO – Central Roles | DO | Safety | SUFG |

* The reference of this contract,
* The name of EF Project and EF project number
* The clear, accurately stated names of equipment and/or provisions and/or services carried out, etc.
* If it is not stated on the invoice where the Contractor’s payments should be sent, banking information shall be attached (RIB) as well as the completed mandatory third-party form.

Invoices are submitted on the Chorus Pro portal. These must state the service code referenced above, which matches the department of Expertise France entering into the contract.

If the Contractor is not required to send invoices via Chorus, it may send them to contact point named in the special conditions in Article I.5 M I.5 SPECIFIC IMPLEMENTATION PROCEDURES - § Point of contact and communication.

Invoices for interim payment shall be accompanied by the corresponding validated time sheets. Invoices for the balance (definitive partial payment) must be accompanied by the copy of the receipt of services decision.

**Payment deadlines and default interest**

Payments are always made in the name of the issuer of the invoice or the expenses reimbursement request.

The overall payment time for the amounts due for performance of the Contract is set at a maximum of thirty (30) days from the date of receipt of the complete invoice, including all the supporting documents, or from the date of acceptance of the services if this date is later. Any missing documents shall prevent payments.

If this payment time is exceeded, Expertise France shall pay the Contractor default interest under the conditions set out in Decree no. 2013-269 of 29 March 2013 on combating late payments in public procurement Contracts. The rate of default interest is equal to the interest rate applied by the European Central Bank to its most recent main refinancing operations in force on the first day of the half year of the calendar year in which the default interest started to accrue, plus eight percentage points.

The amount of the flat-rate compensation for recovery costs is set at forty (40) Euros and shall be systematically paid in addition to the default interest. Interest for an amount below 40 Euros shall not be mandated.

**Taxes and duties**

The Contractor shall directly bear the cost of all taxes, duties and charges, whatever their nature, which may be claimed from it under the present Contract, both in the country of its headquarters and in the country or countries where the services are performed.

The Contractor shall indicate the rate of VAT applicable to the operation or, where applicable, the fact that it benefits from an exemption, by mentioning on the invoice “VAT not applicable” in accordance with the provisions applicable to it (French General Tax Code or European Directive 2006/112/EC of 28 November 2006).

**Methods of calculating per diems - daily allowances**

Unless specified in the special conditions, the amount of the per diems is set in accordance with the European scale applicable since the 17th of March 2017, available here: <https://ec.europa.eu/international-partnerships/system/files/per_diem_rates_20191218.pdf>

* 1. **Verification Operations and reception of services**

Following the verification operations, Expertise France shall take a decision in terms of reception, postponement, reduction or rejection.

**Service verification operations**

The persons responsible for the verification operations are named in the special conditions of the Contract.

The purpose of the quantitative and qualitative verification operations is to allow Expertise France to check in particular that the Designated Expert has:

* implemented the means defined in the Contract, in accordance with the requirements set out in it;
* performed the services defined in the Contract as being under his/her responsibility, in accordance with the contractual provisions.

Expertise France has a maximum of one month to proceed with the verifications and notify its decision concerning the reception, postponement, reception with reductions or rejection. The starting point of the period is the date of reception by Expertise France of the Individual expert’s services.

**Reception**

Expertise France shall declare the reception of the services if they are in accordance with the provisions of the Contract. Reception takes effect from the date of notification of the reception decision to the Designated Expert.

Should Expertise France not notify its decision within the period referred to in the article *Verification Operations*, the services shall be deemed to have been received, with effect from the expiry of the time period.

**Postponement**

If Expertise France deems that the services can be received only on condition that certain amendments are made, it may decide to postpone the reception of the services by a reasoned decision. This decision requires that the Designated Expert submit the amended services to Expertise France within fifteen days.

The Designated Expert or the Contractor shall make known their acceptance within ten days starting from the notification of the postponement decision. In the event of the Designated Expert refusing or failing to respond during this period, Expertise France may declare the reception of the services with reductions, or reject them, under the conditions set out in this Contract, within fifteen days starting from the notification of the refusal by the Designated Expert, or starting from the expiry of the ten-day period mentioned hereinabove.

Failure to respond on the part of Expertise France beyond this fifteen-day period constitutes a decision to reject the services.

Should the Designated Expert submit the amended services again, following the decision to postpone the services, Expertise France once again has the entire time period to verify the services, starting from when they are submitted again by the Designated Expert.

