

SERVICE CONTRACT (Intellectual services)

[Object of the contract]

Between the Council of Europe,
represented by [indicate name], [indicate function], acting on behalf of
the Secretary General of the Council of Europe, hereinafter referred to
as “the Council”,

And [Indicate name of the Service Provider/Consultant]
[Indicate Address] represented by [indicate name], [indicate function],
[VAT n° if any] hereinafter referred to as “the Service
Provider/Consultant”.

Article 1 - Nature of services and work completion date

- 1.1 The Service Provider/Consultant undertakes, on the conditions and in the manner laid down by common agreement hereafter excluding any accessory verbal agreement, to perform the list of deliverables attached in Appendix 1 to the present Contract.
- 1.2 The Contract enters into force upon its signature by the last of the two parties. It remains valid until the obligations of both parties have been completed.
- 1.3 Appendices to the present contract form an integral part of the said Contract.

Article 2 – Language and length of documents

- 2.1 Unless otherwise agreed between the Parties, any written documents prepared by the Service Provider/Consultant under the contract shall be written in English and produced on a word processing file.
- 2.2 Unless otherwise agreed between the Parties, if the document produced by the Service Provider/Consultant is written in another language than English, while it was not foreseen in the Contract, the cost of the translation into English will be covered by the Service Provider/Consultant and deducted from the fee to be paid as stipulated in Article 10.
- 2.3 Unless otherwise agreed between the Parties, all written documents of more than 1,500 words shall be preceded or accompanied by a text summarising the subject and main conclusions and shall not, unless specifically required, exceed 5,000 words.

Article 3 – Intellectual property rights

- 3.1 The Service Provider/Consultant cedes to the Council, on an exclusive basis for the entire world and for the duration of 70 (seventy) years all rights in the deliverables referred to in Article 1. Such rights shall include in particular the right to use, reproduce, represent, publish, adapt, translate and distribute – or to have used, reproduced, represented, published, adapted, translated and distributed - in any country, in any language, in any form and on any kind of support, including on a CD-ROM or the internet, the deliverables, or any part thereof, submitted by the Service Provider/Consultant under the contract.
- 3.2 The Council reserves the right to exercise the above-mentioned rights for any purpose falling within its activities.
- 3.3 The Service Provider/Consultant guarantees that use by the Council of the deliverables supplied under the contract will not infringe the rights of third parties. In the event of any dispute or litigation involving an alleged violation of a third party's intellectual property rights, the Service Provider/Consultant shall at his own cost endeavour so far as is possible to settle the dispute or litigation and shall, if requested by the Council and for so long as that request is not revoked, be responsible for conducting the defence in respect of all proceedings. However, under no circumstances may the Service Provider/Consultant institute judicial proceedings in the name of the Council. The Service Provider/Consultant shall keep the Council fully informed of the progress of such dispute or litigation and shall bear all expenses, costs and compensation payable to any third party pursuant to a court order, arbitration award or negotiated settlement. In the event that any claim by a third party relating to the alleged violation of its intellectual property rights results in the Council suffering damage or loss, the Council shall be entitled to full compensation from the Service Provider/Consultant for such damage or loss.
- 3.4 Notwithstanding the provision in Article 3.1 above, the Council may, on prior application by the Service Provider/Consultant, authorise the Service Provider/Consultant to use the deliverable(s) referred to under Article 1.1 above. When giving the Service Provider/Consultant such authority, the Council will inform the Service Provider/Consultant of any conditions to which such use may be subject.
- 3.5 Any intellectual property rights of the Service Provider/Consultant over methods, knowledge and information which are in existence at the date of the conclusion of the contract and which are comprised in or necessary for or arising from the performance of the contract shall remain the property of the Service Provider/Consultant. However, in consideration of the fees payable pursuant to the contract the Service Provider/Consultant hereby grants the Council a non-exclusive and free licence for the entire world and for the duration of 70 (seventy) years for the use of such methods, knowledge and information.
- 3.6 If the deliverable expected results in the provision of a training session, and provided the training materials are not the property of the Council of Europe, the Service Provider/Consultant grants the participants in the training a non-exclusive licence for the entire world and for the duration of the validity of any

existing intellectual property rights over the training materials for their own professional use of those training materials made available by the trainer.

Article 4 – Loyalty and confidentiality

- 4.1 In the performance of the present contract, the Service Provider/Consultant will not seek or accept instructions from any government or any authority external to the Council. The Service Provider/Consultant undertakes to comply with the Council's directives for the completion of the work, to observe absolute discretion regarding all service matters and to refrain from any word or act that may be construed as committing the Council.
- 4.2 The Service Provider/Consultant shall observe the utmost discretion in all matters concerning the contract, and particularly any service matters or data that have been or are to be recorded that come to the Service Provider/Consultant's attention in the performance of the contract. Unless obliged to do so under the terms of the contract, or expressly authorised to do so by the Secretary General of the Council, the Service Provider/Consultant shall refrain at all times from communicating to any person, legal entity, government or authority external to the Council any information which has not been made public and which has come to the Service Provider/Consultant's notice as a result of dealings with the Council. Nor shall the Service Provider/Consultant seek to gain private benefit from such information. Neither the expiry of the contract nor its termination by the Council shall lift these obligations.

