Service Level Agreement
between
the European Fisheries Control Agency
and
the European Maritime Safety Agency
for the
MARSURV-3 monitoring services
Service Level Agreement

The European Fisheries Control Agency represented for the purpose of signing this Service Level Agreement by the Executive Director hereinafter referred to as "EFCA",

And

the European Maritime Safety Agency, which is represented by the Executive Director hereinafter referred to as "EMSA",

hereinafter referred to individually as "the Party" or collectively as "the Parties",

Considering that EFCA hosts and maintains the EFCA-VMS system in support of the EFCA coordination activities in the framework of "Joint Deployment Plans". Considering that EMSA hosts and maintains a number of maritime traffic monitoring applications

Considering recent initiatives for the Implementation of an Integrated Maritime Policy and in particular a Common Information Sharing Environment (CISE)

Have agreed as follows

Article 1: Objective

The objective of the Service Level Agreement is the definition and development of the operational, administrative, legal, in particular related to confidentiality and data protection, and technical requirements for the cooperation between EFCA and EMSA for the activities related to the MARSURV-3 project. The scope of the project is to set-up an integrated service using EMSA Integrated Maritime Data Environment (IMDatE) platform, AIS, LRIT, VMS, satellite and fisheries control related data for the coordination of the inspection and surveillance activities in the framework of the JDP campaigns.

Article 2: Technical responsibilities of the parties

1. EMSA shall provide:
   - a secure HTTP server to receive VMS messages directly from the EFCA-VMS system (EMSA endpoint of the data exchange communication channel, as detailed in Annex 1);
   - an integrated maritime picture composed of VMS data provided by EFCA correlated with additional information provided by EMSA and/or external bodies (AIS, Sat-AIS data, LRIT data, VDS and/or other as appropriate, subject to any relevant prior authorisation required);
   - support and monitoring of the data exchange;
   - immediate information to EFCA about downtime of the MARSURV-3 service, and the associated EMSA infrastructure;
   - Training and support to the end-users;

2. EFCA shall provide:
   - A secure HTTP server to send VMS messages directly to EMSA (EFCA endpoint of the data exchange communication channel, as detailed in Annex 1);
- the VMS data stream related to the relevant JDP areas and as authorized by Member States over the data exchange communication channel;

- support and monitoring of the data exchange;

- immediate information to EMSA about downtime of EFCA infrastructure required for the MARSURV-3 service;

- training and support to the end-users;

**Article 3: Human resources**

Each Party will be responsible for its own personnel in relation to activities undertaken pursuant to this Service Level Agreement.

**Article 4: Communications**

All communications relating to operational or technical issues shall be sent to the respective contact points as detailed in Annex 2.

The Parties shall communicate in writing to each other any change with regard to the above-mentioned contacts. All documents and communications regarding this agreement shall be written in English.

**Article 5: Duration and termination**

This agreement is concluded for a period of one year from the date of signature. This period and all other periods specified in the agreement are calculated in calendar days. The duration of this agreement shall automatically extend for additional consecutive annual periods unless terminated by written notice at least two months before the expiry of the annual period.

If, for any reason, one of the parties is no longer able to continue the contributions under this Service Level Agreement, either Party may terminate this agreement at any time giving one month prior written notice to the other Party.

**Article 6: Amendments**

Any amendment to the Service Level Agreement shall be subject to a written agreement concluded by the signatories, except in cases where it has been otherwise established in this agreement. An oral agreement shall not be binding on the Parties.

**Article 7: Suspension**

Any failure to fulfil any of the obligations pursuant to this agreement by one Party gives the other Party the right to suspend its responsibilities for as long as the first Party is in breach of the agreement. Suspension shall take effect on the day the Party in breach receives notification by registered mail, with acknowledgement of receipt or at a later date specified in the notification.

**Article 8: Liability**

Any loss, damage or injury suffered by one Party in connection with the performance of this agreement shall be borne exclusively by it.

Each Party shall be exclusively liable for any loss, damage or injury caused by its personnel to third parties in their facilities, arising out of the performance of the Agreement.
Article 9: Force Majeure

Neither participating Party shall be liable for any unforeseeable event beyond its reasonable control not caused by the fault or negligence of such Party, which causes such party to be unable to perform its obligations under this Agreement, including flood, drought, earthquake, storm fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civic disturbance or disobedience, sabotage, or any order or injunction made by a court or public body.

In the event of the occurrence of such a force majeure event, the Party unable to perform shall without delay notify the other Party by registered letter with acknowledgement of receipt. It shall further use its best efforts to resume performance as quickly as possible and shall suspend performance only for such period of time as is necessary as a result of the Force Majeure event.

Article 10: Data protection

In principle, the implementation of the agreement does not involve the handling of personal data. Since it might be difficult to guarantee that any handling of personal data is fully excluded, both parties have to ensure that personal data is processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regards to the processing of personal data by the Community institutions and bodies and on the free movement of such data. In particular, the processing shall be adequate, relevant and not excessive in relation to the purposes for which they are collected and processed.

Article 11: Confidential Information

For the purposes of this Agreement "Confidential Information" shall mean any information, document or other material communicated to the other Party in order to perform this Agreement, not generally known to third parties and which is proprietary to the Party disclosing such information (the "Disclosing Party").