**Reductions**

When Expertise France deems that the services, without being entirely in compliance with the specifications of the Contract, may nevertheless be received in their current form, it declares their reception with a price reduction proportional to the scale of the flaws observed. Reasons shall be given for this decision. It shall be communicated to the Designated Expert and to the Contractor prior to its notification so that they can submit their observations

If no observations are submitted within fifteen days following the decision of reception with reductions, the decision shall be deemed to have been accepted. If observations have been made within this period, Expertise France shall subsequently have fifteen days to notify a new decision. Failing such notification, Expertise France shall be deemed to have accepted the observations.

**Rejection**

When Expertise France deems that the services do not comply with the specifications of the Contract and cannot be received in their current form, it declares their partial or total rejection, after giving the Designated Expert and the Contractor an opportunity to submit their observations in accordance with the procedure provided for in the paragraph above.

In the event of rejection, the Designated Expert shall be obliged to perform the service provided for in the Contract again.

The Designated Expert has one month starting from the notification of the rejection decision to remove any supplies delivered under the rejected services. When this period has passed, they may be destroyed or removed by Expertise France, at the expense of the Contractor.

* 1. **Intellectual Property**

**Definitions**

The Transfer provided for by this Article requires the following terms to be defined

* the term “Results” refers to any product expected from the performance of the Contract which is delivered and which undergoes final acceptance by Expertise France;
* the term “Author” refers to any individual who has contributed to the production of the Result;
* the term “Existing Rights” refers to any intellectual property right, including existing technologies, held by Expertise France, the Contractor or any interested party prior to the order whose implementation is provided for by the provisions of the Contract.

**Ownership of results**

The ownership of the results and the ownership of the associated intellectual and industrial Property rights and the technical solutions and information contained therein are completely and irrevocably transferred to Expertise France under the Contract. This transfer only covers “patrimonial” copyright. It does not include “moral” copyright. Such moral rights cover disclosure, authorship and respect for the integrity of results seen as works as defined by Intellectual Property Law

The abovementioned elements are deemed to be transferred effectively to Expertise France after acceptance by it of the results delivered to it by the Contractor.

The payment of the price paid to the Contractor is deemed to include all the remunerations which are owed to it for the acquisition of rights by Expertise France, particularly all forms of exploitation of the results. The acquisition of these rights is valid worldwide.

**Exploitation of results**

By acquiring ownership of the results developed by the Contractor, Expertise France becomes the owner of all the “patrimonial” copyright associated with them. As such, and without this list being exhaustive, Expertise France may exploit these results for the following purposes:

* exploitation for internal purposes:
  + communication to its personnel
  + communication to persons or organisations working for Expertise France or collaborating with it, including Contractors and subcontractors (legal entities or natural persons), institutions, agencies and organs of the European Union and institutions of member states
  + installation, loading, processing, arrangement, compilation, assembly, extraction, copying and reproduction in whole or in part and in an unlimited number of copies
* public dissemination:
  + in paper, electronic or digital format
  + on the Internet in the form of files, downloadable or not
  + by display, radio broadcasting, television broadcasting or any other transmission technique
  + other public dissemination in any form any by any means
* modifications:
  + modification in terms of content, formal and technical
  + addition of new elements in terms of content and form
  + adaptation via new media
  + translation into several languages
  + scanning and computer processing

**Licence for Existing Rights**

Expertise France does not acquire ownership of the Existing Rights.

The Contractor grants Expertise France a royalty-free, non-exclusive and irrevocable licence for the Existing Rights, authorizing it to exploit these rights under the terms stipulated in Article 8.3. This licence becomes effective as of the delivery of the Results by the Contractor and their acceptance by Expertise France. At the time of the delivery of the Results, the Contractor may, if necessary, supply Expertise France with a list of Existing Rights and third party rights, including those of its personnel, authors or other rights holders. The licence for existing rights granted to Expertise France under the present Contract is valid worldwide and for the whole period of protection of the intellectual property rights.

**Guarantees**

When it delivers the results, the Contractor guarantees that they are free of any rights and claims by the authors and third parties, including with regard to existing rights, for all the uses envisaged by Expertise France.

At Expertise France’s request, the Contractor must be able to demonstrate, through tangible and effective proof, either ownership of or the rights to use all the existing rights and third party rights listed, except as regards the rights held by Expertise France.

**Image rights**

If recognisable persons are represented in a result or their voice is recorded, the Contractor shall submit, at Expertise France’s request, a declaration in which these persons (or their parents or legal guardians in the case of minors) authorize the envisaged use of their image or their voice. These provisions do not apply to persons whose permission is not required under the legislation of the country in which the photographs have been taken, the films have been shot or the sound recordings have been made.