Article 5 – Health, social and travel insurance

- 5.1 The Service Provider/Consultant shall undertake all necessary measures to arrange for health and social insurance during the entire period of the performance of work under the contract. The Service Provider/Consultant acknowledges and accepts in this regard that the Council shall not assume any responsibility for any health and social risks concerning illness, maternity or accident which might occur during the performance of work under the contract.
- 5.2 Unless otherwise specified in Article 10 below, the Service Provider/Consultant is required to arrange for travel insurance covering specific risks related to travel and stay (medical costs related to unforeseen illness or accident, repatriation, death, cancellation of journey or flight, theft or loss of personal possessions) during the performance of the work under the contract.

Article 6 – Disclosure of the terms of the contract

- 6.1 The Service Provider/Consultant is informed and gives an authorisation of disclosure of all relevant terms of the contract, including identity and price, for the purposes of internal and external audit and to the Committee of Ministers and to the Parliamentary Assembly of the Council with a view to these latter discharging their statutory functions, as well as for the purpose of meeting the publication and transparency requirements of the Council of Europe or its donors. The Service Provider/Consultant authorises the publication, in any form and medium, including the websites of the Council of Europe or its donors, of the title of the contract/projects, the nature and purpose of the

contract/projects, name and locality of the Service Provider/Consultant and amount of the contract/project.

- 6.2 Whenever appropriate, specific confidentiality measures shall be taken by the Council to preserve the vital interests of the Service Provider/Consultant.

Article 7 – Use of the Council of Europe’s name

The Service Provider/Consultant shall not use the Council’s name, flag or logo without prior authorisation of the Secretary General of the Council.

Article 8 - Fiscal obligations of the Service Provider/Consultant

The Service Provider/Consultant undertakes to observe all applicable rules and to comply with his/her fiscal obligations in:

- submitting an invoice or a request for payment to the Council in conformity with the applicable legislation;
- declaring all fees received from the Council for tax purposes as required in his/her country of fiscal residence.

Article 9 - Other obligations of the Service Provider/Consultant

- 9.1 In the performance of the present contract, the Service Provider/Consultant undertakes to comply with the applicable principles, rules and values of the Council.
- 9.2 The Staff Regulations and the rules concerning temporary staff members shall not apply to the Service Provider/Consultant.
- 9.3 Nothing in this contract may be construed as conferring on the Service Provider/Consultant the capacity of a Council of Europe staff member or employee.

Article 10 – Fees, expenses and mode of payment

- 10.1 In return for the fulfilment by the Service Provider/Consultant of its obligations under the contract, the Council undertakes to pay the Service Provider/Consultant the fees indicated in Appendix 1 to the present Contract. The applicable VAT regime is also indicated in this Appendix. These fees are final and not subject to review. Payments shall be made into the bank account of the Service Provider/Consultant as indicated in Article 19.
- 10.2 Upon acceptance of the deliverable(s) by the Council of Europe, the Service Provider/Consultant shall submit a detailed invoice **in triplicate** and in Euros in conformity with the applicable legislation.

Before accepting the deliverable(s), the Council reserves the right to ask the Service Provider/Consultant to submit any other document or information that may serve the purpose of establishing that the Contract has been duly executed.

For this particular contract, the Service Provider is further requested to provide [XX].

TO BE KEPT ONLY IF NO ADVANCE PAYMENT IS FORESEEN

10.3 The fees shall be payable within 60 calendar days of submission of the documents described in Article 10.2, subject to the submission of the deliverable(s) described in Appendix I and its/their acceptance by the Council.

TO BE KEPT ONLY IF ADVANCE PAYMENT IS FORESEEN (not more than 30%):

10.3 The payments for the services to be paid by the Council shall be made as follows:

- [XX% OR] €[amount in figures] ([amount in letters] Euros), [net fixed amount/VAT inclusive/VAT exclusive], upon signature of the Contract;
- The balance within 60 calendar days of submission of the invoice described in Article 10.2., subject to the submission of the deliverable(s) described in Appendix I and its/their acceptance by the Council.

