

**GENERAL TERMS AND CONDITIONS OF CONTRACT**  
**of the Austrian Development Agency**  
**for Grant Support in the Field of Development Cooperation**  
**(Terms and Conditions for Grant Support)**

**1. Project Implementation**

1.1 Schedule

The Project shall be implemented in accordance with the schedule attached to the Project Document.

1.2 Principles applying to use of grant funds

The grant funds shall be used efficiently, thriftily and only for the purpose for which they are provided. The Recipient shall exercise due diligence and shall apply the requisite circumspection and expertise.

1.3 Duty to notify of certain events

The Recipient shall notify the ADA immediately – via the competent coordination office, if such exists – of any events which delay or render impossible the implementation of the project being financed or of the underlying project, or which require amendment of the Project, agreed requirements or conditions. Such notification must be provided in writing.

1.4 Procurement of goods and services

The Recipient shall not charge prices or payments that are higher than the normal prices in the sector or locality for the goods to be procured and/or the services to be performed pursuant to the Project Document. Rebates, discounts and the like shall be claimed by the Recipient and included in the accounts. Two offers must be obtained if the net procurement value is EUR 7,500 or less; three offers must be obtained if the net procurement costs are EUR 22,000 or less; if net procurement costs exceed EUR 22,000, public invitations to tender for the goods and/or services must be issued. The Recipient is exempted from the duty to obtain the required number of offers, or from the duty to issue a public invitation to tender, if the latter is not mandatory under the Public Procurement Act (*Vergabegesetz*), provided that the Recipient appropriately substantiates in writing, submitting the offer that he considers suitable for acceptance, that obtaining several offers makes little sense for financial or other reasons, and the ADA gives its written approval to accept the offer submitted.

1.5 Goods intended for the project partner or other Recipient

The goods to be procured for the project partner (i.e. the developing country institution, non-identical with the Recipient that is responsible for the Project), or for any other beneficiary of the Project in the developing country and which are paid for using the grant funds must generally be acquired directly for the project partner or for the other beneficiary of the Project, in accordance with an agreement concluded by and between the Recipient and the project partner in the developing country. If this is not possible or expedient in the specific case, ownership of the goods must be transferred free of charge to the ADA or to an institution it specifies when the order is placed. The Recipient agrees to inform the ADA about the agreement concluded with the project partner immediately after the agreement has been concluded.

1.6 Goods intended for use by the Recipient or other beneficiary

The Recipient shall keep and continuously update a list of all goods procured with the grant funds that are explicitly or inherently intended for use by the Recipient and whose net procurement value exceeds EUR 400 in each case; said list shall be sent to the ADA at the latest with the reports stipulated in Section 4 below.

Any vehicles (project vehicles) procured or co-financed with grant funds for a particular project must be treated with care, properly maintained and adequately insured.

Project vehicles may only be used for project-related purposes; private use of a project vehicle is permitted in exceptional cases only; depending on local circumstances and the project in question, supply trips and journeys to collect post, to find a working telephone, to visit a doctor, a clinic or a place where medicines are issued are considered in cases of doubt to be project-related.

A logbook must be kept for each project vehicle. The logbook must clearly show, in chronological order, the number of kilometres officially or privately driven, the date and purpose of each trip, the vehicle mileages, the name of the driver, as well as fuel tanked and any repair costs. If a trip exceeds 10 kilometres, the departure and arrival times must also be entered.

In the case of private travel, the respective driver of the vehicle must pay, within one month, an amount equal to the official Austrian allowance per kilometre in the local currency at the respective exchange rate for that day (cf. sub-section 2.2).

If damage is caused to the project vehicle in a wilful or grossly negligent manner, the Recipient is liable for damages to the ADA. In the event of legal offences (administrative offences, accidents) caused wilfully or in gross negligence by third parties, the Recipient shall assert recourse claims against such persons. The declaration to indemnify the ADA, made by the Recipient pursuant to sub-section 1.9 below, shall also apply in particular to any third-party claims related to use of the project vehicle.

Following completion of the Project, or if there is a material change in the assigned purpose of the grant, the ADA may request either the transfer of ownership, free of charge to a third party specified by the ADA, of any goods procured for the Project whose individual purchase price exceeds EUR 1,500, or payment at the present value thereof, or determine that the goods be kept available by the Recipient at no charge for further use. If the purchase was not made exclusively with grant funds provided by the ADA, the ADA shall be entitled only the respective percentage of the present value and if the ADA stipulates anything other than reimbursement of the present value, the ADA for its part shall reimburse the Recipient the respective share in the present value corresponding to the latter's own funds used for procurement.

