



## GENERAL SECRETARIAT OF THE ORGANIZATION OF AMERICAN STATES PERFORMANCE CONTRACT

CPR Requisition No.: \_\_\_\_\_

**The Parties**, the General Secretariat of the Organization of American States ("GS/OAS") and the Independent Contractor ("the Contractor"), identified as:

a. Name: \_\_\_\_\_

b. Address: \_\_\_\_\_

c. If Legal person (Corporation, Partnership, or Limited Liability Company), name and address of agent appointed to receive legal process:

i. Name: \_\_\_\_\_

ii. Address: \_\_\_\_\_

HEREBY AGREE AS FOLLOWS:

1. **Product or Service:** The Contractor shall furnish GS/OAS with the product or service ("the Work") described in the Terms of Reference attached as Annex I, which is an integral part of this Contract.

a. The Project for which the Work is provided is \_\_\_\_\_

b. The Place for delivery and/or performance of the Work is: \_\_\_\_\_

c. The Dates for delivery and/or performance of the Work are: \_\_\_\_\_

From: \_\_\_\_\_

To: \_\_\_\_\_

2. **Gross Compensation and Payments:** GS/OAS shall pay the Contractor the total sum of \_\_\_\_\_

as the entire compensation ("Gross Compensation") for the Work, payable in (type of currency) \_\_\_\_\_

a. The Gross Compensation paid to a Natural Person who provides services to GS/OAS for more than one month in any calendar year under a Performance Contract or series of such Contracts shall be itemized into two categories, "net compensation" and "overhead," as set out in Annex III. (Annex III is inapplicable to and unnecessary for all other types of Performance Contracts.)

b. Payment of Gross Compensation shall be made in amounts, upon the approximate dates, and upon completion of the following benchmarks, unless otherwise stated in the Terms of Reference.

	<u>Benchmark</u>	<u>Estimated Date</u>	<u>Amount</u>
First:	_____	_____	\$ _____
Second:	_____	_____	\$ _____
Third:	_____	_____	\$ _____
Fourth:	_____	_____	\$ _____
Fifth:	_____	_____	\$ _____
Sixth:	_____	_____	\$ _____

c. All payments are subject to Contractor's presentation of evidence of completion of the Work and to certification by GS/OAS's certifying officer that the Work is satisfactory. For purposes of this Contract, GS/OAS's certifying officer is:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

GS/OAS may unilaterally change the certifying officer and shall notify Contractor of any such change.

3. **General Terms and Conditions:** The Parties are bound by the General Terms and Conditions set out in Annex II, which is an integral part of this Contract.

4. **Contract Modification:** This Contract may be modified only by a writing signed by the duly authorized representatives of the Parties, dated, and annexed hereto. Those representatives are:

For GS/OAS:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

For the Contractor:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Each Party may change its duly authorized representative by advising the other by way of prior written notice.

**Signed** by the Parties, or their duly authorized representatives, as the case may be, on the date and in the place indicated below:

FOR GS/OAS

FOR THE CONTRACTOR

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Place: \_\_\_\_\_

**ANNEX I**  
**TERMS OF REFERENCE\***

\* The same representatives of the Parties that sign the first page of the Form must sign and date the bottom of each page of this Annex I.