The Parties undertake, when requested by the other party, not to release proprietary information or keep confidential any information, document or other material communicated to them as confidential or the disclosure of which might be prejudicial to the other Party, until, or unless, the content legitimately becomes publicly available through other parties or through work or actions lawfully performed outside, and not based on activities under this Agreement, or has been made available to the disclosing Party by another Party without any confidentiality restrictions.

Each Party shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

In respect of its external contractors each Party is responsible for such confidentiality rules to be provided through the existing agreements or contracts between the Party and the specific external contractor.

In particular, VMS, LRIT, AIS and Satellite AIS data is considered confidential information and shall be treated as such. VMS data is owned by the flag state of the fishing vessels concerned. Likewise LRIT is owned by the flag state of the merchant vessel.

In the framework of the JDP, Member State VMS data is being received by the EFCA-VMS system. EFCA will coordinate the transmission of Member States VMS data to
EMSA. It should be noted that clearance for commencing transmission to EMSA is subject to the prior approval by the relevant Member States for EFCA to transmit VMS data. Clearance for providing LRIT and AIS data to EFCA, through the IMDatE visualisation environment, is subject to prior approval from the relevant Member States and the SSN High Level Steering Group respectively.

Confidential Information received in connection with this Agreement shall be deleted by the receiving party upon termination of this Agreement.

**Article 12: Sub-contracting**

The Party may, with prior and written agreement of the other Party, sub-contract the work in whole or in part. The Party sub-contracting a part of the Work shall remain bound by its obligations to the other party under this Service Level Agreement.

**Article 13: Training**

No specific training of the IT staff is required to conduct the required IT operations. Necessary operational training to the end-users will be provided jointly by both agencies.

**Article 14: Costs**

No specific cost is foreseen for the set-up and delivery of the integrated data monitoring service by EMSA to EFCA.

Notwithstanding possible delivery of -free of charge- satellite-AIS data or Earth Observation products provided through bilateral agreements between EFCA and other external bodies, in line with technical requirements agreed with EMSA, and upon specific request by EFCA, any additional provision of Satellite-AIS data or Earth Observation products by EMSA shall be charged to EFCA based on the costs that arise from existing contracts signed between EMSA and industry providers following public procurement.

EMSA shall issue debit notes covering costs of services provided that shall be paid within 30 days after its receipt.

On expiry of the payment period specified above EMSA 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 eight percentage points. The reference rate shall be 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*.

Each Party will bear its own additional costs, if any, in relation to activities undertaken pursuant this Service Level Agreement.

**Article 15: Settlement of disputes**

In case of dispute between the Parties arising out of or in connection with this Service Level Agreement the Parties hereto shall settle it by mutual agreement at coordinators level, or if this is not possible, at signatories level.

Should the dispute not be settled though the procedure abovementioned it will be submitted to the Court of Justice of the European Union.
Article 16: Entry into force

This Agreement shall enter into force on the date on which the last Party has signed.

On behalf of the
European Maritime Safety Agency:

Executive Director

Signature:

Date and Place
17/12/2012 Vigo

On behalf of the
European Fisheries Control Agency:

Executive Director

Signature:

Date and Place
17/12/2012 Vigo
Annex 1
System information and description

1. Interface description

For this specific Pilot Project the VMS position reports received at the EFCA will be provided to EMSA to be processed by the MARSURV-3 monitoring service. In order to allow a dynamic and current traffic picture, which combines VMS with the other data available at EMSA, it is recommended that delays in delivering the VMS data to EMSA are reduced to a minimum.

In order to adapt to the current delivery mechanism in place at the EFCA, EMSA will set-up a secure HTTPS server to receive VMS messages directly from the EFCA.

The diagram below depicts the process and flow of data from the EFCA to EMSA.

![Diagram 1 – Transfer of the VMS messages from EFCA premises into MARSURV-3.]

As stated in Article 11 of the present SLA, the VMS data is considered confidential information. EMSA will treat VMS data according to Article 11.

2. Security/ Digital certificates

To ensure security, 1-way SSL secured TCP/IP socket connections will be implemented for the data interface. The required digital certificate shall be generated by EMSA.

3. Service Availability

Due to the experimental nature of the project ("Pilot Project"), no specific SLA target is foreseen either on the EFCA or the EMSA service provision side. In detail:

- EFCA will provide the VMS data on a best-effort-basis;
- EMSA will provide the technical and functional capabilities of providing the MARSURV-3 service as described in the Project Implementation Plan based upon the available data, and the available vessel identifying information, on a best effort basis.

Following the pilot project, EMSA, in collaboration with EFCA, will draft a short evaluation report on any issues encountered and the future approach to resolve them.
Annex 2

List of contacts and addresses

For EFCA:

Operational contact:

European Fisheries Control Agency

Telephone:

Av. da Garcia Barbon, 4
36200 VIGO
Spain

Technical contact:

Telephone:

For EMSA:

European Maritime Safety Agency

Operational contact:

Name, Surname:
Division/Unit:
E-mail:

Cais do Sodré
1249-206 LISBOA
Portugal

Telephone:

Fax:

Technical contact

Name, Surname:
Division/Unit:
E-mail: