

CONTRACT FOR EXTERNAL EXPERTS

EFCA/SER/201X/XX/XXX

between the

EUROPEAN FISHERIES CONTROL AGENCY (EFCA)

and

Mr/Ms XXXXX

Purpose of the Contract: “xxx”

The European Fisheries Control Agency (hereinafter called “the EFCA”), which for the purposes of signature of this contract is represented by [forename, surname, function, department] (AO).

of the one part,

and

[Family name]

[First name]

[Expert candidature number:]

[Full official address]

[Email address]

(hereinafter referred to as "the Expert"),

of the other part,

HAVE AGREED

the **Terms and conditions** below and the following Annexes:

Annex I: Terms of reference

Annex II: Declaration of absence of conflict of interest and of confidentiality

Annex III: Code of conduct for experts

Annex IV: Payment form

which form an integral part of this contract (hereinafter referred to as “the Contract”).

The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract. The terms set out in the General Conditions shall take precedence over those in the Annexes.

Subject to the above, the several instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by EFCA.

By signing this Contract, the expert confirms that s/he has read, understood and accepted the Contract and all its obligations and conditions, including the Terms of reference set out in Annex I, the Declaration of absence of conflict of interest and confidentiality set out in Annex II and the Code of conduct for experts set out in Annex III.

CHAPTER 1 – GENERAL

ARTICLE 1 – SUBJECT OF THE CONTRACT

This Contract sets out the rights and obligations and the terms and conditions that govern the relationship between EFCA and the expert appointed to assist EFCA within the framework of the call for expression of interest no EFCA/CEI/2021/01 published in the Official Journal S S119 on 22/06/2021. The subject of the Contract is [to be completed].

ARTICLE 2 – WORKING ARRANGEMENTS

1. The expert's work starts on [*insert earliest starting date of work*] and cannot exceed [*insert number*] working days. The number of days actually worked that may be declared by the expert may turn out to be less (see Articles 3 and 9).

The expert may not under any circumstances start work before the date on which the Contract enters into force in accordance with Article 24.

2. The Contract is concluded for a period of [*insert number*] **months** with effect from the date on which it enters into force. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.
3. The Expert shall execute the tasks assigned to him in accordance with the Terms of reference annexed to the Contract (Annex I).

The deliverables stipulated in Annex I shall be submitted to the EFCA according to the indicative planning in Annex I.

CHAPTER 2 – FEES, ALLOWANCES AND REIMBURSEMENT OF EXPENSES

ARTICLE 3 – FEES

1. The Expert is entitled to a payment of **EUR 450 (four hundred and fifty)** for each full day actually worked in accordance with Article 2.
2. The total amount of the fees is calculated to the nearest half day.

3. The total amount requested may not exceed — and may have to be less than — the fee for the total maximum working days set out in Article 2(1), i.e. EUR [*insert amount*].

ARTICLE 4 – ALLOWANCES AND REIMBURSEMENT OF EXPENSES

1. In addition to the fees set out in Article 3, the expert is entitled to the following allowances and reimbursement of expenses: The Expert may be requested to participate in meetings or trainings in connection with the subject of this Contract, involving separate trips to EFCA premises or a remote meeting place. For such events, the Expert will receive an individual invitation which details the applicable reimbursement conditions in accordance with the provisions of the Decision of the Administrative Board of the EFCA of 15/10/2015 laying down the “Rules on the reimbursement of expenses incurred by people from outside EFCA invited to attend meetings in an expert capacity” (AB Decision 15-II-12) applicable to “private-sector experts”.

The point of origin for travel in connection with the subject of this Contract is the place of residence as indicated in the Expert’s address above.

