|  |  |
| --- | --- |
|  | **PROCUREMENT CONTRACT** |
|  | **Service – Supplies** |
|  | **Number:** |
|  | |
|  | **Object of the contract:**  **analysis, development and support of the implementation of sustainable financing schemes and/or tools within the framework of Panama's National Carbon Market (MNCP).**  (In Spanish: *Análisis, desarrollo y apoyo a la implementación de esquemas y/o herramientas de financiamiento sostenible en el marco del mercado nacional de carbono de Panamá (MNCP).)* |
|  | |
|  | **MAXIMUM AMOUNT OF THE CONTRACT:**  *state here the maximum amount of the Contract*  *(to be completed by Tenderer)* |
| |  | | --- | | **Award date:** |   This contract is subject to the French Public Procurement Code in its latest version in force as enacted by [Order No. 2018-1074 issued on 26 November 2018](http://www.marche-public.fr/ccp/ccp-plan-legislative.htm) and its Implementation [Decree No. 2018-1075 issued on 3 December 2018](http://www.marche-public.fr/ccp/ccp-plan-reglementaire.htm) constituting the regulatory aspects of the Public Procurement Code (“CCP”).  It is awarded by means of:  adapted procedure in application of Articles L. 2123-1 and R. 2123-1 to R. 2123-7 of CCP. | |

TABLE OF CONTENTS

[**special conditions – commitment procedure** 5](#_Toc184286251)

[**ARTICLE 1:** **Object of the contract** 6](#_Toc184286252)

[**ARTICLE 2:** **Contractual documents** 6](#_Toc184286253)

[**ARTICLE 3:** **General characteristics of the Contract** 7](#_Toc184286254)

[Form of the Contract 7](#_Toc184286255)

[Term of the Contract 7](#_Toc184286256)

[Commencement and deadline of service provision 7](#_Toc184286257)

[**ARTICLE 4:** **Financial provisions** 7](#_Toc184286258)

[Amount of the Contract 7](#_Toc184286259)

[Form of prices 8](#_Toc184286260)

[Advance 8](#_Toc184286261)

[Payment procedure 8](#_Toc184286262)

[Payment terms and late payment interest 10](#_Toc184286263)

[Presentation of payment demands 10](#_Toc184286264)

[Bank transfer 11](#_Toc184286265)

[Value added tax (VAT) 11](#_Toc184286266)

[Taxes and duties 11](#_Toc184286267)

[**ARTICLE 5:** **inspection and acceptance activities** 11](#_Toc184286268)

[Inspection activities 11](#_Toc184286269)

[Acceptance of services and supplies 12](#_Toc184286270)

[**ARTICLE 6:** **Specific terms of execution** 12](#_Toc184286271)

[Deliverables table 12](#_Toc184286272)

[Expert in charge of the assignment 13](#_Toc184286273)

[Place of execution 13](#_Toc184286274)

[Language of the Contract 14](#_Toc184286275)

[Commitments of the Contractor 14](#_Toc184286276)

[Confidentiality 14](#_Toc184286277)

[Provision of documents 15](#_Toc184286278)

[Insurance 15](#_Toc184286279)

[Contact person and communication 15](#_Toc184286280)

[Understaking against deforestation 16](#_Toc184286281)

[**ARTICLE 7:** **Re-examination clause** 16](#_Toc184286282)

[**ARTICLE 8:** **Similar services** 16](#_Toc184286283)

[**ARTICLE 9:** **penalties** 17](#_Toc184286284)

[Penalties for periodic documentary deliverables 17](#_Toc184286285)

[Penalties applicable to submission of final deliverables 17](#_Toc184286286)

[**ARTICLE 10:** **intellectual property** 17](#_Toc184286287)

[Definitions 17](#_Toc184286288)

[Ownership of results 17](#_Toc184286289)

[Exploitation of results 18](#_Toc184286290)

[Licensing of pre-existing rights 18](#_Toc184286291)

[Guarantees 18](#_Toc184286292)

[Image rights 18](#_Toc184286293)

[**ARTICLE 11:** **Termination of the contract** 19](#_Toc184286294)

[General terms of performance 19](#_Toc184286295)

[Termination of the Contract due to the non-availability of a designated expert 19](#_Toc184286296)

[Procedure 19](#_Toc184286297)

[**ARTICLE 12:** **safety and security measures and responsabilities** 19](#_Toc184286298)

[**ARTICLE 13:** **ethics** 19](#_Toc184286299)

[**ARTICLE 14:** **Administration of personal data** 20](#_Toc184286300)

[**ARTICLE 15:** **Dispute resolution - applicable law** 20](#_Toc184286301)

[**ARTICLE 16:** **Derogation from the CCAG** 21](#_Toc184286302)

[**ARTICLE 17:** **AUDIT** 21](#_Toc184286303)

[**ARTICLE 18:** **Final provisions** 22](#_Toc184286304)

[Declaration 22](#_Toc184286305)

[**Annex 1: Terms of reference** 25](#_Toc184286306)

**special conditions – commitment procedure**

**Between:**

|  |
| --- |
| **EXPERTISE FRANCE SAS**  40, boulevard de Port Royal - 75005 PARIS, France  A simplified joint-stock company with share capital of €828,933 registered under the following numbers:   * SIRET no.: 808 734 792 00035 * Intra-community VAT number: FR36 808734792   Represented by Mr Jérémie PELLET, Managing Director,  **of the first part,** |

**and:**

|  |
| --- |
| **co-contracting party’s name**  (Hereafter the “Contractor”)   * Registered office address: * Registration number at the trade and companies registry: * Intra-community VAT no. (as applicable):   Represented by:  **of the second part,** |

(Hereafter referred to collectively as the “Parties“)

**Whereas:**

In the context of the cooperation project, hereafter the “Main Contract” (donor contract) signed on *21/12/2022* between *Expertise France* and *the European Commission*, covering “*Latin America and Caribbean Green Transition Initiative (EUROCLIMA LAC)*“, Expertise France asks the Contractor, which accepts the same, to perform the services and deliver the services under the Contract as set out in the attached technical annex entitled “Specifications”.

**In the light of the foregoing, the following is agreed:**

1. **Object of the contract**

The object of this contract (hereafter the “Contract) is “*Analysis, development and support of the implementation of sustainable financing schemes and/or tools within the framework of Panama's National Carbon Market (MNCP).”*

*(*(In Spanish: *Análisis, desarrollo y apoyo a la implementación de esquemas y/o herramientas de financiamiento sostenible en el marco del mercado nacional de carbono de Panamá (MNCP).).”*

1. **Contractual documents**

The Contract is composed of the contractual documents set out below in decreasing order of priority:

1. This document and its annexes:

* Annex 1 attached: Terms of reference;
* The Code of Conduct of Expertise France (available at <https://www.expertisefrance.fr/documents/20182/426622/Expertise+France+%E2%80%93+Code+of+conduct/82cf6060-4768-4b25-8817-ccba1d86e568>);
* Contractual annex (DAJ\_M050) covering the processing of personal data in the event of GDPR data processing (collection of personal data on behalf of Expertise France).

1. CCAG - General administrative clauses applicable to public procurement for day-to-day supplies and services approved under the Order of 30/03/2021, subject to the exceptions set out in the Contract.
2. The Contractor’s bid dated XX/01/2025

These documents constitute the entirety of the agreement between the Parties with regard to the Contract. They supersede all verbal and written communications, procedures, agreements, commitments, guarantees and settlements referring to its object and facts that may have been made by or on behalf of a Party to the other Party before the notification date. These documents are acknowledged by the Parties to represent the sole and complete expression of the terms of their agreement.

Without prejudice to the general rules applicable to administrative contracts, any modification to the Contract or the waiver of any right resulting from the Contract must be covered by an amendment signed by a duly authorised representative of each Party.

1. **General characteristics of the Contract**

## Form of the Contract

The Contract is a public contract for services at fixed and total prices.

## Term of the Contract

The term of the Contract is 14 months from its award to the Contractor by Expertise France.

The Contract shall expire after all services have been delivered by the Contractor and all rights and obligations of the Parties resulting from the Contract have been extinguished. If all or some of the services/supplies remain outstanding by the specified period, the Contractor must immediately take all necessary steps to complete delivery without being able to claim any remuneration in this regard.

The Contract is entered into with an initial validity period of 12 months from its award date. This initial validity period will be tacitly renewed for additional periods of validity, up to the maximum amount of 14 months from the award date.

|  |  |
| --- | --- |
| **Validity periods** | **Duration of validity periods** |
| First period | 12 months |
| Second period | 2 months |

However, Expertise France reserves the right not to renew any given validity period. In the event of non-renewal, Expertise France will notify its decision at least 2 months prior to the end of the current validity period, by way of registered letter with acknowledgement of receipt. Non-renewal of any given validity period of the Contract does not establish entitlement to any indemnity for the Contractor.

## Commencement and deadline of service provision

The service provision deadline under this Contract is 12 months from the award date of this Contract. This initial validity period will be tacitly renewed for additional periods of validity, up to the maximum amount of 14 months from the award date.

If all or some of the services remain outstanding within the specified deadline, the Contractor must immediately take all necessary steps to complete delivery without being able to claim any remuneration in this regard.

1. **Financial provisions**

## Amount of the Contract

The amount of the Contract is: State amount in € exc. VAT. *(to be completed by the Tenderer)*

Amount of VAT: State VAT amount and percentage. *(to be completed by the Tenderer)*

Amount of the Contract including VAT: State amount in € including VAT. *(to be completed by the Tenderer)*

This amount (in EUR exc. VAT) equates to the total and fixed price of the Contract, which Expertise France undertakes to pay, after validation, all the services due under the Contract have been accepted without reservation. As pricing is fixed, it includes all costs relating to the corresponding service provision.

All currencies other than EUR shall be converted in EUR according to the European rate at the invoice date:

https://commission.europa.eu/funding-tenders/procedures-guidelines-tenders/information-contractors-and-beneficiaries/exchange-rate-inforeuro\_es

There shall be no compensation for the contractor who invoices in a currency different from the contract currency in case of loss due to variations in the exchange rate and/or cost of banking transactions.

## Form of prices

Prices are firm and non-modifiable.

## Advance

An advance of 30% is granted to the Contractor from the award date of the Contract.

Any renewal of the Contract execution period will not establish entitlement to any additional advance.

The advance must be repaid in full once the aggregate amount of payments reaches 60% of the price of the item.

## Payment procedure

* **Interim payment**

Delivery of the services/supplies due under the Contract establishes entitlement to an advance in line with the following schedule:

|  |  |
| --- | --- |
| **Amount of the advance** | **Payment date** |
| 40 % of the amount of the Contract | Acceptance of the deliverables:  **From: deliverable n°1**  “Updated methodology  and work plan”  *(in Spanish: “Metodología y plan de trabajo actualizado”)*  **Until: deliverable n°5**  “Report proposals and recommendations for appropriate financing schemes/tools, following the criteria presented in the activity description.”  *(in Spanish: Informe de propuestas y recomendaciones de esquemas/herramientas de financiamiento adecuados, siguiendo los criterios presentados en la descripción de la actividad)* |
| 30 % of the amount of the Contract | Acceptance of the deliverables:  **From: deliverable n°6**  “Report of the socialisation event(s)”  *(in Spanish: “Informe del o de los eventos de socialización”)*  **Until acceptance of the following deliverables:**  **50% (first half) of the total number of**  **“Reports of capacity building and accompaniment sessions with checklists and results to build capacity and facilitate implementation.”**  *(in Spanish: “50% (primera mitad) del número total de “Informes de las sesiones de fortalecimiento de capacidades y acompañamiento con listas de presencia y resultados para creación de capacidades y facilitar la implementación.”)* |
| 30 % of the amount of the Contract | Acceptance of the following deliverables:  **From: 50% (second half) of the total number of**  **“Reports of capacity building and accompaniment sessions with checklists and results to build capacity and facilitate implementation.”**  *(in Spanish: 50% (segunda mitad) del número total de “Informes de las sesiones de fortalecimiento de capacidades y acompañamiento con listas de presencia y resultados para creación de capacidades y facilitar la implementación.”)*  **Until: deliverables n°9 and 10**  **“Final mission report”.**  *(in Spanish: “Informe final de la misión”)*  And the **totality of the quarterly progress reports of the consultancy**  *(in Spanish: “Informe trimestral de avance de la consultoría”)* |

* **Partial definitive payments/balance**

Each item and purchase order gives rise to a partial definitive payment corresponding to the balance, to be carried out after receipt and final acceptance of all corresponding services and supplies.

## Payment terms and late payment interest

Payment is always made out in the name of the issuer of the invoice or of the expense reimbursement request.

Overall payment terms for monies due under the Contract are thirty (30) days maximum from the date of receipt of the complete invoice, including all supporting documentation, or the date of service/supply acceptance if this date is later. Any missing document will prevent payment.

If these payment terms are not respected, Expertise France will pay late payment interest to the Contractor pursuant to Article R. 2192-10 et seq. of the CCP on the fight against late payment in public procurement contracts. The rate applied shall be the interest rate of the European Central Bank for its main and most recent refinancing operations, as applicable on the first day of the semester of the calendar year during which late payment interest started to accrue, plus eight percentage points.

The amount of the fixed indemnity to cover collection costs is set at forty (40) euros and will be systematically paid in addition to late payment interest. Interest below €40 shall not be mandated.

## Presentation of payment demands

In addition to the legal notices (intracommunity VAT no.), invoices relating to the Contract must contain the following information:

* Company name, address and registered office of the Contractor;
* Registration number of the Contractor (SIRET or equivalent);
* Bank account details;
* The code of the department acting as specifying department (stated in the article entitled Contact person and communication): DDU
* Reference number of the Contract;
* The reference and title of the cooperation project concerned (if applicable);
* Clear and accurate description of the equipment/supplies sold and/or services performed;
* If the Contractor’s bank details are not stated on invoices, it must provide a statement or certificate of bank or post office account details, with the third-party form duly completed in all cases.

Invoices are to be forwarded via the Chorus Pro system, and must state the department code provided above corresponding to the department of Expertise France on behalf of which the Contract has been placed.

If the Contractor is not obliged to forward invoices via Chorus, it may submit its invoices to the contact person stated in the article entitled Contact person and communication.

Invoices for advances must be accompanied by the corresponding supporting documentation validated by Expertise France.

Invoices for balances (partial definitive payments) must be accompanied by a copy of the acceptance decision for the corresponding services and/or supplies.

Any missing document will prevent payment.

## Bank transfer

Payment for invoiced services/supplies will be made to the bank account identified in the third-party sheet.

Payment is always made out in the name of the issuer of the invoice or of the expense reimbursement request.

## Value added tax (VAT)

The Contractor must state the VAT rate applicable to the transaction or, as applicable, its VAT exemption by stating on the invoice the relevant provisions of the French General Tax Code or those of Directive 2006/112/EC of 28 November 2006.

Any Contractor benefitting from exemption must state “VAT exempt” in accordance with the rules that apply to it.

## Taxes and duties

The Contractor shall be directly responsible for all taxes and duties that may be levied against it under the Contract, both in the country of its registered office and in those of project implementation.

1. **inspection and acceptance activities**

## Inspection activities

Inspection activities will be carried out for services and supplies as set out in Chapter 5 of the CCAG-FCS. By way of derogation from Article 23 of the CCAG-FCS, inspection activities will be carried out by:

* the Project Manager
* the Programs Director, Murielle GURTNER

## Acceptance of services and supplies

By way of derogation from Article 25 of the CCAG-FCS, acceptance activities will be carried out by:

* the Project Manager
* the Programs Director, Murielle GURTNER

1. **Specific terms of execution**

## Deliverables table

|  |  |  |
| --- | --- | --- |
| **Periodic deliverables** | | |
| **T0 = Contract notification date** | | |
| **Item** | **Deliverable** | **Submission frequency** |
| 4 | Reports of the consultative processes carried out, with description of the event, participants and results/conclusions.  *(“Reportes de los procesos consultativos realizados, con descripción del espacio, participantes y resultados/conclusiones”)* | +5 working days at the latest after the carrying out of each consultation event.  T0+ 65 working days |
| 6 | Report of socialization event(s)  *(“Reporte* *del o de los eventos de socialización”)* | T0+ 95 working days  +5 working days maximum after the socialization event(s) took place. |
| 8 | Reports of the capacity building and accompaniment sessions with attendance lists and results to build capacity and facilitate implementation.  *(“Reportes de las sesiones de fortalecimiento de capacidades y acompañamiento con listas de presencia y resultados para creación de capacidades y facilitar la implementación.”)*  Documents of the capacity building and support sessions: documents such as worksheets, factsheets, workshop formats (PPT), etc.  *(“Soportes de las sesiones de fortalecimiento de capacidades y acompañamiento: documentos tipo fichas, factsheets, soportes de talleres (PPT) etc.”)* | +5 working days maximum after each session has taken place  Until T0+ 205 working days |
| 10 | Quarterly consultancy progress report  *(“*Informe trimestral de avance de la consultoría*”)* | Every 3 months |
| **Final deliverables** | | |
| **T0 = Contract notification date** | | |
| **Item** | **Deliverable** | **Deliverable submission deadline** |
| 1 | Updated methodology and work plan  *(“Metodología y plan de trabajo actualizado”)* | T0+ 10 working days |
| 2 | Mapping, analysis and initial diagnosis report  *(“Informe de mapeo, análisis y diagnóstico inicial”)* | T0+ 25 working days |
| 3 | Stakeholder consultation plan, with description and presentation of the expected results of the consultative processes.  *(“Plan de concertación con actores involucrados, con descripción y presentación de los resultados esperados de los procesos consultativos”)* | T0+ 35 working days |
| 5 | Report with proposals and recommendations for appropriate financing schemes/tools, following the criteria presented in the activity description.    *(“Informe de propuestas y recomendaciones de esquemas/herramientas de financiamiento adecuados, siguiendo los criterios presentados en la descripción de la actividad”)* | T0+ 85 working days |
| 7 | Support and capacity building plan, prepared according to the requirements mentioned in the description of activities.    *(“Plan de acompañamiento y fortalecimiento de capacidades, elaborado según los requisitos mencionados en la descripción de las actividades”)* | T0+100 working days |
| 9 | Final mission report  *(“Informe final de la misión”)* | 15 working days after the closing of activities |

## Expert in charge of the assignment

The assignment must be performed by one or more designated experts whose CV must be appended to the Contract.

