



CC/CEG Vendor Relations

# Code of Conduct

*For an equal relationship*

**Publication of the CIO Committee Vendor Relations  
and the CIO Experience Group Vendor Relations**

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## From the authors

This Code of Conduct is developed by CIO Platform Nederland. It finds its origin in the experience of our members that the relations between IT vendors and IT users is not an equal relationship in many cases, wherein the vendor holds a dominant and sometimes even monopolistic position to the detriment of the user. This leads for instance to terms and conditions that are exclusively in the favor of the IT vendor.

The importance of IT to the economic and societal development is such, that a more equal and mature relationship between supply and demand sides of IT is necessary and in the interest of both sides. We feel that such a level playing field is possible and will endeavor to reach such an equilibrium between vendor and user.

This Code of Conduct aims to achieve an agreed set of principles towards a more equal and reciprocal relationship between (potential) client and (potential) supplier. This will only be possible by taking into account the mutual interests, increasing mutual trust and adequately fulfilling the requirements of the client in exchange for a reasonable and transparent fee. This Code of Conduct provides a basis for such an approach.

Together with other national CIO associations we will work at coming to a version of the Code of Conduct that is supported Europe wide, by user organizations and governments. This will be a precondition to get the major international vendors to change their act.

The Code of Conduct will be the input for CIO Platform Nederland to start a national dialogue with the branche organization for IT vendors. When appropriate the Code of Conduct may also serve as a basis for discussions with political entities and the media.

The finalized Code of Conduct may be used in interactions between (potential) clients and a vendor of IT products and/or services. It could be part of the

negotiations leading up to an agreement, could be incorporated into an agreement and the signing of the Code of Conduct may even be a precondition to entering into negotiations.

On behalf of the CIO Committee Vendor Relations and the CIO Experience Group Vendor Relations

Jan van de Wouw, chairman CC Vendor Relations

Ronald Verbeek

Norbert Derickx

Lydia Kampman

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## 1 Code of Conduct

### 1.1 Definitions of role

**Good commissioning:** The commissioner will exercise good commissioning. This includes communicating requirements to the market in a clear and precise manner, including context and future perspectives that may be relevant. The commissioner will take care of a level playing field for the relevant vendors and service providers. A commissioner will make sure to have the necessary knowledge and expertise at his disposal to formulate adequate requirements, to be able to evaluate subsequent offers and to monitor the execution of the agreements. The commissioner will remain committed to the agreement during the execution, will offer relevant information to the contractor and will assess the information offered by the contractor against the information available within his own organization. The commissioner will monitor the execution of the contract and act to uphold or adjust the contract when and where necessary in concert with the contractor.

**Good contract execution:** A contractor will exercise good contract execution. A good contractor is a vendor or service provider that thinks and acts in line with the requirement of the commissioner. A good contractor offers his solution to the requirement in a transparent manner, under what conditions and against which costs. The offer explains what part of the requirement will be met by the product or service provided by the contractor himself and what part by subcontractors, as well as the amount of experience the contractor has in providing this solution and in working with the mentioned subcontractors. The offer also is transparent in what part of the requirement the contractor and his subcontractors will not be able to provide and which options are available to the commissioner outside the scope of the contractor. A good contractor will also address any risks that are connected to the solution and which mitigations are possible. A good contractor acts in a honest and reliable way, will treat any information he receives while executing the agreement confidentially and will not cause any damage or loss to the commissioner. A good contractor has a duty of care for the products and services he provides to the commissioner.

**Duty of care:** The duty of care is the duty the contractor has to fulfill the terms of the agreement that he has entered into with the commissioner fully,

consientiously and with expertise according to the rules of the trade, and when the solution does not conform to the agreed result will take responsibility to reach the desired result.

Case in practise:

A crucial supplier of BPO tools indicatetest that they never enter into agreements based on reaching an agreed result, but will only enter in to an agreement on the basis of an effort to reach that result.

## 1.2 The relationship between commissioner and contractor

The nature of the relationship between commissioner and contractor is one of business. Entering into a personal relationship is a foundation for trust, but this should be transparent. Furthering personal interest or personal gain cannot be an aim.

