

**Cour
Pénale
Internationale**



**International
Criminal
Court**

**MODEL CONTRACT FOR INTERMEDIARIES
(March 2014)**

THIS CONTRACT is made

BETWEEN:

The International Criminal Court, a permanent international organization whose Headquarters are at Maanweg 174, 2516 AB, The Hague, The Netherlands (hereinafter referred to as "the Court"), hereby represented by *[capacity of the representative, including a reference to the organ, section and unit within the Court], [name of the said representative]* by delegation of powers from the Registrar;

OR

[Name of the Counsel], with professional domicile located at *[full address]*, Counsel of *[name of the person assisted by the Counsel]* (hereinafter referred to as the "Counsel")

and

[If the Intermediary is a legal entity]

[Name of the legal entity], [nature of the legal entity], with registered office located at *[full address]*, registered before [...], under number [...], hereby represented by its *[capacity], [name of the representative]* (hereinafter referred to as "the Intermediary").

[If the Intermediary is an individual]

[Full name of the Intermediary], born in *[place of birth]*, on *[date of birth]*, national of *[name of the country]*, holder of the Passport/National Identification Card number [...], issued by *[issuance entity]*, on the *[date of issuance]*, residing at *[full address]* (hereinafter referred to as "the Intermediary").

Both hereinafter separately and jointly referred to as the "Party" or the "Parties".

WHEREAS, the Court (*or* the Counsel) desires to engage the Intermediary in order to render the services and the deliverables, on the terms and conditions set forth in the Contract.

WHEREAS, the Intermediary has been identified as able to render a specific service and provide certain deliverables necessary to the Court (*or* the Counsel).

WHEREAS, the Intermediary accepts the Court's (*or* the Counsel's) proposal.

NOW, THEREFORE, in consideration of their mutual covenants and subject to the terms and conditions set forth below, the Parties agree as follows:

Article 1 - Contract Documents

This document together with the Annexes as enumerated below (hereinafter referred to as the "Contract") constitutes the entire understanding and contract between the Court (*or* the Counsel) and the Intermediary:

Annex 1: Code of Conduct; and
Annex 2: Terms of Payment.

Article 2 - Commencement Date and Term

- 2.1 The Contract shall become effective as and from the date that it is signed by the Parties hereto (hereinafter referred to as the "Commencement Date"). If the Contract is signed on different dates by the authorized representatives of the Parties, then the Commencement Date shall be the latter date on which it has been signed by both Parties.
- 2.2 The term of the Contract shall be from the Commencement Date up to [...].
- 2.3 If the Contract is extended, the respective extension shall be governed by the present terms and conditions.

Article 3 - Legal Status of the Intermediary

- 3.1 The Intermediary shall be considered as having an independent legal status *vis-à-vis* the Court (*or* the Counsel) and nothing contained in or relating to the Contract shall be construed as establishing or creating between the Parties a partnership, a relationship of employer and employee, a relationship of principal and agent nor any sort of representation.
- 3.2 The Intermediary provides the services and eventually the deliverables on a voluntary basis, being exclusively entitled to the reimbursement of expenses under the terms and conditions set forth in Article 11 of the Contract.

[In the event the Intermediary receives compensation for the time spent, clause 3.2 has to be deleted]

Article 4 - Services and Deliverables

- 4.1 The Intermediary undertakes to perform and conduct the following services to the Court (*or* the Counsel) (hereinafter referred to as the "Services"):
- 4.1.1 *[List of Services to be provided by the Intermediary]*
- 4.2 The Intermediary undertakes to provide the following deliverables to the Court (*or* the Counsel) (hereinafter referred to as the "Deliverables"):
- 4.2.1 *[List of the items, reports, communications, analysis, databases, records, writings or any other similar items (in any media) supposed to be produced and provided by the Intermediary to the Court or to the Counsel in connection with the Services and under the terms to be established by the Court or the Counsel]*
- 4.3 The Services and the Deliverables shall be provided to the Court (*or* the Counsel) in the manner and within the timeframe as agreed by the Parties.
- 4.4 Upon agreement with the Intermediary and pursuant to Article 13, the Court (*or* the Counsel) retains the right to change, update, cancel or add, at any moment, any of the Services and/or Deliverables, if so is deemed necessary by the Court (*or* the Counsel).

Article 5 – Source of Instructions

The Intermediary shall neither seek nor accept instructions from any authority other than the other Party to this Contract in connection with the performance of the Contract.