The Contractor may therefore not replace any designated expert for the delivery of the services attributed to said expert, unless with prior written approval from Expertise France.

## Place of execution

The services will be performed in Panama.

## Language of the Contract

This document is written in English, which shall be the reference language for any dispute that may arise regarding the meaning or interpretation of the Contract, to the exclusion of any other language.

## Commitments of the Contractor

The Contractor is subject to a performance obligation and therefore undertakes to:

* comply with the Specifications;
* immediately notify Expertise France in writing of any communication or instruction relating to the services/supplies that it may receive from the Client (beneficiary country or public entity) or from a third party, and not to comply with any such communication or instruction until having discussed the matter with Expertise France and after receiving the latter’s written authorisation;
* notify any difficulty it may encounter with the performance of its obligations under the Contract;
* comply with all applicable laws and regulations of the country of delivery of the services/supplies and adopt an attitude and act vis-à-vis third parties in the interests of Expertise France, such that Expertise France cannot be reproached in this regard by the Client, or by any person the latter may have designated;
* protect the interests of Expertise France vis-à-vis the Client;
* act as a loyal advisor vis-à-vis Expertise France;
* present itself vis-à-vis the Client, partners and local authorities as a Contractor engaged by Expertise France;
* apply the undertakings of Expertise France as expressed in its Code of Ethics, provided in Annex 5 of the Contract.

In the context of Contract execution, the Contractor undertakes to:

* perform the services/supplies in a diligent, effective and economic manner, in accordance with generally accepted techniques and practices;
* employ appropriate modern techniques and safe and affective processes.

## Confidentiality

The Contractor shall treat as private and maintain the confidentiality of all documents and information received or which it becomes aware of in the context of the Project. It shall maintain the secrecy thereof and not use them for any purpose other than execution of the Contract.

In this regard, the Contractor undertakes:

* To protect and maintain the confidentiality of information considered or presented as such;
* To handle confidential information it receives with the same degree of care and protection as it applies to its own confidential information;
* only to reveal confidential information to its personnel and third parties involved in performance of the Contract after having received prior written and express approval from Expertise France;
* to take all necessary steps such that its personnel and third parties involved in execution of the Contract, who become aware of confidential information, undertake to treat such information with the same level of confidentiality as set out in this clause;
* As and when required, to reiterate the confidential nature of such information to its personnel and third parties involved in the execution of the Contract, as soon as said confidential information is communicated to the aforementioned persons;
* to reiterate the confidential nature of confidential information prior to any meeting during which confidential information is communicated.

## Provision of documents

Apart from where necessary for the purposes of service delivery, the Contractor may not disclose any element of the Contract without prior written consent from the other party.

Expertise France shall ensure that the Contractor receives in good time all the documents (as set out below) required for delivery of the services/supplies:

* Technical documents

## Insurance

The Contractor shall take out, and maintain at is own expense, third-party and professional liability insurance policies covering the physical injury and material and consequential damage that may arise from delivery of the services/supplies.

The Contractor shall also take out, and maintain at its own expense, insurance policies covering its working accident and occupational illness liability with regard to its agents assigned to delivery of the services/supplies.

The Contractor must be able to produce on request by Expertise France all certificates demonstrating its possession of the aforementioned policies.

## Contact person and communication

All communication and notifications between the Parties under the Contract shall take place in written form, either through the exchange of e-mails or via registered letter with acknowledgement of receipt, where the latter form is prohibited in certain cases under the Contract, and shall be deemed to have been validly served from its receipt by the addressee.

All correspondence shall be forwarded, all carriage costs paid, to the following addresses:

|  |  |
| --- | --- |
| For Expertise France : | Expertise France  Pauline STEPHAN, Projects Manager  pauline.stephan@expertisefrance.fr  Department Sustainable development  40, boulevard de Port Royal  F-75005 PARIS  cc:  Genny SUAREZ, Projects assistant  genny.suarez@expertisefrance.fr |
| For the Contractor: | To be completed by the Contractor |

Each Party may modify its address at any time subject to notifying the other Party thereof in writing.

## Understaking against deforestation

Within the framework of the policy to combat imported deforestation and in the hypothesis of the use of raw materials or processed products, the Contractor undertakes to evaluate precisely the quantities really necessary and to study alternatives to the products at risk listed below:

* Meat;
* Eggs ;
* Dairy products ;
* Ready-made meals, margarine, spreads;
* Leather shoes ;
* Automotive upholstery ;
* Household and cleaning products ;
* Agrofuels ;
* Lumber ;
* Solid wood or particle;
* Fuels ;
* Paper ;
* Cardboard ;
* Textiles ;
* Coffee, chocolate ;
* Exotic fruits ;
* Electronics.

For more information, the guide Engaging in Zero Deforestation Public Procurement is available at the following email address : <https://www.ecologie.gouv.fr/sites/default/files/Guide_politique_achat_public_zero_deforestation.pdf>

1. **Re-examination clause**

Under Article R.2194-1 et seq. of the Public Procurement Code, Expertise France may amend the provisions of the Contract subject to the following conditions:

* Substitution with a new pricing schedule if deletions, modifications or additions are made to the items in the initial pricing schedule, subject to approval by Expertise France;
* Revision of technical elements (clarification of deliverables, producer technical definitions, equipment technical documents, updated instructions).
* Such modifications shall be notified to the Contractor: by simple exchange of correspondence via the secure platform PLACE, or via any means defined by Expertise France guaranteeing full traceability of exchanges.

1. **Similar services**

Under Article R.2122-7 of the French Public Procurement Code, the Contractor may be awarded a contract for similar services to those of the initial contract without advertising or competitive bidding.

1. **penalties**

The amount of penalties will be applied within the calculation of the balance due under the relevant item or purchase order.

## Penalties for periodic documentary deliverables

By way of derogation from Article 14 of the CCAG, penalties are set at the fixed rate of €50 net per day of delay in the delivery of the periodic deliverables specified in Article 6 “Deliverables table” of the Contract.

## Penalties applicable to submission of final deliverables

By way of derogation from Article 14 of the CCAG, penalties are set at the fixed rate of €100 net per day of delay in the delivery of the final deliverables specified in Article 6 “Deliverables table” of the Contract.

1. **intellectual property**

## Definitions

The Assignment provided for by this article requires definition of the following terms:

* “Result” means any intended outcome of the performance of the Contract which is delivered and definitively accepted by Expertise France;
* “Creator” means any natural person who contributed to the production of the result;
* “Pre-existing right” means any intellectual property right, including pre-existing technologies owned by Expertise France, the Contractor or any third party with a prior interest in the order to be executed under the Contract.

## Ownership of results

The ownership of results, and the title to related intellectual and industrial property rights, including the solutions and technical information they contain, are entirely and irrevocably transferred to Expertise France under the Contract. This Assignment only covers the economic rights of creators under the conditions set out in Article 8.3 of the Contract. The moral rights of creators are excluded. Such moral rights cover the disclosure, paternity and respect for the integrity of the results treated as a work within the meaning of the French Intellectual Property Code.

The aforementioned elements shall be deemed to be effectively transferred to Expertise France after acceptance of the results delivered to it by the Contractor.

The payment of the price to the Contractor is deemed to include any fees payable to the Contractor in relation to the acquisition of rights by Expertise France, notably all forms of exploitation of the results. The acquisition of such covers all territories worldwide.

## Exploitation of results

By acquiring title to the results developed by the Contractor, Expertise France becomes the holder of all economic copyright relating to such rights. In this regard, yet without the list being exhaustive, Expertise France may exploit the results for the following purposes:

* internal exploitation:
  + disclosure to its personnel;
  + communication disclosure to persons and entities working for Expertise France or cooperating with it, including contractors, subcontractors (whether legal or natural persons), EU institutions, agencies and bodies and member states' institutions;
  + installing, uploading, processing, arranging, compiling, combining, retrieving, copying, reproducing in whole or in part and in unlimited number of copies.
* distribution to the public:
  + in paper, electronic or digital format;
  + on the internet as a downloadable/non-downloadable file;
  + via display, radio or television broadcasting or any other transmission technique;
  + otherwise in any form and by any method.
* modifications:
  + modification of content, form or technique;
  + addition of new elements of content and form;
  + adaptation using new media;
  + translation into any language;
  + digitisation and computer processing.

## Licensing of pre-existing rights

Expertise France shall not acquire ownership of pre-existing rights. The Contractor shall license the pre-existing rights on a royalty-free, non-exclusive and irrevocable basis to Expertise France, which may use the pre-existing rights as set out in Article 8.3. Such licences shall become effective from the moment the results are delivered by the Contractor and accepted by Expertise France. On delivery of the results, the Contractor may, as required, provide Expertise France with a list of pre-existing rights and third parties' rights, including those of its personnel, of creators and of other right holders. The licensing of pre-existing rights to Expertise France under the Contract covers all territories worldwide and is valid for the whole duration of intellectual property rights protection.

## Guarantees

When delivering the results, the Contractor shall warrant that they are free of rights or claims from creators and third parties, including in relation to pre-existing rights, for any use envisaged by Expertise France.

On request from Expertise France, the Contractor shall provide evidence of ownership or rights to use all the listed pre-existing rights and rights of third parties, except for the rights owned by Expertise France.