#### 1.7 Cooperation with other organisations

The Recipient shall support efforts to collaborate or to share work with other organisations operating in the field of Austrian development cooperation, and shall foster (technological) networking appropriate to the needs of the time. This principle shall apply in particular when simultaneous support for these organisations with public funds makes such coordination desirable for reasons of economy, efficiency and expediency. In particular, the Recipient shall not implement any IT-related measures (such as irreversible implementation of new documentation systems, etc.) which might hinder such networking. In order to establish an opinion and in the interests of good coordination, the Recipient shall participate in an exchange of experience with the aforesaid organisations and/or the ADA, and agrees to forward the data contained in the grant agreement to said organisations.

#### 1.8 Compliance with agreements and cooperation with the Austrian Coordinating Office

The Recipient shall comply with the treaties concluded between the Republic of Austria and the country of deployment and, where relevant, with any agreements concerning implementation of the Project. If there is an Austrian coordination office for development cooperation in the developing country, the Recipient shall work together with the said office in an appropriate manner and shall contact public agencies of the developing country only with the agreement of the coordination office.

#### 1.9 Indemnification of the ADA towards third parties

The grant-assisted Project shall be implemented autonomously by the Recipient. The latter shall indemnify the ADA against any third-party claims relating to implementation of the Project. This obligation also includes reimbursement of all procedural costs and other expenses incurred by the ADA in this regard. In the event of court action against the ADA, the Recipient shall join the proceedings as a intervening party on the side of the ADA if so requested at any time.

#### 1.10 Duty to implement the Project

If the amount of grant assistance provided by the ADA is at least 75% of the total project costs, the Recipient is obligated to implement the Project (Section 11 below); this is without prejudice to Section 9 below.

#### 1.11 Subsequent amendments by the ADA

If special circumstances subsequently require amendment of the Project or of the agreed conditions and requirements, the ADA may make the necessary changes or impose additional conditions and requirements at any time. If this results in additional costs, the Recipient shall inform the ADA thereof immediately. In such a case, the Recipient is obligated to implement the amendments of the Project and to fulfil the additional or amended conditions and requirements only if an additional written agreement is concluded with regard to the financing of such changes. If the Recipient fails to notify immediately of additional expenses, or if an additional written agreement is not concluded, the Recipient shall have no entitlement to reimbursement of the additional costs.

### **2. Travel expenses and salaries**

- 2.1 If the schedule of costs (Section 2 (1) of the Grant Agreement) includes travel expenses, i.e. mobility expense and costs for food, drink and overnight accommodation, assistance to cover these expenses shall be provided only on condition that
- the travel expenses were verifiably incurred and
  - the actually incurred travel expenses do not exceed the entitlement that a comparable civil servant in Austria would have under the travel expenses regulations for Austrian civil servants and the respective ordinances of the Austrian Ministry of Finance, and
  - the person travelling claimed all possible fare reductions, rebates, discounts, etc., and chose the least expensive route in the case of air travel.
- 2.2 Financial assistance to reimburse kilometre allowances for use of a private vehicle shall be provided only on condition that use of the private vehicle is necessary and is explicitly envisaged in the Project Document or otherwise approved by the ADA; in such a case, the kilometre allowance shall be reimbursed to the amount of the official kilometre allowance expressed in the national currency at the respective exchange rate for that day.
- 2.3 Financial assistance to cover salaries will be provided to an amount that does not exceed the salaries for contracted employees of the Austrian government who have a similar level of educational attainment, level of performance and years of service.

### **3. Conduct of business**

#### 3.1 Bank account

The bank account specified in the Grant Agreement shall be used solely to manage the development cooperation grant funds provided by the ADA.

#### 3.2 Separate accounting

The accounts of the Project shall be kept separately from other business conducted by the Recipient; the associated bookkeeping vouchers may be filed in the general bookkeeping records of the Recipient.

#### 3.3 Duty to keep accounts

The Recipient shall keep all records and bookkeeping related to the Project in accordance with the generally accepted principles of business bookkeeping and in doing so shall apply the relevant accounting provisions of Austrian company law.

#### 3.4 Duty to retain

The Recipient shall retain in a secure and orderly manner all records and bookkeeping vouchers relating to the grant assistance, as well as any other documents and correspondence, until ten years have elapsed since the end of the year in which the last tranche of the grant assistance is disbursed.

### **4. Reporting and accounting**

#### 4.1 Half-year reports with accounts

Within two months after the respective reporting period, i.e. at the latest by 31 August and 28 February of each year, the Recipient shall submit a half-yearly report to the ADA, preferably in electronic form and otherwise in written, duplicate form, via the Austrian coordination office in the respective developing country, about the progress of the Project and how the grant funds have been put to use, including a presentation of verified accounts. For the first such report, the reporting period ends at the end of the first calendar half-year following the conclusion of contract.

