JOINT OPERATIONAL PROGRAMME BLACK SEA BASIN 2014-2020

**Annex 2: Template of Contract between Beneficiary-Controller**

**Expenditure and revenue verification**

# 

CONTROLLER

SERVICE CONTRACT FOR THE EXPENDITURE AND REVENUE VERIFICATION  
of a Grant Contract   
under the ENI CBC BLACK SEA BASIN JOINT OPERATIONAL PROGRAMME 2014-2020

[Title of and number of the grant contract]

[Name of beneficiary]

<Full official name of the beneficiary>

[<Official registration number>]

<Full official address>

[<VAT number>],

(‘the Beneficiary’),

of the one part,

and

<Full official name of the Contractor>

[<Official registration number>]

<Full official address>

[<VAT number>],

(‘the Controller’)

of the other part,

have agreed as follows:

**Article 1. Subject**

1.1 The subject of this Contract is the individual expenditure and revenue verification of the above-mentioned contract done in <Location> with identification number <contract reference> (‘the service’).

1.2 The Controller shall execute the tasks assigned to him in accordance with the Instruction 15/2018 and its annexes issued by the Managing Authority or any update issued by the Managing Authority or the Joint Technical Secretariat.

**Article 2. Contract value**

This Contract, established in [Euro] <or national currency>, is a global price contract. The contract value is [Euro] <national currency> <amount>.

**Article 3. Order of precedence of contract documents**

The following documents shall be deemed to form and be read and construed as part of this Contract, in the following order of precedence:

* the grant contract and its annexes;
* the partnership agreement;
* Instruction 15/2018 of the Managing Authority with the description of the procedure;
* annex 5 to the Instruction - Control check-list;
* annex 6 to the Instruction - Report on suspected and/or established fraud or corruption.

The Report on expenditure and revenue verification shall be prepared in accordance with the Electronic Monitoring System’s (eMS) requirements, following the template provided by the system.

The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they shall prevail in the order in which they appear above. Addenda shall have the order of precedence of the document they are amending.

**Article 4. Language of the contract**

The language of the contract between the Controller and the Beneficiary shall be English.

The expenditure verification report shall be elaborated in English language.

**Article 5. Communications**

<Indicate here the contact persons, addresses of the Parties, their other contact details, the documents to provide and the procedure to be used by the Parties for communication.>

**Article 6. Implementation of the tasks**

6.1The start date for implementation shall be < the day following that on which the last of the two Parties signs the contract >

6.2 The beneficiary has to submit the Interim/Final report and the related supporting documents to the Controller for verification, within maximum 15 working days from the end date of the reporting period.

6.2 The period for delivery of the reports by the Controller to the Beneficiary is maximum 30 working days from submission of each financial report by the Beneficiary.

**Article 7. Responsibilities**

7.1 The Beneficiary is responsible for providing the Financial Report, as well as giving access to its accounting, supporting documents, project documentation and physical investments to the Controller, so that the procedures described in Instruction 15/2018 of the Managing Authority can take place in due time and without restrictions.

7.2 The Beneficiary is responsible for Notifying in written the controller as regards the submission of Interim/Final report for expenditure verification, on the day of report submission.

7.3 The Controller is responsible for performing the agreed-upon procedures described in Section 5 of the Instruction to Beneficiaries no.15/20.11.2018 of the Managing Authority with due care and full respect of the Code of Ethics therein indicated, as well as submitting the reports to the Beneficiary.

In this respect the factual information contained in the Financial Report of the Beneficiary has to be examined and compared with the terms and conditions of the Grant Contract;

7.4 In case of expenditure verification requests submitted by the beneficiary prior to the Interim/Final report[[1]](#footnote-1), the Controllers shall perform the verification of the respective expenditure only after receiving the Interim/Final report (technical and financial data), issuing only two expenditure and revenue verification reports (FLC certificates).

7.5 The Controller shall perform the verification of all expenditures and revenues (100%) using the information uploaded by the Beneficiary in the Programme Electronic Monitoring System (eMS). To this end, the controller shall create an eMS account;

7.6 The Controller documents matters which are important in providing evidence to support the report of factual findings, and evidence that the work was carried out in accordance with ISRS 4400;

7.7 Additionally, the Controller shall submit the ad hoc report directly to the National Authority in case of fraud or irregularity.

7.8 The Controller will attend the specific trainings and meetings for Controllers organized by the competent Programme bodies. The Managing Authority may request the termination of the controllers’ contract, in case of the Controller not attending these events.

**Article 8. Reports**

8.1 The Controller shall submit the expenditure and revenue verification reports to the Beneficiary following the templates and procedures established in the eMS. A contradictory procedure should be possible, if the Beneficiary does not agree with the findings. In this case, the Controller shall designate a different member of its staff, having similar competences, for re-performing the verifications for the expenditure in question and replying to the Beneficiary. If no agreement is reached, art. 13 is applicable.

8.2 In case of identification of suspected and/or established fraud or corruption, the Controller shall submit the Report on suspected and/or established fraud or corruption (Annex 6) without delay directly to the National Authority of the respective country. This report shall not be submitted to the Beneficiary.

8.3 All reports should be submitted through the Electronic Monitoring System (eMS).

**Article 9. Minimum Standards and Ethics**

**9.1** The Controller shall undertake the expenditure and revenue verification engagement in accordance with:

• the International Standard on Related Services (‘ISRS’) 4400 Engagements to perform Agreed-upon Procedures regarding Financial Information as promulgated by the IFAC;

• the IFAC Code of Ethics for Professional Accountants, developed and issued by IFAC’s International Ethics Standards Board for Accountants (IESBA), which establishes fundamental ethical principles for Auditors with regard to integrity, objectivity, independence, professional competence and due care, confidentiality, professional behaviour and technical standards.

The controllers should fill in, sign and upload in the eMS the declaration of independence and confidentiality attached hereto.

**Article 10. Quality control by the programme bodies[[2]](#footnote-2)**

10.1 The Managing Authority, the Joint Technical Secretariat or the Control Contact Points may carry out quality control of the work carried out, including the examination of the working papers, during the execution period of the grant contract.

10.2 Should the Managing Authority, the Joint Technical Secretariat or the Control Contact Points have any doubt concerning the findings indicated in the expenditure and revenue verification report, the Controller will receive a request for clarification via the beneficiary, which will be answered in a maximum of <5> working days.

**Article 11. Administrative penalty clauses**

11.1 The Controller who has committed substantial errors, leading to the significant

amount of irregularities or fraud detected by the programme authorities or the European Commission, has not complied with the agreed upon programme procedures, has made false declarations in supplying required information at the moment of the submission of the expenditure and revenue verification reports, has failed to supply such report in time or has been found in serious breach of its obligations under the Contract, may be liable to **administrative penalties**, as follows:

* the Control Contact Point (CCP) in the country in which the Controller is operating excludes the Controller from any work in the programme for any project funded under the ENI CBC Black Sea Basin Joint Operational Programme 2014-2020, according to the national legislation and/or
* the National Authority, or the Managing Authority, reserves the right to ask the CCP in the country in which the Controller is operating to exclude the Controller from any work in the programme for any project funded under the ENI CBC Black Sea Basin Joint Operational Programme 2014-2020 during a period of 5 years, and/or
* the Managing Authority may request to the Beneficiary the early termination of the contract with the Controllers. Such termination shall be free of charge for the Beneficiary.

**Article 12. Payment**

Payments shall be made in <one or several> tranche(s). In case of several trances, specify the amount of each tranche.

The total amount of the contract is <amount, currency>

**Article 13. Settlement of disputes and applicable law**

13.1 Any disputes arising out of or relating to this Contract which cannot be settled amicably shall be referred to the exclusive jurisdiction ofthe courts of location of the Beneficiary.

13.2 This contract shall be governed by the law of the country of the Beneficiary.

**Article 14. Data Protection**

14.1 Any personal data included in the contract shall be processed pursuant to the General Data Protection Regulation (Regulation (EU) 2016/679) of the European Parliament and the Council[[3]](#footnote-3).

The data shall be processed solely for the purposes of the performance, management and monitoring of the contract by the Beneficiary without prejudice to possible transmission to the bodies charged with monitoring or inspection in application of EU law. The Contractor shall have the right to access his/her personal data and to rectify any such data.

14.2 The data shall be confidential within the meaning of Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data. The Controller shall limit access to the data to staff strictly needed to perform, manage and monitor the contract.

14.3 The Controller undertakes to adopt technical and organizational security measures to address the risks inherent in processing and in the nature of the personal data concerned.

**Article 15. Further additional clauses**

<Add other relevant clauses.>

Done in English in two originals, on the <dd Month yyyy>

|  |  |  |  |
| --- | --- | --- | --- |
| **For the Controller** | | **For the Beneficiary** | |
| Name: |  | Name: |  |
| Title: |  | Title: |  |
| Signature: |  | Signature: |  |
| Date: |  | Date: |  |

**DECLARATION OF INDEPENDENCE AND CONFIDENTIALITY FOR CONTROLLERS**

[Indicative model, containing the minimum mandatory requirements]

|  |  |
| --- | --- |
| **Project title and acronym:** |  |
| **eMS Code:** |  |
| **Name of the CONTROLLER** |  |

I, the undersigned [NAME], designated as controller under the ENI CBC Black Sea Basin Joint Operational Programme 2014-2020, declare on my own responsibility and in the limit of the information I detain, under the sanction of false statements, that **I am NOT** in any of the situations described below, with regard to the project [eMS Code], Beneficiary [NAME]:

* + I have been involved in the elaboration of the application form/related studies (opportunity, feasibility, etc.), its evaluation, before or after obtaining financing, or during project implementation;
  + I hold social parts, interest parts, or shares of the subscribed capital of the Beneficiary/associate/partner/companies providing services (excepting expenditure verification related services)/goods/works that were involved in the elaboration/ execution process of the application form, before or after obtaining financing, or during project implementation;
  + I am part of the managing board/management or supervision body of the Beneficiary/associate/partner/companies providing services (excepting expenditure verification related services)/goods/works that were involved in the elaboration/ execution process of the application form, before or after obtaining financing, or during project implementation;
  + I am the spouse, relative, or in-law, up to the second degree inclusively, of persons that are part of the managing board/management or supervision bodies, or that hold social parts, interest parts or shares of the subscribed capital of the Beneficiary/ associate/ partner;
  + I am the legal representative/ employee of the Beneficiary/ associate/ partner;
  + I am the spouse, relative, or in-law, up to the second degree inclusively, of an employee, or of the legal representative of Beneficiary/associate/partner;
  + I can have any kind of interest which could influence my independence/ the objective fulfilling of attributions I have within the verification process.

At the same time, I commit myself to keep confidentiality of the verified documents, as a whole and by components, as well as on other information presented by the Beneficiary that I will take contact with during verification, whose disclosure may impair the right of the Beneficiary to protect its intellectual property and/or commercial secrets.

In case I will identify a situation of conflict of interest after signing the present declaration, I commit myself to immediately update the declaration accordingly.

|  |  |
| --- | --- |
| **Signature** |  |
| **Date** |  |

1. If beneficiaries consider submitting to controllers more than one expenditure verification request, prior to the submission of the Interim/Final report, with the view to mitigate the risk of losses due to exchange rate variations. [↑](#footnote-ref-1)
2. Quality control meaning checking if the works of the controllers complies with the provisions of this Instruction [↑](#footnote-ref-2)
3. applicable on 25 May 2018 [↑](#footnote-ref-3)