* 1. **MANAGEMENT OF Personal data**

**Provisions applicable in the event of a direct contract agreement with the Designated Expert**

In application of Article 13 of EU regulation 2016/670 of the European Parliament and of the Council of 27 April 2016 concerning the protection of individuals with regard to the processing of personal data and the free movement of such data (GDPR), the Contractor is hereby informed the personal data collected (in particular surname, first name, email address) in connection with the present contract are liable to processing.

The legitimate legal grounds for this processing correspond to sections (c) and (e) of the GDPR, namely:

* The processing is necessary to comply with a legal obligation to which Expertise France is subject;
* The processing is necessary for the performance of a public interest mission or relevant to the exercise of official authority vested in Expertise France;

The purposes of the processing are:

* The management and monitoring of this contract,
* The management and monitoring of reporting to funding bodies and other control authorities.

The recipients or category of recipients of personal data are exclusively authorised persons from Expertise France, ministries, State operators and funding bodies in charge of the signing and performance of this contract, as well as the service providers assisting them in their activities.

Retention period: these data are retained for the whole duration of the performance of the contract, as well as throughout the duration of administrative usefulness (DUA) applicable to the contract.

To comply with the provisions to Articles 15-21 of the GDPR, persons whose personal data are collected have the right of access, rectification and erasure for information concerning them. They also have a right the limit the processing of this data and to oppose the processing on legitimate grounds. The rights of information and any other right for persons affected by the processing implemented can be exercised by contacting the Expertise France Data Protection Officer ([informatique.libertes@expertisefrance.fr](mailto:informatique.libertes@expertisefrance.fr)).

Individuals whose personal data are collected in connection with the present procedure have the right to lodge a complaint with the French Data Protection Authority (CNIL).

**Applicable provisions in the event of a contract agreement with a company to which the Designated Expert is affiliated**

This contract may include one or more personal data processing operations. The parties undertake to comply with the regulations in force applicable to the processing of personal data in compliance with Law no. 78-17 of 6 January 1978, as modified, regarding the protection of personal data and to EU regulation 2016/679, the so-called “General Data Protection Regulation” (GDPR).

The Contractor undertakes in particular to:

* Process personal data only for the purpose(s) that are the subject of this contract;
* Ensure that those persons authorised to process the personal data undertake to respect its confidentiality or are subject to a suitable legal confidentiality obligation;
* Implement suitable technical and organisational measures to guarantee a level of security appropriate to the risks arising from the contract including, in particular, the encryption, confidentiality and integrity of data;
* Notify Expertise France, by any means, of any breach of personal data within 24 hours of becoming aware of it;
* Assist Expertise France in fulfilling its obligation to pursue requests from data subjects;

Delete all personal data or return this data to Expertise France at the conclusion of the services relating to the contract, at the latter’s request, unless EU law or the law of the Member State requires the retention of said data;

Make available to Expertise France all information necessary to demonstrate compliance with the obligations pursuant to this Article, and allow audits to be carried out by the contracting authority or another party that it has appointed.

If the Contractor uses a subcontractor to carry out its personal data processing in connection with the contact, it must first obtain the written authorisation of Expertise France. Likewise, the Contractor shall inform Expertise France of any planned change concerning the addition or replacement of other subcontractors, thereby giving Expertise France the option to object to these changes.

The same obligations regarding data protection as those set in the contract between Expertise France and the Contractor are imposed on the subcontractors, in particular for presenting sufficient guarantees regarding the implementation of appropriate technical and organisational measures for the protection of personal data processing. If the subcontractor does not fulfil these obligations, the Contractor shall be fully liable towards Expertise France for the subcontractor’s performance of these obligations.

It should be recalled that the Contractor may be held liable in the event of non-compliance with the aforementioned provisions. Expertise France may announce the immediate termination of the contract, without compensation to the Contractor, in the event of a breach of professional secrecy or non-compliance with the aforementioned provisions.

* 1. **Confidentiality**

The Contractor and the Designated Expert shall treat as private all documents and information that they receive or of which they become aware in connection with the Project. They shall conserve their secret nature and not use them for any other purposes than the performance of this Contract.