#### 4.2 Content of reports and accounts

The reports must indicate how the assistance provided from the ADA funds has been put to use, the success achieved thereby, and the financial statement shall show the verifiable income and expenditure in a structured form corresponding to the schedule of costs that is an integral element of the Project Document. Vouchers may also be transmitted in electronic form, provided that ordered, identical, true and verifiable reproduction is assured. However, the ADA expressly reserves the right to inspect the original vouchers or to require subsequent presentation thereof. In the event that personal data are required in order to verify appropriate use of the grant funds, the Recipient consents to use of said data pursuant to Section 8 (1) no. 2 and Section 9 no. 6 of the Data Protection Act, should the use of such data be otherwise impermissible under data protection regulations. The only vouchers which qualify as verification are such vouchers as are addressed by name to the Recipient or to the project partner, and from which it is clearly evident that they are directly related to the implementation of the Project. Internal vouchers produced by the Recipient, or verbal or written confirmations by third parties, do not qualify as vouchers. Travel expenses can only be verified in the form of the original ticket that was used, or in the case of air travel the ticket or a printout of the electronic voucher, in combination with the associated boarding card and the itemised travel agency invoice.

Depending on expediency for the individual Project, the reports must be written in German, English or French, must adhere to the description in the Project Document, refer to the indicators specified therein, and shall contain, in particular:

- a description of the activities and an evaluation of results achieved in the period under review, including any departures from the Project Document;
- an analysis of the Project's progress in relation to the objective to be achieved;
- reference to any changes or additions to the Project that may be necessary.

A bank statement for the account specified in Section 5 of the Grant Agreement shall be enclosed with each financial statement; if expenditures made in the developing country are included in the statements, a bank statement for the project account kept in said country shall also be enclosed, if such an account is kept. Currency conversion vouchers shall be enclosed for any expenditures invoiced in local currency. If such a voucher is missing, the invoice amount shall be converted at the exchange rate defined by the Austrian Ministry of Finance for the respective foreign currency for the month in which the expenditure was made, minus a 25% deduction. The reports shall also include confirmation of the correctness of the content and the figures, and that the Project has been implemented in accordance with the agreement, in particular that the competent body of the Recipient or the project manager he has commissioned has acted in compliance with the principles of economy, efficiency and expediency.

#### 4.3 Final report and final accounts

At the latest within three months after completion of the Project, the ADA shall be presented by the Recipient, via the Austrian coordination office in the respective developing country, with a final report, in duplicate, containing the detailed final accounts and verifications. Sub-section 4.2 shall apply accordingly. The ADA has the right to require a translation of the final report into German, the costs for which shall be borne by the Recipient.

#### 4.4 Duty to report the use of proprietary funds and/or financial assistance by third parties

All reports, including verification of figures, shall cover the Project as a whole. If the Recipient also uses proprietary funds for the Project, or receives funds from a third-party entity, the information in the reports and the financial accounts shall cover all income and expenditure of the Recipient in relation to the Project.

#### 4.5 Accounting principles

The Recipient shall conform to the accounting regulations for businesses when conducting its accounts and shall apply these regulations with due diligence.

#### 4.6 Annual audit by external auditors

If the Recipient has explicit and written authorisation from the ADA, he may arrange for the project accounts and the accounts of the local project partner to be subjected to an annual audit by an external certified auditor instead of submitting the vouchers to the ADA each half-year in the original or in electronic form, pursuant to sub-section 4.2 above. In such a case, the Recipient need only confirm the correctness of the half-yearly accounts, with the correctness of

the annual accounts to be confirmed by the audit report of the certified auditor. If the Recipient makes use of this authorisation by the ADA, the following rules shall apply:

- 4.6.1 Steps must be taken to ensure that the individual expenditures made from grant funds are clearly evident from the project bookkeeping and the audit report, and that they are assigned to the budget items as specified in the Project Document. The Recipient's accounts shall relate to the pertinent documents and to the expenditures designated as relevant to the Project.
- 4.6.2 Before an external auditor is commissioned, approval of the selected auditor must first be obtained from the ADA or the competent coordination office, if one exists. The auditor must in any case be a registered firm of auditors.
- 4.6.3 The Recipient must conclude a contract with the external auditor, containing a detailed description of the assignment, and shall present said contract to the ADA. The Recipient must also verify that he has informed the external auditor in full about the Grant Agreement, all the Annexes thereto, as well as the contract concluded with the project partner.
- 4.6.4 The contract with the external auditor must specify the assignments to audit the proper bookkeeping, to audit the accounts on the basis of original vouchers, to cancel the original vouchers, to audit the plausibility of expenditures, to assign expenditures to the items in the cost schedule and to audit the overall conduct of business.
- 4.6.5 It must be evident from the bookkeeping records and from the audit of accounts that the expenditures are covered by the revenues, and it must thus be verified that there is no duplicate financing by external funding bodies.
- 4.6.6 Each set of accounts must contain a clear description of cash flows that is documented in the form of currency exchange confirmations and bank statements.
- 4.6.7 The audit report must be submitted to the ADA at the latest within two months after the end of each calendar year, or within three months after completion of the Project.
- 4.6.8 If the bookkeeping and the audit report are not satisfactory, the ADA may require at any time that the original vouchers be presented.
- 4.6.9 The original vouchers must be available for *in situ* inspection by the ADA at any time, and the ADA must be allowed to inspect in detail the financial conduct of the Project and of the local project partner at any time.

## 5. Monitoring

### 5.1 Monitoring by the ADA and the EU

The Recipient shall allow the bodies and officials of the ADA and the EU to inspect its bookkeeping records and vouchers and to visit the local premises in order to check that the Project is being properly implemented and that the grant funds are being used for the appropriate purpose, and shall provide said bodies and officials with the necessary information in connection with the Project, or to arrange for such information to be provided by suitable persons; the Recipient shall accept the decision of the inspecting body regarding what is necessary information in connection with the Project.

### 5.2 Audit by the Court of Auditors

The Recipient is aware that use of the grant funds is subject to audit by the Court of Auditors pursuant to Section 13 (3) of the law governing the Court of Auditors (*Rechnungshofgesetz*), 1948, Federal Law Gazette. No. 144/1948, in the currently applicable version. In the event of such an audit by the Court of Auditors, the Recipient shall provide the relevant information and shall assist accordingly.

### 5.3 Obtaining information from third parties

The Recipient hereby consents to bodies and officials of the ADA and of the EU obtaining information relating to the project in question from third parties, in particular from fiscal authorities, banks and credit reference associations, and the Recipient hereby authorises these third parties to provide such information. In particular, this may also include credit rating information about the Recipient.

## 6. Prohibited disposition

The Recipient shall not dispose of claims arising from the grant funds in question, either by assignment, transfer or pledge or in any other way; disposals in contravention of this prohibition have no validity in respect of the ADA.

## 7. Publications

The ADA must be given prior information about any publications by the Recipient regarding the Project. In all publications and on the funded equipment, facilities and buildings, the Recipient shall include or attach the logo of or a reference to the grant assistance provided by Austrian Development Agency, in accordance with the Guidelines for the Visibility of Austrian Development Cooperation, in the currently valid version. This requirement also applies to publications in other media (films, audio cassettes exhibitions, etc.), insofar as the Recipient can exert influence on said publication.

The ADA has the right to produce its own publications about the Project, with the exception of communication agreed as confidential.

## **8. Income from exploiting the Project**

Income from exploitation of the Project (e.g. sales revenue from publications) that is generated within three years after completion of the Project must be notified to the ADA by the Recipient and transferred to the ADA in proportion to the percentage of grant funding in the overall costs of the Project, but not to exceed the amount of grant funds provided.

## **9. Discontinuation and return of grant funds**

### **9.1 Reasons for discontinuing/returning grant assistance**

At the written request of the ADA, the Recipient shall immediately repay any funds already granted, and the promise of grant assistance shall be cancelled if the grant has not yet been disbursed, if