2. Other expenses will not be reimbursed, in particular:
 - (a) expenses incurred for purchasing equipment or other material needed by the expert to accomplish his/her tasks;
 - (b) expenses already declared by the expert under another EU or Euratom contract or grant (including grants awarded by a Member State and financed by the EU or Euratom budget and grants awarded by bodies other than EFCA for the purpose of implementing the EU or Euratom budget);
 - (c) reckless or excessive expenses;
 - (d) deductible VAT;
 - (e) currency exchange losses.

CHAPTER 3 – RIGHTS AND OBLIGATIONS OF THE PARTIES

ARTICLE 5 – GENERAL OBLIGATION TO PERFORM THE CONTRACT PROPERLY AND TO INFORM EFCA

1. The expert must perform the Contract in compliance with all its provisions and legal obligations under applicable EU, international and national law. The expert must do so fully, within the set deadlines and to the highest professional standards.

The expert must, in particular,

- implement the work properly and in full compliance with the provisions of the Contract and, in particular, with:
 - the Terms of Reference (Annex I);
 - the Code of Conduct for experts (Annex III);
- ensure compliance with applicable national tax and social security law.

S/he must implement the Contract fully, timely (i.e. within the deadlines set by EFCA and to the highest professional standards.

2. The Contract does not constitute an employment agreement with EFCA. The expert must immediately inform EFCA, if s/he cannot fulfil his/her obligations under the Contract or becomes aware of other circumstances likely to affect the Contract.

ARTICLE 6 – KEEPING RECORDS / SUPPORTING DOCUMENTATION

The expert must keep records and other supporting documentation (original supporting documents) as evidence that the Contract is performed correctly (and, in particular, on the number of days worked, the remote tasks carried out and on travels and other expenses incurred).

S/he must make them available upon request or in the context of checks, audits or investigations (see Article 12).

The expert must keep all records and supporting documentation for two years starting from the date of the last payment. If there are on-going checks, audits, investigations, appeals, litigation or pursuit of claims, the expert must keep the records and supporting documents until these procedures end.

ARTICLE 7 – REQUEST FOR PAYMENT

1. To obtain its fees, and reimbursement of expenses the expert must submit a request for payment in writing, including the duly completed and signed payment form (Annex IV) corresponding to the performed days and the days worked remotely, together with all required supporting documents and respective deliverables if any.
2. The request(s) for payment must be submitted within 30 days of the date(s) for submitting the report(s) or deliverable(s) specified in Article 2.
3. If the expert is considered to supply a taxable service under the applicable national tax regime, s/he must:
 - register his/her VAT number, and
 - if needed, request a VAT exemption certificate from EFCA and send an invoice without VAT.
4. The expert must specify in the request the bank account to be used for making the payment.

ARTICLE 8 – BANK ACCOUNT

Payments shall be made to the expert's bank account denominated in euros, identified as follows:

Name of bank:

Full address of branch:

Exact designation of account holder:

Full account number including [bank] codes:

IBAN code:

ARTICLE 9 – PAYMENTS

1. EFCA shall make the payment within 30 days from receipt of the completed payment request(s) unless Article 13 applies. The Expert shall have 14 (fourteen) days in which to

submit additional information or corrections, a new final deliverable or other documents if it is required by the EFCA.

2. Payments are subject to EFCA's approval of deliverable(s) or report(s), and of the payment request(s). Approval does not mean recognition of compliance, authenticity, completeness or correctness of content.
3. Payments will be made in euros.
4. Payments will be made to the bank account specified by the expert in the request for payment (see Article 7(4)).
5. EFCA's payments are deemed to be carried out on the date on which its account is debited.
6. On expiry of the payment period specified in paragraph 1 and without prejudice to Article 13, the expert is entitled to interest on late payment at the rate applied by the European Central Bank for its main refinancing operations in Euros (the reference rate), plus 3.5 points. The reference rate is the rate in force on the first day of the month in which the payment period ends, as published in the C series of the Official Journal of the European Union.

The suspension of the payment periods in accordance with Article 13 may not be considered as a late payment.