Case in practise:

With content focussed events, like license structure courses, it is often unclear who pays the bill (or receives the bonus). Even when attending a third party course it may turn out that the trainer is paid by the vendor.

Mutual respect is the default. Parties are bound by applicable laws and regulation.

Aim of the relationship is to offer a working solution fulfilling the requirements of the commissioner, in accordance with the agreements stipulated in the contracts between the parties, taking into consideration the duty of care that rests upon the contractor.

Case in practise:

Vendors entice specialists with trial versions of software, but are vague about terms and cost implications of ending a try out. Years later, at an audit, this may still lead to findings. Vendors in this way consiously prepare future findings in order to increase their leverage in negotiations and use this to sell products they are well aware the client doesn't need.

### 1.3 Process of reaching an agreement

The (potential) contractor will not offer gifts or other benefits that are personally beneficial to the person(s) that represent the commissioning entity.

When during negotiations an agreement is reached between commissioner and contractor, the agreements including terms and conditions are written down in a transparent agreement that both parties sign. This will also include the process for addressing changes in the agreement during the period that the agreement is in force.

The agreement, and all related documentation, has to make use of clear, unambiguous language that is easily understood by non-specialists. The documents need to have a clear structure and leave as little room for interpretation as possible. The documents should make limited use of specialised terminology. If specialised terminology is used, the terms should be explained in a glossary to be included in the document in which they are used.

#### Cases in practise:

- Software is often presented in suites, containing options. Software vendors will on occasion try to get specialists to engage these options during operational sessions, without addressing the cost implication.
- It is unclearly specified what you are buying when you buy 'maintenance'. A vendor will insist on buying new licenses when introducing a new sub-version, even when maintenance has been paid for several year on the previous sub-version. It is obvious that no maintenance would have been paid if it had been clear that this would not include a new sub-version.

When purchasing a service it should be the default that this is flexibel: total costs of the service should increase and decrease according to the amount that is used.

#### Cases in practise:

- A major software vendor maintains that downward adjustment of the amount of licenses is not possible due to the fact that its management has set targets to increase turnover. The only possible outcome from the viewpoint of the sales representative is to specify the way in which this increase will be reached.
- Costs don't decrease: When migrating away from a certain software product the vendor may offer reduced licences. These will need to be purchased, which will keep the total cost at almost the same level.

The agreed terms and conditions will remain unchanged for the duration of the agreement. The only way for the terms and conditions to change is when both parties agree to a proposed change.

#### 1.4 Executing the agreement

The commissioner and contractor both adhere to the terms and conditions in the agreement.

The contractor will collaborate with and advise the commissioner on the optimal way to position the solution, keeping in mind the requirements of the commissioner and the terms and conditions of the agreement.

The attitude of the commissioner and contractor towards each other shows respect, transparency in information necessary to effectively execute the agreement, integrity en confidentiality in handling trade and business information, intellectual property and other information that is shared during the execution of the agreement.

#### Case in practise:

Suppliers will try in any way open tot hem to acquire information about the plans and strategies of your organization and will not divulge information on their sources.

When using social media, commissioner and contractor will take care not to adversely impact the image and operations of the other party. They may hold each other accountable for any adverse implications.



Only authorized signatories of the commissioning organization may request additional services from the contractor if these have implications for the cost involved with the agreement, or otherwise have impact on the terms and conditions of the agreement.

Commissioner and contractor both act in reasonableness and fairness towards each other and in mutual contact when addressing situations that were not foreseen and impede the unchanged execution of the agreement

The contractor has a duty of care towards the commissioner for the products and services supplied.

Cases in practise:

- Within a framework agreement of several million Euro's, the client requests a change of the agreement to decrease the maintenance fee in line with the decrease of the organization itself. Client is willing to write off the investments in licences that are no longer used. In stead of empathically working on a solution in the given situation, the vendor is adamant that this is not possible, as the small print of the agreement stipulates that all maintenance has to be dropped in this case.
- Client often works in temporary consortia (projects) in which the participants usually opt to use one of the already available Cloud platforms as a basis for the consortium. The participants, and hence also the employees of the participants, already have an agreement/license with the vendor and all already pay the required user fee/license fee. But as this consortium is viewed as a 'new' company there has to be a new agreement and new licences have to be bought. Due to the limited size of the 'company' the costs are higher.