## Image rights

If natural, recognisable persons appear in a result or their voice is recorded, on request from Expertise France the Contractor shall submit a declaration in which such persons (or of the persons exercising parental authority in case of minors) give their permission for the described use of their image or voice. This does not apply to persons whose permission is not required in line with the law of the country where photographs were taken, films shot or audio records made.

1. **Termination of the contract**

## General terms of performance

The Contract is subject to the termination clauses as defined in Articles 29 to 36 of the CCAG.

In the event of early termination, the Contractor shall immediately return to Expertise France all documents it may have received for the purposes of execution of the Contract.

## Termination of the Contract due to the non-availability of a designated expert

In the event of the non-availability of a designated expert, the Contractor shall notify Expertise France thereof within 3 days and, within 14 days at the latest, propose the CV of a replacement expert of at least the same level or expertise. If these replacement conditions are not respected, Expertise France may terminate the Contract due to fault on the part of the Contractor.

Regardless of the circumstances, should an expert remain unavailable for a cumulative duration of 4 weeks without a satisfactory replacement having been found, Expertise France may automatically terminate the Contract.

Termination for the non-availability of a designated expert shall not establish any entitlement to any form of compensation for the Contractor.

## Procedure

Any termination decision shall be notified by Expertise France to the Contractor by registered letter with acknowledgement of receipt. It shall state the effective date of termination.

1. **safety and security measures and responsabilities**

The Contractor is the only one who is responsible for the safety of the people and property that he mobilizes for the execution of the present Contract and in this respect, takes all necessary measures. He undertakes to ensure that all of his employees and subcontractors comply with the safety instructions that he issues.

In the event of an incident and/or direct or indirect attack on the safety of people directly or indirectly mobilised by the contractor or its equipment, Expertise France cannot be held responsible in any way whatsoever.

1. **ethics**

The Contractor also undertakes to take note of the  [Expertise France Code of Conduct](https://www.expertisefrance.fr/documents/20182/426622/Expertise+France+%E2%80%93+Code+of+conduct/82cf6060-4768-4b25-8817-ccba1d86e568) and to comply strictly with it (the Expertise France code of conduct is available on the agency’s website: [www.expertisefrance.fr](http://www.expertisefrance.fr)).

Any breach to comply with the code of conduct may result in the termination of the Contract and incur the liability of the Contractor.

1. **Administration of personal data**

The Contract may require the processing of personal data. The parties undertake to comply with regulations on the processing of personal data in accordance with amended law no. 78-17 of 6 January 1978 relating to data processing, files and liberties and regulation (EU) 2016/679, known as the General Data Protection Regulation (GDPR).

The Contractor notably undertakes to:

* Process personal data solely for the purposes of the Contract, as defined in annex hereto covering the collection of personal data (GDPR data processor);
* Ensure that persons authorised to process personal data undertake to maintain its confidentiality or are bound by an appropriate legal obligation of confidentiality;
* Implement appropriate technical and organisational measures to guarantee a level of security commensurate with the risks resulting from the Contract, notably with regard to data encryption, confidentiality and integrity;
* Notify Expertise France, via any means, of any personal data breach within 24 hours of becoming aware of any such event;
* Assist Expertise France in its obligation to respond to requests it may receive from data subjects;
* Delete all personal data or return it to Expertise France on conclusion of the services covered by the Contract, as specified by the latter, unless EU law or that of the member state requires such data to be retained;
* Make available to Expertise France all information it may require to demonstrate compliance with the obligations set out in this article and to enable audits to be conducted by the latter or by any other person of its choice.

Where the Contractor uses a data processor to process personal data during execution of the Contract, it must obtain prior written authorisation from Expertise France. Similarly, the Contractor shall notify Expertise France of any planned change concerning the addition or replacement of processors, thereby enabling Expertise France to issue any objections it may have in this regard.

The same obligations concerning data protection as those set out in the Contract are mandatory for processors, notably regarding the provision of adequate guarantees for the implementation of appropriate technical and organisational measures ensuring the protection of personal data. Should any processor fail to meet its obligations, the Contractor shall remain fully responsible vis-à-vis Expertise France for the fulfillment of the processor’s obligations.

In the event of non-compliance with the aforementioned provisions, the Contractor is reminded that its liability may be invoked. In the event of any breach of professional secrecy or non-compliance with the aforementioned provisions, Expertise France may immediately terminate the Contract without compensation for the Contractor.

1. **Dispute resolution - applicable law**

Any dispute between the parties regarding the existence, validity, interpretation, execution or termination of the Contract (or any of its clauses), which the Parties are unable to settle amicably within thirty days of the dispute having been notified by the complainant to the other Party, shall be referred to the jurisdiction of the Paris Administrative Court.