Interest on late payment covers the period running from the day following the due date for payment up to and including the date of actual payment as defined in paragraph 5.

However, when the calculated interest is lower than or equal to EUR 200, it must be paid to the expert only upon request submitted within two months of receiving late payment.

Conversions between the euro and other currencies will be made at the daily euro exchange rate published in the Official Journal of the European Union or failing that, at the monthly accounting exchange rate established by the European Commission and published on the website

http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm
applicable on the day on which EFCA issues the payment order.

ARTICLE 10 – OWNERSHIP AND USE OF THE RESULTS (INCLUDING INTELLECTUAL PROPERTY RIGHTS)

EFCA obtains full ownership of the results produced under the Contract (including copyright and other intellectual or industrial property rights).

EFCA obtains these rights for the full term of intellectual property protection, from the moment the results are delivered and approved by the Agency. Such delivery and approval are considered to constitute an effective assignment of rights.

This transfer of rights is free of charge.

ARTICLE 11 – PROCESSING OF PERSONAL DATA

1. Processing of personal data by EFCA

EFCA will process all personal data included in the Contract according to Regulation (EU) 2018/1725¹.

Such data will be processed by the Head of Unit Coast Guard and International Programmes ('data controller') for the purposes of performing, managing and monitoring the Contract or protecting the financial interests of the EU or Euratom (including checks, reviews audits and investigations; see Article 12).

The data may also be sent to persons or bodies responsible for monitoring or inspections in application of EU law.

The expert has the right to access and correct his/her personal data. For this purpose, s/he must send any queries about the processing of his/her personal data to the data controller, via the contact point indicated in the privacy statement(s) that is published on the EFCA website.

The expert also has the right to have recourse at any time to the European Data Protection Supervisor (EDPS).

2. Processing of personal data by the expert

If the Contract requires the expert to process personal data, the expert may only act under the supervision of the data controller identified above. This is the case in particular for determining why personal data should be processed, what categories of data may be processed, who will have the right to access the data, and how the data subject may exercise its rights.

The expert must put in place appropriate technical and organisational security measures to address the risks inherent to data processing and:

- (a) prevent unauthorised person from accessing computer systems that process personal data, and especially the:
 - (i) unauthorised reading, copying, alteration or removal of storage media;
 - (ii) unauthorised data input, disclosure, alteration or deletion of stored personal data;
 - (iii) unauthorised use of data-processing systems by means of data transmission facilities;
- (b) ensure that a data-processing system's authorised users can access only the personal data to which its access right refer;
- (c) record which personal data have been communicated by the expert, when and to whom;
- (d) ensure that personal data being processed can be processed only in the manner prescribed by EFCA;
- (e) the personal data shall only be processed within the territory of the European Union and the European Economic Area and will not leave that territory;
- (f) may not change the location of data processing without the prior written authorisation of EFCA;

¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002 (OJ L 295, 21.11.2018, p. 39).

- (g) any transfer of personal data to third countries or international organisations shall fully comply with the requirements laid down in Chapter V of EU-DPR 2018/1725;
- (h) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or deleted without authorisation;
- (i) design its organisational structure in a way that meets data protection requirements.

ARTICLE 12 – CHECKS, AUDITS AND INVESTIGATIONS

1. EFCA may — during the implementation of the Contract or afterwards — carry out checks and audits to ascertain compliance with the proper implementation of the tasks (including reports and deliverables) under this Contract and whether the expert has met all his/her obligations.

Checks and audits may be started up to two years after the last payment is made.

EFCA may carry out audits directly (using its own staff) or indirectly (using external persons or bodies appointed to do so).

The expert must provide — within the deadline requested — any information (including deliverables and reports already submitted) to verify compliance with the Contract.

For on-the-spot visits, the expert must allow access to sites and premises where the work under the Contract is or was performed.