[TO BE KEPT ONLY IF THE PROCURED SERVICES ARE TAXABLE IN THE EU (EXCEPT FRANCE)]

The Council will provide the Service Provider with an exemption certificate prior to the signature of the contract. The exemption certificate sent by the Council of Europe should be retained by the Service Provider/Consultant and presented to its tax authorities to justify tax-free invoicing. In accordance with Article 2 b) of Council Directive 2001/115/EC, the following should be stated in the invoice: Intra-Community sale/service to an exempted organisation: Articles 143 and 151 of Directive 2006/112/EC.

10.3/4 In the event of the Service Provider being required to travel for the purposes of the contract, and provided the fees indicated in Article 10.1 do not already cover these costs, the Council also undertakes, should the Service Provider have obtained its priori agreement, to reimburse travel and subsistence allowances for attending the meetings and visits in connection with the activities set out in Appendix 1. Travel expenses will be reimbursed on the basis of the applicable reimbursement rules of the Council of Europe.¹

10.4/5 In the cases when the Service Provider/Consultant has to undertake travel under the contract, the duration of the Service Provider/Consultant's travel and stays will be covered by an insurance policy with the insurers CHARTIS (Policy No. 2.004.761). A telephone helpline is available of in case of emergency (+ 32(0)3 253 69 16). The said insurance will cover specific risks related to travel and stay of the Service Provider/Consultant (including medical costs related to unforeseen illness or accident, repatriation, death, cancellation of journey or flight, theft or loss of personal possessions). The insurance policy does not cover persons over 75 years of age.

Article 11 - Breach and termination of contract

¹ Applicable Rules: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805ce9c4

- 11.1 In the event that the Service Provider/Consultant does not satisfy the conditions laid down in this contract or those resulting from any modifications duly accepted in writing by both parties, in accordance with the provisions of Article 12 below, or the services provided as referred to under Article 1.2 do not reach a satisfactory level, the Council shall consider there to have been a breach of contract and may consequently refuse to pay to the Service Provider/Consultant, in all or in part, the amounts referred to in Article 10 above.
- 11.2 In the cases described in paragraph 11.1 above, the Council reserves further, at any moment and further to prior notification to the Service Provider/Consultant, the right to terminate the contract. In case of termination, the Council shall pay only the amount corresponding to the services actually and satisfactorily provided at the time of termination of the contract and shall request reimbursement of the sums already paid for services not provided.
- 11.3 The outstanding sums shall be paid to the Council's bank account within 60 calendar days from the notification in writing by the Council to the Service Provider/Consultant regarding the outstanding sums to be paid.

Article 12 - Modifications

- 12.1 The provisions of this contract cannot be modified without the written agreement of both parties.
- 12.2 Any modification shall not affect elements of the contract which may distort the initial conditions of the tendering procedure or give rise to unequal treatment between the tenderers.
- 12.3 This contract may not be transferred, in full or in part, for money or free of charge, without the Council's prior authorisation in writing.
- 12.4 The Service Provider may not subcontract all or part of the services without the prior authorisation of the Council.

Article 13 - Case of force majeure

- 13.1 In the event of force majeure, the parties shall be released from the application of this contract without any financial compensation. Force majeure is defined as including the following: major weather problems, earthquake, strikes affecting air travel, attacks, a state of war, health risks or events that would require the Council or the Service Provider/Consultant to cancel the contract.
- 13.2 In the event of such circumstances each party shall be required to notify the other party accordingly in writing, within a period of 7 calendar days.

Article 14 - Communication between the parties

- 14.1 Communications shall be done through the contact details indicated below:

For the Council of Europe:
Person/function/Department:
Address
Telephone:

Email:

Fax (if relevant):

For the Service Provider/Consultant:

Person/function/Department:

Address:

Telephone:

Email:

Fax (if relevant):

- 14.2 Any communication is deemed to have been made when it is received by the receiving party, unless the Contract refers to the date when the communication was sent.
- 14.3 Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed in paragraph 1 above. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed in paragraph 1 above. In case of unsuccessful dispatch, the sending party shall not be held in breach of its obligation to send such communication within a specified deadline, provided the communication is dispatched by another means of communication without further delay.
- 14.4 Mail sent to the Council using the postal services is considered to have been received by the Council on the date on which it is registered by the department identified in paragraph 1 above.
- 14.5 Formal notifications made by registered mail with return receipt or equivalent, or by equivalent electronic means, shall be considered to have been received by the receiving party on the date of receipt indicated on the return receipt or equivalent.

Article 15 –Acceptance

- 15.1 The provision of deliverables referred to in this contract shall be the subject of a written acceptance procedure. If acceptance is refused, the Council shall inform the Service Provider/Consultant accordingly, giving reasons, and may, where possible, set at least one further date for the provision of the deliverables.
- 15.2 If acceptance is refused, the Council may terminate the Contract in accordance with the provisions of Article 11.