Article 6 – Use of the name, emblem and official seal of the Court

- 6.1 The Intermediary shall not use the name, emblem or official seal of the Court or any abbreviation of the name of the Court for advertising purposes or for any other purposes, unless authorized in writing by the Court.
- 6.2 The Intermediary agrees to not disclose, make public, disseminate or use for his/her/its own benefit or for the benefit of any person, entity, company, organization or government, any reference to the contractual relationship with the Court (*or* the Counsel) nor to any of the terms and conditions set forth in the Contract, unless authorized in writing by the Court (*or* the Counsel).

Article 7 - Language

- 7.1 The Contract and all its respective amendments will be written in English *[French, for the French version of the Contract]*.
- 7.2 In the event the Contract is also provided in a local language, the English *[French, for the French version of the Contract]* version would prevail in case of any discrepancy.
- 7.3 The content of the provisions of this Contract have been integrally explained to the Intermediary, upon the signature of the Contract, and the Intermediary hereby acknowledges that he/she/it fully understands the content of all provisions.

Article 8 - Intermediary's Warranties

- 8.1 The Intermediary undertakes to take all adequate steps to safeguard his/her/its own safety and the safety of any other person who may be affected by his/her/its action.
- 8.2 The Intermediary undertakes to inform immediately the Court (*or* the Counsel) of any security threat addressed to the Intermediary, the Personnel and/or any other person concerned by the Services to be provided.
- 8.3 The Intermediary undertakes to inform the Court (*or* the Counsel) of any previous and/or ongoing contact established between the Intermediary and any other organ, division, section or unit of the Court (*or* Counsel).
- 8.4 The Intermediary undertakes that he/she/it will cooperate with the Court's (*or* the Counsel's) employees, officials, consultants, contractors, staff members and agents and to comply with the instructions, procedures, measures and practices of the Court (*or* the Counsel) in providing the Services and/or the Deliverables.
- 8.5 The Intermediary undertakes to notify the Court (*or* the Counsel) immediately on the impossibility to provide the Services and/or the Deliverables on any day on which the Intermediary is required to provide the Services and/or the Deliverables, as agreed in the Contract, due to illness or other incapacity or for any other reason. The Intermediary undertakes to develop all necessary efforts in order to provide the Court with the Services and/or the Deliverables requested within the timetable agreed between the Parties.

Article 9 - Confidentiality

- 9.1 The Intermediary agrees that he/she/it shall abide by the following perpetual confidential and nondisclosure conditions:
 - 9.1.1 To classify as strictly confidential all of the information, data, documents and materials, in whatever form, received, acquired, produced or delivered by reason of the Contract, excluding what is publicly known;
 - 9.1.2 To adhere to all policies or instructions provided by the Court (*or* the Counsel) as to the classification, use or disposal of any restricted or confidential information, data, document or materials;
 - 9.1.3 Not to disclose, publish, disseminate or use for the benefit of any person, entity, company, organization or government, any confidential information, data, documents and materials, in whatever form, received, acquired, produced or delivered by reason of the Contract, except with the prior written consent of the Court (*or* the Counsel) or as required by law;
 - 9.1.4 To not use any restricted or confidential information, data, document or material for personal gain; and
 - 9.1.5 To respect the limitation that confidential information, data, documents and materials may be disclosed to and used by the Intermediary only when required for the purposes of his/her/its action strictly within the limits established and authorized by the Court (*or* the Counsel).
- 9.2 The Intermediary will ensure that he/she/it complies with the following obligations:
 - 9.2.1 Any documents, data, information or materials, in whatever form, acquired, produced or delivered by reason of this Contract will be stored in an adequate manner to safeguard such documents, data, information or materials; and
 - 9.2.2 *Any documents, data, information or materials in electronic form acquired, produced or delivered by reason of this Contract will be stored in encrypted form. [This obligation should be optional]*
- 9.3 The Intermediary agrees to fulfill the obligations undertaken above during and after the term of the Contract.

Article 10 - Disclosure of the Intermediary's Identity

The Intermediary acknowledges and agrees that the Court (*or* the Counsel) may disclose his/her/its identity when and if requested to do so by the relevant judicial authority in charge of the respective judicial procedure.

Article 11 - Reimbursement of Expenses

- 11.1 The Court undertakes to reimburse the expenses incurred by the Intermediary for the provision of the Services and/or the Deliverables if such expenses are qualified by the Court as necessary and the amounts deemed as reasonable for the intended purposes.
- 11.2 For the purposes of the provision of the Services and/or the Deliverables listed in Article 4, the Court undertakes to reimburse the following expenses:
- 11.2.1 *[List of the expenses the organ, section or unit of the Court considers appropriate, necessary and reasonable for the provision of the Services and/or the Deliverables agreed with the Intermediary]*
- 11.3 The Intermediary shall inform the Court, as soon as possible, of the nature and amount of expenses other than those referred to in Article 11.2 considered necessary for the provision of the Services and/or the Deliverables. The Court will then judge the need of such additional and unforeseen expenses and the possibility of reimbursement.
- 11.4 The reimbursement of any expenses incurred by the Intermediary will depend on the following cumulative conditions:
- 11.4.1 The Intermediary submits the original invoices, receipts and/or other supporting documents regarding the requested expenses to be reimbursed not later than ten (10) business days after having incurred the said expenses; and
- 11.4.2 The Intermediary fully complies with all commitments, obligations and warranties undertaken under the Contract.

[Clause to be used only in exceptional cases]
Article 12 – Compensation for time

The Court agrees to pay the Intermediary for the time spent for the performance of the Services and/or provision of the Deliverables, under the scheme of payment established by the Court.

Article 13 - Amendment of Contract

The Contract may be amended at any time upon written agreement signed by both Parties.

Article 14 – Termination of Contract

- 14.1 The Contract may be terminated, at any time, in writing, with immediate effect, by the Court (*or* the Counsel) in the following cases:
- 14.1.1 The Intermediary breaches any of the commitments, obligations or warranties undertaken under the Contract;
- 14.1.2 The mandate or the funding of the mission is curtailed or terminated; or
- 14.1.3 A security assessment conducted by the Court establishes the need to terminate the Contract.
- 14.2 The Contract may be terminated by the Intermediary upon thirty (30) days' prior written notice addressed to the Court (*or* the Counsel).
- 14.3 The rights and remedies set forth in this article shall be non-exclusive and in addition to all other remedies available to the Court (*or* the Counsel), whether under the Contract or otherwise.

- 14.4 If the Contract is terminated based on a breach by the Intermediary of Articles 8 or 9, the Intermediary will not be engaged in the future by the Court (*or* the Counsel) for the provision of any services or deliverables.

Article 15 - Title to equipment

- 15.1 Title to any equipment, material and supplies that may be furnished by the Court shall rest with the Court, and any such equipment, material and supplies shall be returned to the Court upon the expiration or termination of the Contract or when no longer needed by the Intermediary. Such equipment, when returned to the Court, shall be in the condition as when delivered to the Intermediary, subject to normal wear and tear.
- 15.2 Before handing over to the Intermediary the equipment, material and supplies furnished by the Court, a representative of the Court (*or* the Counsel) and the Intermediary shall sign the "Agreement for the receipt and use of ICC assets", which shall list the equipment, material and supplies conveyed.

Article 16 - Privileges and immunities of the Court

Nothing in or relating to the Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the Court.

Article 17 - Communications between the Parties

- 17.1 Any notice or other communication to be given under the Contract shall be in writing and signed by or on behalf of the Party giving it and may be served by leaving it at or sending it by fax, delivering it by hand or sending it by first class post to the address and for the attention of the relevant Party set out in Article 17.2 (or otherwise notified from time to time under this Contract).

- 17.2 For the purposes of the Contract, the addresses and contact data of the Parties are as follows:

17.2.1 If to the Court, to:

Maanweg 174
2516 AB The Hague
The Netherlands

Attention: *[name of the representative of the Court for this purpose]*
[Position/capacity of the said representative]
[Organ, section, unit within the Court]

Telephone Number: [...]

Fax Number [...]

OR

[Address of the Field Office]

Attention: *[name of the Field Office Manager]*

Telephone Number: [...]

Fax Number: [...]

OR

17.2.1 If to the Counsel, to:

[Address of the Counsel]

Attention: *[Name of the Counsel]*

Telephone Number: [...]

Fax Number: [...]

17.2.2 If to the Intermediary to:

[Full address]

[Name of the Intermediary or its representative in the event the Intermediary is a legal entity]

Telephone Number: *[if any]*

Fax Number: *[if any]*

Article 18 - Settlement of disputes

The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of the Contract or the breach or termination thereof.

Article 19 - Applicable Law and Jurisdiction

The Contract shall be governed and construed in accordance with the principles of international law and the Court shall not be subject to national law nor submit to the jurisdiction of any national court.

IN WITNESS WHEREOF the authorized representatives of the Parties have signed the Contract on the dates set forth below:

FOR AND ON BEHALF OF THE COURT

By: *[signature]*

Name: [...]

Title: [...]

Organ: [...]

Section: [...]

Unit: [...]

Date: [...]

OR

THE COUNSEL:

By: *[signature]*

Name: [...]

Date: [...]

[If the Intermediary is a legal entity]

FOR AND ON BEHALF OF THE
INTERMEDIARY

By: *[signature]*

Name: [...]

Title: [...]

Date: [...]

[If the Intermediary is and individual]

By: *[signature]*

Name: [...]

Date: [...]