### 1.5 Specific rules for agreements relating to software

Software licensing agreements should not include clauses allowing the software vendor to impose unilateral changes to the agreements and/or related terms and conditions.

Software vendors should provide and use localised agreements and supporting documents. Use of Anglo-Saxon terminology and legal concepts is not appropriate for customers not located in an Anglo-Saxon country.

Software licensing agreements should be very specific and detailed as to what kind of access (direct/indirect) is covered by the software license and what this entails.

Addition of a new product to an already licensed software stack should be possible without changing the terms and conditions of the already licensed products in the software stack.

A good contractor will enable the commissioner to keep track of the use of the software that was purchased. The contractor will to that end supply adequate tools to manage the licences that were supplied. The commissioner may use third party products and services to manage the licenses for him. The contractor will provide information to third parties to accurately measure the use of his software.

Non-free options should never be enabled by default in a standard installation of a software product. Furthermore the contractor should ensure that non-free options in the software product cannot be accidentally activated by unauthorized persons

A good commissioner will – periodically – keep the contractor informed of changes in the scope and numbers of users of the supplied service, product or licenses that are relevant to the terms and conditions in the agreement.

The contractor will – periodically – supply the commissioner with an overview of the commissioner's entitlements according to his administration, allowing the commissioner to check these with his own administration and to contact the contractor in case there are differences between the two administrations.

#### Case in practise:

A large software vendor wants to perform an audit, but is unable to provide an accurate list of current licenses. Licenses are attached to non-existing legal entities, different legal predecessors and/or have not been properly attributed to the several entities that resulted from the splitting up of our former company.

Commissioner and contractor keep in mind that performing a (software) audit may affect the operations and availability of employees at the commissioners organization, and can involve costs to be made. A request for audit will therefore

be submitted containing a proposed date for the audit.

In mutual coordination and keeping in mind the impact on the commissioners operation, simultaneous audits from other contractors, an intake meeting is scheduled at the commissioners offices.

The commissioner and the contractor each appoint one person to be their single point of contact. All communications between commissioner and contractor relating to the audit will pass through this person to the other party.

Upon discovery of findings that are not in accordance with the entitlements or other agreements, the party that seems to be in default, will have a reasonable period to restore or redress the situation

In case the audit reveals the the commissioner is in compliance with the entitlements and agreements, both parties costs connected to the audit process will be born by the contractor. This in order to prevent vendors to use audits as a sales enhancing mechanism with no down side. After the audit and repair of possible faults, the contractor will hand over a declaration of 'compliance' to the commissioner.

## Sources

This Code of Conduct was drafted using i.a.:

- Final report of the Dutch parliamentary inquiry into governmental ICT projects, "Eindrapport Parlementair onderzoek naar ICT-projecten bij de overheid (Commissie Elias), Tweede Kamer 2014-2015, 33 326, nr.5."
- NEVI Gedragscode 'Handreiking verantwoord inkopen', oktober 2012.
- Experiences and codes of conduct used by members of the CIO Platform Nederland.
- Intug, 'Software Publishers Code of Conduct', september 2015.
- Code of Conduct of the Dutch ICT suppliers branch organization Nederland ICT.