Article 16 – Changes in the Service Provider/Consultant’s situation or standing

- 16.1 The Service Provider/Consultant shall inform the Council without delay of any changes in his address or legal domicile.
- 16.2 The Service Provider/Consultant shall also inform the Council without delay:

- i. if he or she is involved in a merger, takeover or change of ownership or there is a change in his or her legal status;
- ii. if he or she is sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering;
- iii. if he or she is in a situation of bankruptcy, liquidation, termination of activity, insolvency or arrangement with creditors or any like situation arising from a procedure of the same kind, or is not subject to a procedure of the same kind;
- iv. if he or she has received a judgment with res judicata force, finding an offence that affects his professional integrity or serious professional misconduct;
- v. if he or she does not comply with his or her obligations as regards payment of social security contributions, taxes and dues, according to the statutory provisions of my country of legal domicile;
- vi. If he or she is or is likely to be in a situation of conflict of interests.

Article 17 – General obligation to provide advice

The Service Provider/Consultant recognises that it is subject to a general obligation to provide advice, and particularly to provide information and make recommendations, to the Council. In this context, the Service Provider/Consultant shall supply to the Council all the advice, warnings and recommendations necessary particularly in terms of quality of services and compliance with professional standards. The Service Provider/Consultant also undertakes to inform the Council as soon as it becomes aware, during the execution of the Contract, of any initiatives and/or adopted laws and regulations, policies, strategies or action plans or any other development related to the object of the Contract.

Article 18 - Disputes

In accordance with the provisions of Article 21 of the General Agreement on Privileges and Immunities of the Council of Europe, all disputes between the Council and the Service Provider/Consultant as regards the application of this contract shall be submitted, if a mutual agreement cannot be reached between the parties, to arbitration as laid down in Rule No. 481 of the Secretary General (*See Appendix 2*).

Article 19 - Bank details of the parties

19.1 Council of Europe

Bank:
Address:
Bank details:
Code IBAN:
SWIFT Code:

19.2 Service Provider/Consultant

Bank:
Address:
Swift code:
Code IBAN:

Account holder:

Article 20 – Date, place and signatures of the parties

Signed in two original counterparts, in [place], on [date],

On behalf of the Council		On behalf of the Service Provider/Consultant	
Name		Name	
Position		Position	

APPENDIX 1 – NATURE OF SERVICES

I. Background

[Insert text]

II. Description of the expected deliverables/services

Prices are indicated in [Euros OR [specify other currency] [net fixed amount/VAT inclusive/VAT exclusive].

Deliverables / Services expected ▼	Date due ▼	TOTAL ▼
[XX]	[XX]	[XX]
[XX]	[XX]	[XX]
[XX]	[XX]	[XX]
[XX]	[XX]	[XX]
[XX]	[XX]	[XX]
[XX]	[XX]	[XX]
TOTAL ►		[XX]

* * *

APPENDIX 2 – RULE No. 481

Rule No. 481 of 27 February 1976 laying down the arbitration procedure for disputes between the Council and private persons concerning goods provided, services rendered or purchases of immovable property on behalf of the Council

The Secretary General of the Council of Europe,

Having regard to the Statute of the Council of Europe, of 5 May 1949, and in particular its Articles 11 and 40,

Having regard to the General Agreement on Privileges and Immunities of the Council of Europe signed on 2 September 1949, and in particular its Articles 1, 3, 4 and 21, as well as the Special Agreement relating to the seat of the Council of Europe signed on 2 September 1949,

Considering that it is appropriate to determine the arbitration procedures for any disputes between the Council and private persons regarding supplies furnished, services rendered or immovable property purchased on behalf of the Council,

Having regard to the decision of the Committee of Ministers of the Council of Europe at the 253rd meeting of the Deputies,

DECIDES:

Article 1

Any dispute relating to the execution or application of a contract covered by Article 21 of the General Agreement on Privileges and Immunities of the Council of Europe shall be submitted, failing a friendly settlement between the parties, for decision to an Arbitration Board composed of two arbitrators each selected by one of the parties, and of a presiding arbitrator, appointed by the other two arbitrators; in the event of no presiding arbitrator being appointed under the above conditions within a period of six months, the President of the Tribunal de Grande Instance of Strasbourg shall make the appointment.

Article 2

However, the parties may submit the dispute for decision to a single arbitrator selected by them by common agreement or, failing such agreement, by the President of the Tribunal de Grande Instance of Strasbourg.

Article 3

The Board referred to in Article 1 or, where appropriate, the arbitrator referred to in Article 2 shall determine the procedure to be followed.

Article 4

If the parties do not agree upon the law applicable the Board or, where appropriate, the arbitrator shall decide ex aequo et bono having regard to the general principles of law and to commercial usage.

Article 5

The arbitral decision shall be binding upon the parties and there shall be no appeal from it.

Strasbourg, 27 February 1976
Georg KAHN-ACKERMANN
Secretary General