## **ANNEX II**

### **GENERAL TERMS AND CONDITIONS**

1. Contractor is neither an employee nor a staff member of GS/OAS and is not entitled to any of the rights, benefits, and emoluments of GS/OAS staff members.
2. Contractor accepts full legal responsibility for the Work, including all liability for any damages or claims arising from it, and agrees to hold GS/OAS and its staff members harmless from all such damages or claims. Contractor shall provide certificates of insurance coverage as GS/OAS may require for proof of ability to cover such liability.
3. Contractor does not legally represent GS/OAS, shall not hold himself out as having such powers of representation, and shall not sign commitments binding GS/OAS.
4. Contractor shall not have any title, copyright, patent, or other proprietary rights in any Work furnished under this Contract. All such rights shall lie with GS/OAS. At the request of GS/OAS, the Contractor shall assist in securing the intellectual property rights produced under this Contract and in transferring them to GS/OAS.
5. All information (including files, documents, and electronic data, regardless of the media it is in) belonging to GS/OAS and used by Contractor in the performance of this Contract shall remain the property of GS/OAS. Unless otherwise provided in the Terms of Reference (Annex I), Contractor shall not retain such information, and copies thereof beyond the termination date of this Contract, and Contractor shall not use such information for any purpose other than for completion of the Work.
6. Administrative Memorandum No. 90, "Information Systems Security Policy" and Executive Order No. 95-07 "Prohibitions Against Sexual Harassment" are readily available at <http://www.oas.org/legal/legalen.htm> under "Legal Services." Contractor certifies that he has read those documents and agrees to comply fully with them.
7. The Gross Compensation paid Contractor constitutes full consideration for the Work. It covers all fees, expenses, and costs incurred by Contractor in providing the Work, as well as Contractor's direct compensation for same.
8. Because Contractor is an independent contractor, GS/OAS is not responsible for providing social security, workmen's compensation, health, accident and life insurance, vacation leave, sick leave, or any other such emoluments for Contractor and his employees under this Contract. Contractor is solely responsible for providing those benefits, and the Parties have agreed upon the Gross Compensation hereunder to enable Contractor to satisfy that responsibility. At the request of GS/OAS, the Contractor will provide satisfactory evidence of workman's compensation and other insurance coverage that may be required for all its employees or such Contractors.
9. Contractor shall complete the Work in accordance with the highest professional standards and shall conform to all governmental pertinent laws and regulations.
10. Contractor warrants that his performance of the Work will not violate applicable immigration laws, and Contractor shall not employ any person for the performance of this Contract where such employment would violate those laws.
11. GS/OAS is not responsible for travel, visa, or customs arrangements related to or required for the performance of this Contract. Contractor shall have the sole responsibility for securing such arrangements.
12. This Contract shall be null and void in the event the Contractor is unable to obtain a valid visa and other permits or licenses necessary to complete the Work in the country where the Contract is to be performed.
13. Unless otherwise specified in this Contract, Contractor shall neither seek nor accept instructions regarding the Work from any government or from any authority external to the Organization of American States ("OAS"). During the period of this Contract, Contractor may not engage in any activity that is incompatible with the discharge of his duties for GS/OAS. Contractor must exercise the utmost discretion in all matters of official business for GS/OAS. Contractor may not communicate at any time to any other person, government, or authority external to GS/OAS any information known to him by reason of his association with GS/OAS which has not been made public, except in the course of his duties or by written authorization of the Secretary General or his

designate; nor shall Contractor at any time use such information to private advantage. These obligations do not lapse upon Contract termination. Failure to comply with these obligations is cause for termination of this Contract.

14. Contractor may not directly supervise a GS/OAS staff member or direct a project or mission that requires the Contractor to supervise GS/OAS staff members.

15. GS/OAS may terminate this Contract for cause with five days notice in writing to the Contractor. Cause includes, but is not limited to: failure to complete the Work in accordance with professional standards or to otherwise deliver conforming goods and services; failure to meet deadlines; conduct which damages or could damage relations between the OAS and a member state; fraudulent misrepresentation; criminal indictment; sexual harassment; bankruptcy; conduct incommensurate with the requirements for participation in OAS activities; and breach of any of the provisions of this Contract.

16. Either party may terminate this Contract for unforeseen circumstances by giving at least thirty days notice in writing to the other. Unforeseen circumstances include, but are not limited to, modifications to the Program-Budget of the OAS; lack of approved funds in the OAS Program-Budget for the corresponding program or project; failure of a donor to provide fully the specific funds which were to finance this Contract; an act of God; and a member state's desire to discontinue the Work.

17. In the event this Contract is terminated with or without cause, Contractor shall submit to GS/OAS any part of the Work completed and shall receive payment for only that portion of the Work completed to the satisfaction of GS/OAS up until the date of termination.