In this regard, the Contractor and the Designated Expert undertake to:

* Protect and safeguard all information considered or presented as confidential;
* Handle confidential information received with the same degree of precaution and protection as that accorded to their own confidential information;
* reveal confidential information only to their personnel and third parties involved in the performance of the Contract and only having first sought the express prior written approval of Expertise France;
* take all necessary steps to ensure that their personnel and third parties involved in the performance of the Contract who become aware of confidential information undertake to handle this Information with the same degree of confidentiality as that resulting from this clause;
* If necessary, remind its personnel and third parties involved in the performance of the Contract about the confidential nature of the confidential information as soon as this information is communicated;
* recall the confidential nature of confidential information before any meeting during which the confidential information is communicated.

The Contractor and the Designated Expert may not disclose any details of the Project, except to the extent necessary for the purposes of performing the Contract, without the prior written consent of the other party.

* 1. **Insurance and liability**

In the context of the performance of the services under this Contract, the Contractor takes full responsibility for any physical, material and/or non-material damage that it or the Designated Expert may have caused, as well as the related material or financial reparations.

To guard against such risks, the Contractor shall comply with its legal obligations to take out, at its own expense, an insurance policy covering its own civil and professional liability and that of the Designated Expert.

At the request of Expertise France, the Contractor shall provide proof of all the aforesaid to Expertise France (certificate of insurance).

The Contractor shall take out and maintain, at its expense, insurance policies covering its liability for any illness or occupational accidents to which the Designated Expert may be subject in performing the services.

In addition, Expertise France shall take out and maintain “accident and repatriation” insurance policies at its own expense to cover the Designated Expert with coverage of the corresponding risks during his/her mission.

* 1. **Safety, security, risk prevention and ETHICS**

Throughout the term of the contract, the safety and security rules set out by Expertise France shall apply to the Contractor. These are regularly updated and communicated to the Contractor individually, by any suitable means. In the absence of an individual communication, Expertise France shall strive to make these rules accessible to the Contractor upon notification of the contract. Either way, the Contractor is deemed to have understood the safety rules relating to the performance of its mission. It undertakes to comply strictly with these rules and to pay regular attention to any updates.

The Contractor likewise undertakes to study the [Expertise France Code of Conduct](https://www.expertisefrance.fr/documents/20182/426622/Expertise+France+%E2%80%93+Code+de+conduite/2408659b-a84e-45ac-a142-47d5dc21faff) and to comply strictly with it (the Expertise France Code of Conduct is accessible on the agency’s website: www.expertisefrance.fr).

Any breach of the safety and security rules and of the Code of Conduct may lead to the termination of the contract and incur the liability of the Contractor.

* 1. **Force majeure**

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

“Force majeure" means, for the purposes of the present Contract, any unforeseeable event beyond the parties’ control which they are unable to overcome despite their diligence. For the purposes of this contract, a decision by France or the European Union to suspend cooperation with the partner country is expressly considered to be a case of force majeure when it involves the suspension of financing for this contract.

The Contractor shall not be liable to lump-sum compensation or to termination for failure to perform if and to the extent that its delay in performance or any other failure to fulfil its obligations under the contract results from a case of force majeure. Similarly, Expertise France shall not be liable for the payment of interest for late payment or the Contractor’s failure to fulfil its obligations or for the termination of the contract by the Contractor for default, if and to the extent that a delay on the part of Expertise France or any other failure to fulfil its obligations results from a case of force majeure.

Should one of the parties deem that a case of force majeure likely to affect the performance of its obligations has occurred, it shall immediately inform the other party as well as the project manager, specifying the nature, likely duration and expected impacts of this event. Unless instructed otherwise by the project manager in writing, the Contractor shall continue to fulfil its contractual obligations insofar as is reasonably possible for it and shall seek any other reasonable means to allow it to fulfil the obligations that the case of force majeure does not prevent it from performing. It shall only implement these other means if the project manager instructs it to do so.

For a unit price contract, if, by following the instructions of the project manager, the Contractor has to meet additional expenses, their amount shall be certified by the project manager.

If a case of force majeure has occurred and continues for a period of 180 days, notwithstanding any extension to the period for the performance of the contract that the Contractor may have thereupon obtained, each party shall have the right to give the other 30 days notice to terminate the contract. This notice shall be given by registered letter with acknowledgement of receipt. Should the case of force majeure continue at the expiry of the period of 30 days, the contract shall be automatically terminated.

