Rijksdienst voor Ondernemend Nederland

Data processing agreement

CBI / Third party

Contract number: 20231203

The undersigned:

1. The State of the Netherlands, which has its seat in The Hague,
represented by the Minister of Economic Affairs, Netherlands Enterprise Agency (RVO)
legally represented in this matter by
drs. J.L.M. Arends,
Head of CBI
Director International Programs
hereafter referred to as 'the Contracting Authority',

and

2. [full name and legal form of the Contractor],
which has its registered office in [city/country],
legally represented in this matter by
…… [signatory's name(s)],
hereafter referred to as 'the Contractor',

jointly referred to as 'the Parties';

WHEREAS:

- Insofar as the Contractor processes Personal Data for the Contracting Authority in the context of the Contract, the Contracting Authority, under article 4 (7) and (8) of the Regulation, qualifies as a controller for the Processing of Personal Data and the Contractor as a processor;
- The Parties to this Data Processing Agreement, as referred to in article 28, paragraph 3 of the Regulation, wish to record their agreements on the Processing of Personal Data by the Contractor.

AGREE AS FOLLOWS:

Article 1 Definitions

Certain terms in this Data Processing Agreement are written with initial capitals. These terms are defined in article 1 of the General Government Terms and Conditions for Public Service Contracts 2018 (ARVODI 2018). In derogation therefrom or in addition thereto, the following terms are defined below for the purposes of this Data Processing Agreement:

1.1 Data Subject: the person whom the Personal Data concerns.
1.2 Personal Data Breach: a breach in security that leads to the accidental or unlawful destruction, loss, change or unauthorised provision of, or unauthorised access to, data that has been transferred, stored or processed in any other way.
1.3 Contract: the Contract between the Contracting Authority and the Contractor
Named "Experts for the execution of the youth in horticulture project of CBI in Senegal", lot 1/2/3 dated ……..2024, reference number 202403074.
1.4 Personal Data: any data concerning an identified or identifiable natural person that is processed by the Contractor for the Contracting Authority in the context of the Contract.
1.5 Regulation: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on

the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

1.6 Data Processing Agreement: this agreement including its recitals and the accompanying schedules.

1.7 Processing: any operation or any set of operations concerning Personal Data or any set of Personal Data, carried out in the context of the Contract via automated or manual procedures, including in any case the collection, recording, organisation, structuring, storage, updating or modification, retrieval, consultation, use, disclosure by means of transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data.

Article 2 Object of this Data Processing Agreement

2.1 This Data Processing Agreement governs the Processing of Personal Data by the Contractor in the context of the Contract.

2.2 The nature and purpose of the Processing, the type of Personal Data and the categories of Personal Data, Data Subjects and recipients are set out in Appendix 1.

2.3 The Contractor guarantees that the appropriate technical and organisational measures will be taken, in order to ensure that Processing complies with the requirements of the Regulation and that the rights of the Data Subject(s) are protected.

2.4 The Contractor guarantees compliance with the requirements of the applicable legislation relating to the Processing of Personal Data.

Article 3 Entry into force and duration

3.1 This Data Processing Agreement enters into force as soon as it has been signed by both Parties.

3.2 This Data Processing Agreement terminates after and insofar as the Contractor has deleted or returned all Personal Data in accordance with article 10.

3.3 Neither of the Parties may terminate this Data Processing Agreement before the Contract terminates.

Article 4 Scope of Contractor's Processing competence

4.1 The Contractor will Process the Personal Data exclusively for and on the basis of written instructions from the Contracting Authority barring statutory rules to the contrary that apply to the Contractor.

4.2 If any instruction as referred to in paragraph 1 is deemed by the Contractor to contravene a statutory rule on data protection, the Contractor will notify the Contracting Authority of this prior to Processing, unless a statutory rule prohibits such notification.

4.3 If the Contractor is obliged to disclose Personal Data on the basis of a statutory rule, it will inform the Contracting Authority immediately, if possible prior to the disclosure.

4.4 The Contractor will have no control over the purpose or means of the Personal Data Processing.

Article 5 Security measures

5.1 In addition to article 15 of the ARVODI 2018, and without prejudice to article 2.3 of this Data Processing Agreement, the Contractor will implement the technical and organisational security measures described in Appendix 2.

5.2 The Parties recognise that guaranteeing an appropriate level of security may require additional security measures to be implemented on an ongoing basis. The Contractor guarantees an appropriate level of security having regard to the risks entailed.

5.3 At the express written request of the Contracting Authority, the Contractor will adopt additional measures to ensure the security of the Personal Data.

5.4 The Contractor will not process any Personal Data outside a European Union member state, unless it has obtained express written approval to do so from the Contracting Authority and barring statutory obligations to the contrary.