2. Under Regulation No 883/2013² and Regulation No 2185/9628³ (and in accordance with their provisions and procedures), the European Anti-Fraud Office (OLAF) may — at any moment during implementation of the Contract or afterwards — carry out investigations, including on-the-spot checks and inspections, to establish whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the EU.
3. Under Article 287 of the Treaty on the Functioning of the European Union (TFEU) and Article 161 of the Financial Regulation No 966/2012⁴, the European Court of Auditors (ECA) may — at any moment during implementation of the Contract or afterwards — carry out audits.

The ECA has the right of access for the purpose of checks and audits.

4. Findings in checks, audits or investigations may lead to the rejection of fees, allowances and expenses (see Article 14) and recovery of undue amounts (see Article 15).

Moreover, findings arising from an OLAF investigation may lead to criminal prosecution under national law.

² Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p.1).

³ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁴ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p.1).

CHAPTER 4 – BREACH OF CONTRACT

ARTICLE 13 – SUSPENSION OF THE PAYMENT DEADLINE

1. EFCA may — at any moment — suspend the payment deadline (see Article 9(1)), if a request for payment cannot be approved because:
 - (a) it does not comply with the provisions of the Contract (see Article 7);
 - (b) the report(s) or deliverable(s) have not been submitted or are not complete or additional work or information is needed, or
 - (c) there is doubt about the amounts claimed and additional checks, reviews, audits or investigations are necessary.
2. In this case, EFCA must formally notify the expert of the suspension and the reasons why. The suspension takes effect on the day the notification is sent by EFCA (see Article 21).

If the conditions for suspending the payment deadline are no longer met, the suspension will be lifted and the remaining period will resume.

If the suspension exceeds two months, the expert may ask EFCA to take a decision on whether the suspension will continue.

If the payment deadline has been suspended due to missing supporting documents or information (see Article 7) and the requested document or information is not submitted within the deadline set by EFCA (despite a reminder), EFCA may limit the payment to the part of the claim which complies with the provisions of the Contract (see Article 14).

If the payment deadline has been suspended due to non-compliance of reports or deliverables and the revised report or deliverables or payment request is not submitted within the deadline set by EFCA (or was submitted but is also rejected), EFCA may also terminate the Contract (see Article 17).

ARTICLE 14 – REJECTION OF FEES, ALLOWANCES OR EXPENSES

1. EFCA may reject (part of) the requested fees, allowances or expenses if:
 - (a) they do not fulfil the conditions set out in Articles 3 or 4;
 - (b) if the expert has committed:
 - (i) substantial errors, irregularities or fraud or
 - (ii) serious breach of obligations under the Contract or during the procedure to select the expert (including improper implementation of the work, false declarations and breach of obligations relating to the Code of Conduct (see Annex III)).
2. EFCA must formally notify the expert of the rejection, the amounts and the reasons why. The expert may – within 30 days of receiving notification – formally notify EFCA of its disagreement and the reasons why.

ARTICLE 15 – RECOVERY OF UNDUE AMOUNTS

1. EFCA may recover any amount that was paid to the expert but is not due under the Contract.
2. EFCA must formally notify the expert of its intention to recover, the reasons why and invite him/her to submit any observations within 30 days of receiving notification.

If no observations are submitted or EFCA decides to pursue recovery despite the observations it has received, it will confirm the amount to be recovered by formally notifying a 'debit note' to the expert. This note will also specify the payment terms and date.

3. If payment is not made by the date specified in the debit note, EFCA may recover the amount:
 - (a) by offsetting it — without the expert's consent — against any amounts owed to the expert by EFCA.
In exceptional circumstances, to safeguard the EU's financial interests, EFCA may offset before the payment date specified in the debit note; or
 - (b) by taking legal action (see Article 23).
4. If payment is not made by the date in the debit note, the amount to be recovered will be increased by late-payment interest at the rate set out in Article 9(6), from the day following the date for payment in the debit note, up to and including the date EFCA receives full payment of the amount.

Partial payments will be first credited against expenses, charges and late-payment interest and then against the principal.

Bank charges incurred in the recovery process will be borne by the expert, unless Directive (EU) 2015/2366 applies.

ARTICLE 16 – SUSPENSION OF THE CONTRACT

1. EFCA may suspend implementation of the Contract or any part of it, if:
 - (a) the expert is not able to fulfil his/her obligations to carry out the work required (see Article 6)
 - (b) the expert has committed or is suspected of having committed:
 - (i) substantial errors, irregularities or fraud or
 - (ii) serious breach of obligations under the Contract or during the procedure to select the expert (including improper implementation of the work, false declarations, and breach of obligations relating to the Code of Conduct (see Annex III)).
2. EFCA will formally notify the expert of the suspension of the Contract and the reasons why.

The suspension will take effect on the date the notification is sent by EFCA.

It will be lifted if the conditions for resuming implementation of the Contract are met. The expert will be formally notified and, if necessary, the Contract will be amended to adapt it to the new situation (see Article 22).

If resuming implementation of the Contract is not possible, EFCA may decide to terminate it (see Article 17(1)). Expenses incurred during suspension (including commitments to pay, such as flight or hotel reservations) will not be reimbursed.

ARTICLE 17 – TERMINATION OF THE CONTRACT

1. Termination of the contract by EFCA

1.1. EFCA may terminate the Contract if:

- (a) the expert is not performing his/her tasks pursuant to the Contract or is performing them poorly (see Article 5);
- (b) the expert has committed
 - (i) substantial errors, irregularities or fraud, or
 - (ii) serious breach of obligations under the Contract or during the procedure to select the expert (including improper implementation of the work, false declarations, and breach of obligations relating to the Code of Conduct (see Annex III)).
- (c) the expert has been found guilty of grave professional misconduct, proven by any means;
- (d) the expert has a conflict of interest or is in breach of an obligation of confidentiality, as defined in the Code of Conduct (see Annex III); or
- (e) EFCA deems that the tasks assigned to the expert under the Contract are no longer needed.

EFCA may also terminate the Contract in case of force majeure or suspension of the Contract if resuming is not possible (see Articles 16(2) and 20(2)).

1.2. EFCA must formally notify the expert of its intention and the reasons why and invite him/her to submit observations within 30 days of receiving notification.

If no observations are submitted or EFCA decides to pursue termination despite the observations it has received, it will formally notify confirmation of the termination to the expert. Otherwise, it will formally notify that the procedure is not continued.

The termination will take effect on the day after the notification of the confirmation is received by the expert.

2. Termination of the Contract by the expert

2.1. The expert may at any moment terminate the Contract if s/he is not able to fulfil his/her obligation to implement the work required (see Article 5).

2.2. The expert must formally notify termination to EFCA, stating:

- the reasons why and
- the date the termination will take effect. This date must be at least 15 days after the notification.

If no reasons are given or if EFCA considers that the reasons do not justify termination, the Contract will be considered to have been ‘terminated improperly’ (which may lead to the rejection of fees, allowances or expenses; see Article 14).

The termination will take effect on the date EFCA will formally notify confirmation of the termination.

3. Effects

The termination will take effect on the date EFCA will formally notify confirmation of the termination. If the Contract is terminated, the expert must — within 30 days from when termination takes effect — submit a payment request (see Article 7).

Only fees for days worked, remote tasks carried out and expenses incurred until termination takes effect (including commitments to pay, such as flight or hotel reservations) may be claimed.

ARTICLE 18 – ADMINISTRATIVE SANCTIONS

In addition to contractual measures, EFCA may also adopt administrative sanctions under Articles 106 and 204 of the Financial Regulation No 966/2012 (i.e. exclusion from future procurement contracts, grants and expert contracts and/or financial penalties).

ARTICLE 19 – LIABILITY FOR DAMAGES

1. Liability of EFCA

EFCA cannot be held liable for any damage caused to the expert as a consequence of performing the Contract, except in the event of EFCA's wilful misconduct or gross negligence.

2. Liability of the expert

Except in case of force majeure (see Article 20), the expert must compensate EFCA for any damage it sustains as a result of the implementation of the Contract or because the work was not implemented in full compliance with the Contract.

ARTICLE 20 – FORCE MAJEURE

1. 'Force majeure' means any situation or event that:

- prevents either party from fulfilling its obligations under the Contract;
- was unforeseeable, exceptional and beyond the parties' control;
- was not due to error or negligence on its part and
- proves to be inevitable in spite of exercising due diligence.

The following cannot be invoked as force majeure:

- any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure,
 - labour disputes or strikes, or
 - financial difficulties.
2. Any situation of force majeure must be formally notified to the other party without delay, stating the nature, likely duration and foreseeable effects.

The parties must immediately take all necessary steps to limit any damage due to force majeure and do their best to resume implementation of the Contract as soon as possible.

The party prevented by force majeure from fulfilling its obligations under the Contract cannot be considered in breach of them.

CHAPTER 5 - FINAL PROVISIONS

ARTICLE 21 – COMMUNICATION BETWEEN THE PARTIES

1. Communication under the Contract must:

- be made in writing and
- bear the Contract's number;

Formal notifications must be made by registered mail with return receipt or equivalent, or by equivalent electronic means.

2. Communications to EFCA must be sent to the following address:

[insert functional box or other email addresses supplied by EFCA].

3. Electronic communication is considered to have been received by the parties on the day of dispatch of that communication provided it is sent to the e-mail addresses as stated on the beginning of the Contract for the expert and in paragraph 2 of this Article for EFCA.

Dispatch must be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party must immediately send again such communication to the e-mail address provided in this Contract. In case of unsuccessful dispatch, the sending party is not held in breach of its obligation to send such communication within a specified deadline.

Electronic communication must be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender must send the original signed paper version without unjustified delay.

4. Formal notifications are considered to have been received by the receiving party on the date of receipt indicated on the return receipt or equivalent.
5. Mail sent using the postal services is deemed to have been received by EFCA on the date on which it is registered by the department responsible.

ARTICLE 22 – AMENDMENTS TO THE CONTRACT

1. In justified cases — and provided that the amendment does not entail changes to the Contract which would call into question the procedure to select the expert — any party may request an amendment.

The expert may not start any new work before the amendment takes effect.

2. The party requesting an amendment must submit to the other party the requested amendment (together with the reasons why).

If the party receiving the request agrees, it must sign the amendment, within 30 days of receiving notification. The amendment will be signed by both parties. If it does not agree, it must formally notify its disagreement within the same deadline.

An amendment enters into force on the day of the last signature.

The amendment takes effect on the date of entry into force or a future date agreed by the parties.

ARTICLE 23 – APPLICABLE LAW AND DISPUTE SETTLEMENT

1. This Contract is governed by European Union law and is supplemented, where necessary, by the law of Spain.
2. Disputes concerning the Contract's interpretation, application or validity that cannot be settled amicably must be brought before courts of Vigo, Spain.

ARTICLE 24 – ENTRY INTO FORCE

This Contract enters into force on the day on which the last party signs.

Expert: [*insert full name*]

For EFCA, [*insert full name and function*]

Done in English on date:

Done in English on date:

e-Signature:

e- Signature:



Annex I

Terms of reference

1 Context and background information

2 Purpose, objectives and scope

The purpose of this Contract is to provide support

3 Tasks

The content of the tasks is as follows:

<u>Tasks</u>	<u>Scope</u>
1	XXXXXX

[**OPTION A:** All work must be done remotely.][**OPTION B:** The work does not involve any remote work.][**OPTION C:** The work involves remote work and work involving travel (if needed and agreed by the Agency).]

The Expert commits himself/herself to execute the tasks and submit the deliverables accordingly. Failure to comply/ reach agreement may result in the termination of the contract.

Upon request by the EFCA, execution of a task or a part of a task may take place at the EFCA premises or at a remote meeting place.

4 Deliverables

xxx

5 Indicative planning, working arrangements and maximum working days

The work is planned as follows:

- meeting(s) and other work involving travel (max. [*insert number*] working day(s))
- remote work (max. [*insert number*] working day(s))
- report(s) and deliverable(s):

<u>Deliverables</u>	<u>Timetable</u>

EFCA can provide the Expert with additional clarification and/or modification of the indicative planning during coordination meetings or by mail in electronic format. Any oral clarification and/ or modification shall be confirmed by EFCA by mail in electronic format.

Annex II

Declaration of absence of conflict of interest and of confidentiality

Conflict of interests

I, the undersigned [FAMILY NAME, first name], having been appointed as an expert for the abovementioned call, declare that I am aware of Article 42 of EFCA's Financial Regulation, which states that:

"1. Financial actors within the meaning of Chapter 3 of this Title and other persons, including the members of the Administrative Board, involved in budget implementation and management, including acts preparatory thereto, audit or control shall not take any action which may bring their own interests into conflict with those of the Agency. They shall also take appropriate measures to prevent a conflict of interest from arising in the functions under their responsibility and to address situations which may objectively be perceived as a conflict of interest.

Where there is a risk of a conflict of interest, the person in question shall refer the matter to the competent authority. The competent authority shall confirm in writing whether a conflict of interest is found to exist. In that case, the competent authority shall ensure that the person concerned ceases all activities in the matter. The competent authority shall take any further appropriate action.

2. For the purposes of paragraph 1, a conflict of interest exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest."

I declare that my expertise provided in the present contract regarding the following field/subfield [see Section B of the application form for reference] creates a conflict of interest:

Acronym Title Field

.....
.....
.....
.....

In particular, I undertake to inform the EFCA staff immediately if I discover any conflict of interest, direct or indirect, with any task that I am asked to carry out or which comes to my attention during the performance of the contract and related outcomes and meetings. A conflict of interest is any situation likely to compromise the impartial and objective execution of the Contract arising inter alia from economic interests, political or national allegiances, family or emotional ties, or any other relations or shared interests.

I hereby declare on my honour that the disclosed information is true and complete to the best of my knowledge.

Confidentiality and personal data protection

I confirm that I have read, understood and accepted the code of conduct for experts established in Annex III to the present contract.

I also confirm that I will keep all matters entrusted to me confidential and will process the personal data I receive only for the purposes of the performance of the present contract. If

unnecessary or excessive personal data are contained in the documents submitted during the implementation of the contract I will not process them further or take them into account for the implementation of the contract.

I also declare that I will not reveal any detail or any information that comes to my attention during the performance of tasks under the present contract and related outcomes and meetings without the express written approval of the EFCA. In case of work carried out outside EFCA controlled premises, I understand that I will be held personally responsible for maintaining the confidentiality of any documents or electronic files sent and for returning, erasing or destroying all confidential documents or files upon completing the work, unless otherwise instructed.

Expert: *[insert full name]*

Date:

Signature:



Annex III

Code of conduct for experts

ARTICLE 1 - PERFORMING THE WORK

1. The expert must work independently, in a personal capacity and not on behalf of any organisation.
2. The expert must:
 - (a) perform his/her work to the best of his/her abilities, professional skills, knowledge and applying the highest ethical and moral standards
 - (b) follow the instructions and time-schedules given by EFCA and deliver consistently high quality work.
3. The expert may not delegate the work to another person or be replaced by another person.