- 9.1.1 bodies or officials of the ADA or the European Union are incorrectly or incompletely informed about material circumstances of relevance to the granting of funds,
- 9.1.2 the grant funds are used wholly or partially for purposes other than those intended,
- 9.1.3 the Project cannot be carried out or has not been carried out either at all or in a timely manner, due to the fault of the Recipient,
- 9.1.4 required reports are not submitted, or documentary verifications are not provided, or required information is not provided, if in such cases a written warning with a deadline for compliance and express reference to the legal consequences of non-compliance has been made to no avail,
- 9.1.5 events which delay or render impossible the implementation of the funded Project, or which require an amendment of the Project are not reported immediately,
- 9.1.6 bankruptcy proceedings are opened against the assets of the Recipient before proper completion of the funded Project, or if bankruptcy proceedings are not opened due to lack of assets, and for this reason the aim of the Project appears to be unachievable or unassured,
- 9.1.7 the Recipient hinders or prevents the required monitoring measures,
- 9.1.8 appropriate use of the funds can no longer be checked within the period required for safekeeping of documents (sub-section 3.4),
- 9.1.9 the Project has been amended by the Recipient without the consent of the ADA,
- 9.1.10 the prohibition of disposals (Section 6) has not been complied with,
- 9.1.11 the provisions of the Equal Treatment Act (*Gleichbehandlungsgesetz*) have not been complied with,
- 9.1.12 a gift, a pecuniary benefit or some other benefit has been offered, promised or granted to a person or agency in connection with the granting of funding or with the implementation of the Project,
- 9.1.13 discontinuation and/or repayment of the funds is demanded by European Union bodies because the funding violates Community regulations,
- 9.1.14 other requirements for funding, particularly those aimed at ensuring that the aim of funding is achieved, are not complied with by the applicant for funding,
- 9.1.15 *if the Recipient violates employment and/or social insurance regulations in the developing country and/or standard laid down by the International Labour Organisation (ILO) in treaties and recommendations.*

### **9.2 Interest**

In any of cases 1, 2, 4, 5, 7, 9-12, and 14 of sub-section 9.1, and in the other cases only if the Recipient or persons he has used to prepare the documents required for obtaining the funding or for implementing the funded Project bear fault for the reason for repayment occurring, the amount to be repaid shall bear interest, as from the date of disbursement, at a rate which is 3% above the respective base rate defined by the Austrian National Bank (Section 1 (1) 1. Euro-JuBeG (law governing the introduction of the Euro), Federal Law Gazette I, No..

125/1998). If the aforementioned interest rate is lower than that the rate defined by the EU for repayments, the latter rate shall apply instead.

9.3 Limitation of repayment

In the event that the Project can or has been implemented only partially (sub-section 9.1.3), the grant funds shall be repaid, if the funded Project is divisible, to the amount of the difference between the value of the funded Project and the value of partial performance thereof, if the partial performance is eligible for grant support in and of itself.

If only part of the grant funds has been used for purposes other than those intended (sub-section 9.1.2) and the aim of the funding has not been entirely thwarted by partly in appropriate use, repayment shall be made only for that part of the grant funds which was used for purposes other than those intended.

9.4 Reimbursement of audit expenses

The Recipient shall also reimburse the ADA any audit expenses associated with discovering the reason for discontinuation/repayment (e.g. expenses for calling in third-party auditors, travel expenses of ADA bodies).

9.5 Discontinuation of the Project for no fault of the Recipient

If the project cannot be carried out for reasons that are not the fault of the Recipient, and cannot be carried within a reasonable extension to be agreed, the Recipient shall discontinue the Project, prepare a winding-down report and final accounts, and shall repay immediately the unused grant funds, including any interest that has accrued. Sub-section 1.6, paragraph 7, shall apply accordingly to the material goods procured in the developing country using the grant funds.

9.6 Additional legal claims

Sub-sections 9.1 to 9.5 shall be without prejudice to any additional legal claims on the part of the ADA.

**10. Intellectual property rights**

10.1 The Recipient declares that no copyright or intellectual property rights are infringed by implementation of the funded Project (sub-section 1.9).

10.2 If the grant funds provided by the ADA comprise at least 75% of the total costs of the Project, the Recipient shall transfer to the ADA an irrevocable, transferable and non-exclusive right of use, in respect of all kinds of use, of all the intellectual property rights, intellectual property applications, inventions, design documents, methods, documents and results of work that have arisen or been procured in Austria or abroad by implementing the Project.

If the grant funds provided by the ADA amount to at least 90% of the total costs of the Project, the Recipient shall transfer to the ADA the exclusive rights of use, which may also be transferred in return for payment.

**11. Damages for breach of the duty to implement pursuant to sub-section 1.10**

If the Recipient has an obligation towards the ADA under sub-section 1.10 above to implement the Project and fails to honour this obligation in a culpable manner, or to honour it in a timely manner, or fails to honour it in the agreed manner, the Recipient shall reimburse the ADA - without prejudice to its claims under Section 9 above - for any damages it incurs. The damages payable shall also include the additional costs that the ADA incurs as a result of having the Project implemented wholly or in part by third parties as a substitute, or for having essential improvements carried out.

**12. Duty to comply with the Equal Treatment Act**

The Recipient agrees to comply with the bans and rules contained in the Austrian Equal Treatment Act (*Gleichbehandlungsgesetz* - GIBG), Federal Law Gazette I, No. 66/2004. The Recipient is aware that violations of the provisions in the Equal Treatment Act constitute grounds for discontinuation and repayment of the grant funds pursuant to Section 9 above.