5.5 If the Contractor discovers any illegal or unauthorised Processing or infringements of the security measures referred to paragraphs 1 and 2, it will inform the Contacting Authority without unreasonable delay.

5.6 The Contractor will assist the Contracting Authority in ensuring compliance with the obligations under articles 32 to 36 inclusive of the Regulation.

Article 6 Duty of confidentiality of the Contractor's Staff

6.1 The Personal Data is confidential as referred to in article 13.1 of the ARVODI 2018.

6.2 At the request of the Contracting Authority, the Contractor will show that its Staff have undertaken to observe the duty of confidentiality referred to in article 13.2 of the ARVODI 2018.

Article 7 Subprocessor

If the Contractor, with due regard for the provisions of article 8 of the ARVODI 2018, engages another processor to carry out Processing activities for the Contracting Authority, the other processor must be bound by an agreement imposing the same data protection obligations as those imposed by this Data Processing Agreement.

Article 8 Assistance concerning rights of Data Subjects

The Contractor will assist the Contracting Authority in fulfilling its obligation to respond to requests from Data Subjects to exercise the rights set out in chapter III of the Regulation.

Article 9 Personal Data Breach

9.1 The Contractor will inform the Contracting Authority, without unreasonable delay, as soon as it becomes aware of any Personal Data Breach, in accordance with the agreements set out in Appendix 3.

9.2 After reporting an incident as described in the first paragraph, the Contractor will also inform the Contracting Authority of developments relating to the Personal Data Breach.

9.3 Each of the Parties will bear any costs they incur in connection with reporting incidents to the competent supervisory authority and the Data Subject.

Article 10 Return or erasure of Personal Data

10.1 Once the Contract expires, the Contractor will erase the Personal Data or return it to the Contracting Authority, whichever the Contracting Authority prefers. The Contractor will delete any copies, barring statutory rules to the contrary.

Article 11 Obligation to supply information and audit obligation

11.1 The Contractor will provide all necessary information to show that the obligations set out in this Data Processing Agreement have been and will be fulfilled.

11.2 The Contractor will provide all necessary cooperation with respect to audits.

Done on the later of the two dates stated below and signed in duplicate.

The Hague, [date 2024]

For the Minister of Economic Affairs
And Climate Policy, on behalf of and

City/place, date 2024

For [Contractor],

commissioned by name, position

signatory's name
signatory's position

signatory's name
signatory's position

Vertrouwelijk

Schedule 1 Processing Personal Data

This Schedule must in any case specify:

To be completed by the Client (the Controller)	
Name of Controller including contact details	The Minister of Economic Affairs and Climate, on behalf of the general director of the Netherlands Enterprise Agency (NEA): Mr. A. Choho (General director of NEA) PO Box 93144, 2509 AC The Hague
Contact details of the Controller's representative	International Programs CBI drs. J.L.M. Arends (Department manager CBI) PO Box 93144, 2509 AC The Hague
Contact details DPO of the Controller	Privacy Control Team Netherlands Enterprise Agency avg@rvo.nl
The subject/nature and purpose of the Processing	The data processing activities relate to a CBI project in the Senegalese horticulture sector and include: • **Data collection from exporting companies:** regarding Senegalese horticulture exporters (approximately 5 to 10 companies) by the expert in lot 2. The data includes export performance, number of employees, and key results achieved from participation in the CBI project. This data will be utilized to evaluate and enhance the impact of the CBI project on the Senegalese horticulture sector. • **Online trainings and coaching sessions:** Applicable to experts across all three lots, this involves registering attendance and may include collecting feedback or evaluations. The processing tool used is Excel.
The type of Personal Data	**Regular personal data:** • Name (first name, last name, prefix, initials) • Contact details (e-mail address) **Company performance data:** • Export turnover. • Number of employees. • Other key performance metrics.
Description of categories of Personal Data	• **Regular personal data:** This includes basic identity and contact information of individuals involved in the project. • **Company performance data:** This encompasses various quantitative metrics that reflect the company's performance.
Description of categories Data subjects	• SME exporters within the Senegalese horticulture sector.

	• Young entrepreneurs within the Senegalese horticulture sector. • Key Senegalese horticulture sector stakeholders, including business support organizations, associations, service providers.
Description of categories of recipients of Personal Data	CBI Programme Managers and CBI MEL advisors who have access to Sage/HBAT.
Location Processing Personal Data	The regular personal data collected and processed within Microsoft Excel are processed outside te EEA.