The Contract shall be governed by French law alone.

1. **Derogation from the CCAG**

The following articles of this document derogate from the CCAG-FCS:

* article 5 derogates from article 28 and 15 of the CCAG;
* article 9 derogates from article 14 of the CCAG

1. **AUDIT**

The contractor may be submitted to an audit concerning compliance with the regulations and contractual obligations applicable to the performance of the present contract. This audit may be carried out by Expertise France or by a third party appointed by Expertise France and may not be refused by the contractor. If the audit is carried out by a third party, the appointed third party must not be a direct competitor of the contractor. Scheduled audits may be carried out periodically or spontaneously at the request of Expertise France or a third party. In all cases, the contractor will be informed at least 5 working days in advance.

The contractor therefore undertakes to:

* allow Expertise France or the appointed entity, and facilitate their access to the information required to carry out the audits,
* submit documents relating to the performance of the present contract as well as any documents required by the auditors,
* demonstrate transparency and respond to auditors' requests,
* implement any corrective measures that may be necessary.

Expertise France will notify the contractor of the identity of the audit structure selected in the case of an external firm, the purpose of the assignment, the planned duration of the assignment and the names of the experts assigned.

The conclusions of the audit report will be sent to each of the Parties by any means deemed appropriate by Expertise France.

The conclusions may prescribe the implementation of actions and a deadline for completion.

Any refusal by the contractor to comply with the audit exercises and/or their conclusions gives as of right to Expertise France the possibility to terminate the present contract without compensation.

1. **Final provisions**

## Declaration

The Contractor, its affiliates, suppliers, service providers, consultants and subcontractors (including directors, employees and agents of such entities) hereby declares:

* that no natural or legal person on whose behalf the Contractor is acting is subject to the prohibitions set out in Articles L. 2141-1 to L. 2141-6 and L. 2141-7 to L. 2141-11 of the French Public Procurement Code or any equivalent prohibition issued in another country;
* that the commitments made by the Contractor within the scope of the Contract do not create a situation of conflict of interest that may affect the execution of the Contract;
* that the Contractor have not committed any act that may influence the process of Project implementation to the detriment of the Beneficiary, and notably that no Understanding has been, or will be, entered into;
* that the negotiation, award and execution of the Contract has not given rise to, nor will do so in the future, any act of corruption as defined in the United Nations Convention Against Corruption dated 31 October 2003;
* accepts that the Contract will be awarded in accordance with standard practices and in electronic format.

Furthermore,

The Contractor, its affiliates, suppliers, service providers, consultants and subcontractors (including directors, employees and agents of such entities) certify that:

* they do not acquire and don't supply/will not acquire or supply equipment and do not intervene/will not intervene in sectors under embargo by the United Nations, the European Union or France. For information, the list can be found at: <https://www.sanctionsmap.eu> ;
* they are not included in the lists of financial sanctions adopted by the United Nations, the European Union, France and/or the United States, notably in the fight against the financing of terrorism and against attacks on national peace and security. For information, the lists can be consulted at the references below:
* for the United Nations, the United Nations Security Council sanctions lists: <https://www.un.org/securitycouncil/content/un-sc-consolidated-list>;
* for the European Union, the lists can be consulted at the following address: <https://www.sanctionsmap.eu>;
* for France, see: <https://gels-avoirs.dgtresor.gouv.fr/List>;
* for the United States, see: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information>;
* they are not subject to a World Bank exclusion order and are not on the list published by the World Bank. For information, the list can be consulted at the following address:

<https://www.worldbank.org/en/projects-operations/procurement/debarred-firms>

*In the hypothesis of such a decision of exclusion, we can join to the present declaration on honor the additional information which would allow to consider that this decision of exclusion is not relevant within the framework of the market)*.

Finally, the Contractor, its affiliates, suppliers, contractors, consultants and subcontractors (including directors, employees and agents of such entities) acknowledge and accept that the above-mentioned situations may lead to the automatic termination of the contract.

They undertake to inform Expertise France without delay of any change in our situation during the execution of the contract with regard to the present declaration.

FOR THE CONTRACTOR:

In.....………....….., on...…….....20....

Preceded by the handwritten words “Read and approved":

Signature[[1]](#footnote-1):

Name:  
First name:

Role:

FOR EXPERTISE FRANCE:

This offer is accepted as an undertaking.

In.....………....….., on...…….....20....

Signature[[2]](#footnote-2):

Name:  
First name:

Role:

**Done in one original copy retained by Expertise France.**

**Annex 1: Terms of reference**

1. Date and original signatures [↑](#footnote-ref-1)
2. Date and original signatures [↑](#footnote-ref-2)