ARTICLE 2 - OBLIGATIONS OF IMPARTIALITY

1. The expert must perform his/her work **impartially**. To this end, the expert is required to:
 - (a) inform EFCA of any conflicts of interest arising in the course of its work
 - (b) confirm there is no conflict of interest for the work s/he is carrying out by signing a declaration (Annex II).
2. **Definition of the conflict of interest:** a conflict of interest exists if an expert:
 - (a) has any vested interests in relation to the questions upon which s/he is asked to give advice
 - (b) or its organisation stands to benefit directly or indirectly, or be disadvantaged, as a direct result of the work carried out
 - (c) is in any other situation that compromises its ability to carry out its work impartially.EFCA will decide whether a conflict of interest exists, taking account of the objective circumstances, available information and related risks when an expert is in any other situation that could cast doubt on its ability to carry out its work, or that could reasonably appear to do so in the eyes of an external third party.
3. **Consequences of a situation of conflict of interest:**
 - (a) If a conflict of interest is reported by the expert or established by EFCA, the expert must not carry out the work;
 - (b) If a conflict becomes apparent in the course of its work, the expert must inform immediately EFCA. If a conflict is confirmed, the expert must stop carrying out its work. If necessary, the expert will be replaced.

ARTICLE 3 - OBLIGATIONS OF CONFIDENTIALITY

1. EFCA and the expert must treat confidentially any information and documents, in any form (i.e. paper or electronic), disclosed in writing or orally in relation to the performance of the Contract.
2. The expert undertakes to observe strict **confidentiality** in relation to its work.
To this end, the expert must not use or disclose, directly or indirectly confidential information or documents for any purpose other than fulfilling its obligations under the Contract without prior written approval of EFCA.

In particular, the expert:

- i. must not discuss its work with others, including other experts or EFCA staff not directly involved in its work
- ii. must not disclose:
 - any detail of its work and its outcomes for any purpose other than fulfilling its obligations under the Contract without prior written approval of EFCA
 - its advice to EFCA on its work to any other person (including colleagues, students, etc.)
3. If material/documents/reports/deliverables are made available either on paper or electronically to the expert for remote work, he/she will be held personally responsible for maintaining the confidentiality of any documents or electronic files sent and for returning, erasing or destroying all confidential documents or files upon completing its work as instructed.
4. If its work takes place in premises controlled by EFCA, the expert:
 - (a) must not remove from the premises any copies or notes, either on paper or in electronic form
 - (b) will be held personally responsible for maintaining the confidentiality of any documents or electronic files sent, and for returning, erasing or destroying all confidential documents or files on completing its work as instructed.
5. If the expert seeks further information (for example through the internet, specialised databases, etc.) to complete its work, he/she:
 - (a) must respect the overall rules for confidentiality for obtaining such information
 - (b) must not contact third parties without prior written approval of EFCA.
6. These confidentiality obligations are binding on:
 - (a) EFCA (see Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community⁵)
 - (b) the expert during the performance of the Contract and for five years starting from the date of the last payment made to the expert unless:
 - i. EFCA agrees to release the expert from the confidentiality obligations earlier
 - ii. the confidential information becomes public through other channels
 - iii. disclosure of the confidential information is required by law.

⁵ OJ 45, 14.6.1962, p. 1385.

Annex IV

EFCA
C/García Barbón, 4
36201 Vigo Spain
Administrative unit:

Tel.: 34 986 12 06 10
Fax: +34 886 12 52 34

Expert Name:

Surname:

Full Address:

ID:

Bank Account :

PAYMENT REQUEST FOR SERVICES RENDERED (in EURO)

Total days of work:
out of which days worked remotely:

Rate applicable:
(As per Article 3.1 of the Contract)

Total:

TOTAL TO BE PAID BY THE EFCA:

SUPPORTING DOCUMENT CHECKLIST:

Deliverable(s)

Other evidence (if applicable)
Please specify:

DATE

.....

CERTIFICATION (to be filled by the EFCA)

Conforme aux faits

Incomplete/incorrect

DATE ____ / ____ / ____

DATE ____ / ____ / ____

.....