* 1. **susPension of performance of the contract**

The suspension shall take effect on the date on which the Contractor receives formal notification of it by registered letter with acknowledgement of receipt, or at a later date indicated in the notification. Expertise France shall inform the Contractor as soon as possible of its decision to have the performance of the suspended tasks resumed or to terminate the Contract. The Designated Expert must make himself or herself available within 8 days of the notification of the resumption of the contract sent by EXPERTISE France. The Contractor may not demand compensation in the event of the suspension of all or part of the Contract.

**Suspension by either party to the contract**

The Contractor or Expertise France may suspend the performance of all or part of the Contract if a case of force majeure makes this performance impossible or excessively difficult. The party wishing to suspend the Contract shall immediately inform the other party of the suspension by registered letter with acknowledgement of receipt, providing all the necessary justifications and clarifications, as well as the date envisaged for the resumption of the performance of the Contract.

As soon as the conditions are in place for a resumption of the performance, the parties shall agree on a resumption date, unless the Contract has already been terminated.

**Suspension by Expertise France**

Expertise France may suspend the performance of all or part of the Contract:

* + - 1. if the procurement procedure or the performance of the Contract have been subject to substantial errors, irregularities or fraud;
      2. to verify whether alleged substantial errors, irregularities or fraud have effectively occurred.
  1. **Termination of the contract**

**Termination by Expertise France**

Expertise France may terminate the Contract without compensation and at any time by a termination decision notified to the Contractor. This termination may be carried out on any grounds, particularly in the event of suspension of the contract, non-compliance with the health and safety recommendations and guidelines in the annex to the present contract or non-compliance with the recommendations and guidelines which may be communicated by Expertise France to the Contractor when necessary. Termination for cases of force majeure is carried out in accordance with the procedure stipulated in Article II.12.

The termination decision shall be notified to the Contractor by registered letter with acknowledgement of receipt. It shall mention the effective date of termination.

**Termination by the Contractor**

The Contractor may terminate the contract in the event of a case of force majeure which disrupts the initial conditions of performance of the contract, in accordance with the procedure stipulated in Article II.12, or in the event of suspension of the performance of the contract by Expertise France notified in accordance with Article II.13, if the resumption of performance is impossible.

When it wishes to terminate in the event of suspension of the performance of the contract, the Contractor must notify Expertise France of its intention by registered letter with acknowledgement of receipt. Expertise France has 30 days starting from the date of receipt to submit its observations if necessary. Failing that, the contract is automatically terminated on the day following the expiry of the deadline to submit observations. Should Expertise France submit observations, the Contractor shall formally notify it of the withdrawal of its intention to terminate or its final decision to terminate

**Continuity of service**

When the termination is initiated by the Contractor, the Contractor shall, at Expertise France’s request, provide all the assistance required, including information, documents and files, in order to allow Expertise France to complete or continue the services, or transfer them to a new Contractor or internally, without interruption or negative impact on the quality or continuity of services. The parties may agree to establish a transition plan specifying the modalities for the Contractor’s assistance, unless such a plan is already set out in the other contractual documents or in the specifications. The Contractor shall provide this assistance at no extra cost, unless it is able to demonstrate that this assistance requires substantial additional resources or means, in which case it shall provide an estimate of the expenses incurred and the parties shall negotiate an arrangement in good faith.

**Effects of termination**

Upon receipt of the notice of termination, the Contractor shall take all necessary measures to reduce costs to a minimum, to prevent losses and to cancel or reduce its commitments. It has sixty days starting from the date when termination takes effect to establish the documents required by the purchase order for the tasks already performed at the termination date, and to submit an invoice if necessary. Expertise France may recover any amount paid under the Contract.

When the Contractor initiates a termination which Expertise France has previously deemed to be unfounded in its observations, expertise France may engage any other Contractor after termination to perform or complete the tasks. Expertise France is entitled to claim from the Contractor the reimbursement of all the additional expenses thereby incurred, without prejudice to any other rights or guarantees it may hold under the Contract.

* 1. **Language of the contract**

The present document has been drawn up in English, which shall be the applicable language in all matters concerning the meaning or interpretation of the Contract, to the exclusion of any other language.

* 1. **Settlement of disputes – applicable French law**

Any dispute between the Parties concerning the existence, validity, interpretation, performance and termination of the Contract (or any of its clauses) which the Parties are unable to resolve amicably within thirty days following the notification of the dispute by the claiming Party to the other Party shall be submitted to the judgement of the Administrative Court of Paris.

The law applicable to the present Contract is French law, to the exclusion of any other law.

1. Date and original signature of a person authorised to make a legal commitment on behalf of the Contractor. [↑](#footnote-ref-2)