## 2 Participants CC/CEG Vendor Relations

Achternaam	Tussenv	Voornaam	Organisatie
Balik-Janssen		Betül	Sociale Verzekeringsbank
Bartolovic-Baban		Natalija	Van Oord Dredging & Marine Contractors
Bech		Jurgen	ANWB
Benschop	van	Fred	Rabobank Nederland
Boe	de	Boudewijn	Koninklijke Boskalis Westminster N.V.
Boelhouwer		Daphne	De Nederlandsche Bank
Boin		Ramon	Rabobank Nederland
Boneschanscher		Machiel	Nederlandse Spoorwegen
Bonnema		Rias	PostNL
Bosland		Fleur	FrieslandCampina
Bouwman		Arnold	ABN AMRO
Boven	van	Louis	Van Gansewinkel Groep
Brekelmans		Henk	DAF Trucks
Bronner		Kees	ProRail
Bruggen	van	Gerrit	Sociale Verzekeringsbank
Custers		Alfons	APG Groep
Dado		Barbera	PGGM
Deckers		Eric	GVB
Derickx		Norbert	CIO Platform Nederland
Drost		Marc	Océ
Eenink		Geert	Coöperatie SURF
Elen		Heleen	Gemeente Amsterdam
Eng-Verduin	van der	Annemiek	Sociale Verzekeringsbank
Gieltjes		René	Nederlandse Spoorwegen
Gosens		Andre	GVB
Grauw	de	Anton	Nutreco
Groeneveld		Curd	ECT
Groot		Caecilia	GVB
Hamdani		Boukhiar	Nederlandse Spoorwegen
Heide	van der	Marcel	Rabobank Nederland
Heijmans		Edgar	Ministerie van BzK

Heinrichs		Patrick	DSM Business Services B.V.
Hendrikk		Gino	FrieslandCampina
Heuvel	van den	Erwin	UMC Utrecht
Hissink		Marja	Alliander
Hoop	de	Marnix	SHV
Horden		Willie	Gemeente Eindhoven
Husken		Hans	PostNL
Jong	de	Paul	UWV
Jonge	de	Gerrie	PostNL
Kampman		Lydia	CIO Platform Nederland
Karbaat		Mario	CBS
Karimoeddin		Rewien	Gemeente Rotterdam
Knauf		Dennis	MN
Kooijman		Hans	De Nederlandsche Bank
Korving		Willem	Sonepar Nederland
Kuus		Henri	Holland Casino
Lauwerijssen		Thijs	CZ
Leever		Peter	ANWB
Linden	van der	Robert	Rabobank Nederland
Luijten		Louis	ASML
Luitjes		Arjan	Koninklijke Vopak
Maas		Lisette	Dienst Justitiële Inrichtingen
Martincsek		Béla	Unirobe Meeùs Groep B.V.
Meent	van de	John	De Nederlandsche Bank
Menet		Reinoud	G4S
Michels		Debby	FrieslandCampina
Mulder		Michelle	Sociale Verzekeringsbank
Nykerk		Martijn	Randstad Holding NV
Olij-Benner		Gerda	FloraHolland
Olislagers		Hans	DSM Business Services B.V.
Osinga		Ebbing	Sociale Verzekeringsbank
Overvoorde		Eric	Royal HaskoningDHV
Peperkamp		Angelika	CIO Platform Nederland
Roetman		Harro	SNS Bank

Rouers		Jacqueline	Sociale Verzekeringsbank
Rouw	de	Leon-Paul	Ministerie van BzK
Schilder		Jan	ING OIB Commercial Banking Services
Schlebaum		Peter	UMC Utrecht
Schlechtriem		Frank	DSM Business Services B.V.
Schoonderbeek		Menno	GVB
Siemerink		Leon	Achmea Group Inf. Mgt.
Slangen		John	DSM Business Services B.V.
Slot		Paul	Havenbedrijf Rotterdam
Spieker		Hans	FrieslandCampina
Tas		Peter	CZ
Tienen	van	Ronald	SNS Bank
Velde	van der	Gerard	KLM
Verbeek		Ronald	CIO Platform Nederland
Verver		Henk	Schiphol Group
Vrolijk		Jeroen	Koninklijke BAM Groep N.V.
Wagenaar		Hans	Heineken International
Werrij		Wouter	FloraHolland
Wiebers		Dwight	Rijkswaterstaat
Witjes		Patrick	Royal HaskoningDHV
Woltmeijer		Otto	Pon
Wouw	van de	Jan	IHC Merwede Holding B.V.
Zwaag	van der	Hans	PGGM
Zwart		Willem Jan	Enexis B.V.

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eindverantwoordelijken  
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