To be completed by the Contractor (the processor)	
Name Processor including contact details	
Contact details of Processor representative	
Contact details DPO of the Processor	
Will the data be transferred to one or more countries outside the EEA?	No

Sub-processor (s)

Name and contact details of sub-processor	
Trade register number of sub-processor	
The subject/nature and purpose of the Processing	
The type of Personal Data	
Description of categories of Personal Data	
Description of categories Data subjects	
Description of categories Recipients of Personal Data	
Location Processing Personal Data	

The information in the controller's records, obligatory under article 30 of the Regulation, can be used to complete this schedule.

Schedule 2 Appropriate technical and organisational measures

- Within the Dutch national government, the baseline information security government (BIG) is the basis for the organization of information security. The Contractor's security must at least meet the same requirements as the BIO BBN-2 or ISO27001/2 Standard.
- The Contractor implements additional measures based on the risk of the Processing, which have been determined, for example, as a result of a Privacy Impact Assessment (PIA). An overview of these measures is included below:

The aim is to recruit an expert/business export coach who will guide/coach/train the participating companies in Senegal and enter the progress of the participating companies for CBI in the RVO application SAGE/HBAT. Local experts are also sought for training and coaching, and the participants and attendance by the hired expert are also recorded in the NEA application.
Within Sage HBAT, the technical and organizational measures are set up in accordance with the BIG BBN-2.

Personal data is collected by local experts for training and coaching in MS Excel. This data is collected outside the EEA. For the collection of this data, the following security requirements must be observed by the processor and sub-processors:

- All personal data must be shared through a Teams environment, managed by a CBI employee.
- If not through Teams: the Excel file may not be sent to the expert/business export coach by regular email by the local expert. solved, Pleio File Sender must be used (FileSender (pleio.nl))

The CBI project support staff provides information to the experts regarding the use of Pleio File Sender.

Appendix 3. Arrangements on Breaches involving Personal Data

Background
The data breach reporting obligation has been in force since 1 January 2016. This reporting obligation requires organizations (both businesses and government agencies) to report any serious data breach to the Dutch Data Protection Authority (Autoriteit Persoonsgegevens) without delay. Under specific circumstances, they are obliged to report the data breach to the Data Subjects (the individuals whose Personal Data are involved in the breach) as well.

As the Contractor will be processing Personal Data within the framework of performing the agreement, the Contractor is obliged to report a breach involving personal data to the Contracting Authority as soon as it is discovered, without unreasonable delay (Article 33(2) of the GDPR).

Cooperation
The Data Breach Response Team (DRT) coordinates the handling of the data breach for the Ministry of Economic Affairs and Climate Policy as well as the reporting thereof to the Dutch Data Protection Authority and – where necessary – the Data Subjects. The Contractor must cooperate fully by providing the DRT with all the requested information.

Among other things, the Contracting Authority will request the following information:

- details of its organisation (name of organisation, address, postal code, place of business, professional register or trade register registration);
- details of the person reporting the breach (name, position, email address, telephone number(s));
- details of the data breach (short summary of the incident in which there was a Breach of the security of Personal Data, the minimum and maximum number of Data Subjects to whom the Breach of the Personal Data pertains, a description of the group of Data Subjects to whom the Breach pertains, the moment that the Breach took place (exact date or period), the moment the breach was discovered);
- information on the nature of the Breach (reading, copying, alteration, deletion, destruction, theft);
- type of Personal Data (address details, telephone numbers, email addresses or other addresses for electronic communication, access or identification details, financial details, citizen service number, passport or copies of other identity documents, gender, data of birth and/or age, special personal data such as ethnicity, political views, ideological beliefs, trade union membership, genetic details, biometric identification, health, sexual life and criminal details);
- technical and organisational measures which have been taken to deal with the data breach and prevent further Breaches;
- technical security measures (whether the Personal Data were partially or fully encrypted, hashed or otherwise rendered incomprehensible or inaccessible to unauthorised persons at the time of the data breach and how the Personal Data were rendered incomprehensible or inaccessible).

Even if not all of the above information is available yet, the Contracting Authority's contact person for data breaches must be contacted without delay.

Examples of data breaches:

- loss or theft of a laptop, smartphone, flash drive, and so on, also if it concerns encrypted data;
- accidental publication of Personal Data.
- sending an email with names in the CC rather than in the BCC if the addressees have nothing to do with each other, or sending an email to the wrong address;
- being the victim of a phishing email or hack;
- illegal transfer of usernames/login codes or having access to files which you are not (or no longer) authorised to access;

- destruction of a data base containing Personal Data as a result of human error, without the presence of a back-up.

To be completed by the Contractor:

Contact details for data breaches:
E:
T:
Availability:

To be completed by the Contracting Authority:

Contact details for data breaches
E: rvoinformatiebeveiliging@rvo.nl
Availability: Monday to Friday from 07:30 to 18:30 CET