18. Contractor certifies that:

- a. Neither the Contractor nor any of its senior officers and employees, on the date of the signing of this Contract, are relatives of GS/OAS staff members above the P-3 level or of a representative or delegate to the OAS from a member state. The term relative includes spouse, son or daughter, stepson or stepdaughter, father or mother, stepfather or stepmother, brother or sister, half brother or half sister, stepbrother or stepsister, father or mother-in-law, son or daughter-in-law, brother or sister-in-law.
- b. He is not incompetent to enter into a contract, is not on trial in a criminal court of any of the member states, and has never been convicted of a felony in one of the member states.
- c. Completion of the Work shall not interfere with the completion of work for which he is responsible under any other contract with GS/OAS.

19. Contractor shall not employ a staff member of GS/OAS or relative of a staff member as defined in Paragraph 18(a) above to perform the Work, nor shall Contractor permit any staff member of GS/OAS or relative of the staff member, as defined in that Paragraph, to receive any personal financial benefit deriving from this Contract or the Contractor's contractual relationship with GS/OAS.

20. Contractor shall not assign this Contract or any element thereof, without the written consent of GS/OAS.

21. Upon written notice by either Party to the other, any dispute between the Parties arising out of this Contract may be submitted to either the Inter-American Commercial Arbitration Commission or the American Arbitration Association, for final and binding arbitration in accordance with the selected Commission's rules. Nothing stated in this Contract constitutes a waiver, express or implied, of the privileges and immunities either Party and its employees enjoy under law.

22. This Contract shall enter into effect on the date on which it is signed by both Parties.

23. This Contract, including Annexes HIII, Constitutes the entire agreement between the Parties, and any representation, inducement, or other statements not expressly contained herein shall not be binding on the Parties and shall have no legal effect.

24. The masculine terms employed in this form should be understood to apply to males, females and legal persons; singular pronouns should be understood to apply to the plural, when appropriate.

**ANNEX III****ITEMIZATION OF GROSS COMPENSATION  
FOR SERVICES PROVIDED BY NATURAL PERSONS**

(USE THIS FORM ONLY FOR PERFORMANCE CONTRACTS WITH NATURAL PERSONS WHO PROVIDE SERVICES AS  
INDEPENDENT CONTRACTORS FOR MORE THAN ONE MONTH IN ANY CALENDAR YEAR)

**I. NET COMPENSATION:** \$ \_\_\_\_\_

**II. OVERHEAD:**

Elements of Overhead

Social security (including retirement, unemployment insurance, and workmen's compensation insurance):<sup>1</sup> \$ \_\_\_\_\_

Health insurance:<sup>2</sup> \$ \_\_\_\_\_

Annual vacation leave:<sup>3</sup> \$ \_\_\_\_\_

Others:<sup>4</sup> \$ \_\_\_\_\_

**TOTAL OVERHEAD<sup>5</sup>** \$ \_\_\_\_\_

**TOTAL GROSS COMPENSATION** \$ \_\_\_\_\_

1. This is an amount intended to reimburse the Contractor for the amount he is required by law to contribute to social security (including retirement, unemployment insurance, and worker compensation insurance) with respect to the Net Fee for Services in the duty station. If no such amount can be easily established, the amount used shall be 15% of the net fee.

2. This is an amount intended to reimburse the Contractor for the amount he is required by law to contribute for state provided health insurance, if any. If no such amount can easily be established, the amount used shall be 3% of the Net Fee.

3. This is an amount intended to reimburse the Contractor for the value of annual vacation leave which he might earn when he is an employee of an enterprise, equal to 3% of the Net Fee.

4. Any other elements of overhead that the parties deem appropriate.

5. In those cases where the Parties bargain for a Gross Compensation and the amount of the elements of overhead are not easily calculated, the amounts for Overhead and Net Compensation can be easily established in accordance with the following example. Contractor and GS/OAS agree on Gross Compensation of \$100,000. Determine Net Salary "x" by way of simple algebra:  $x + .21x = \$100,000$ . (We use .21x as the amount of overhead because .21 is the sum of the percentage elements of overhead -- 15% for social security, 3% for health insurance, and 3% for vacation). Thus Net Salary (or "x") is \$82,645. Overhead (or ".21x") is \$17,355. You can go on to compute the individual amounts for social security, health insurance, and vacation by simple multiplication as follows: social security = 15% of \$82,645 = \$12,397; health insurance = 3% of \$82,645 = \$2,479; vacation similarly = 3% of \$82,645 = \$2,479.