

## ENCLOSURE 4 - Mobilisation Agreement

### Attached to the Invitation to tender No. EMSA/NEG/1/2025 Storage of oil pollution response equipment and dispersant in Gran Canaria

#### PART I

##### 1. DEFINITIONS

1. “**Contractor**” means the party stated in Box 1 of the Form;
2. “**Day(s)**” means calendar day(s) of 24 hours;
3. “**Dispersants**” means approved oil dispersants<sup>1</sup> in the quantity requested by the Requesting Party as indicated in Box 3 of the Form;
4. “**EMSA**” means the European Maritime Safety Agency. EMSA is the owner of the equipment and dispersants. EMSA has awarded the Contractor a contract under which the latter remains in possession and shall take care of the equipment and dispersants for the contract duration and ensures the equipment and dispersants availability for mobilisation as part of oil pollution response operations. The Contractor is responsible for the storage of the equipment and dispersants until the equipment and/or dispersants are requested for oil pollution response operations under the supervision of an EU Member State, Norway or Iceland. EMSA has an interest in the equipment and dispersants covered by this agreement and has approved its content;
5. “**Equipment**” shall mean the equipment with particulars stated in box 6 of the Form;
6. “**Force majeure**”: any unforeseeable and unavoidable situation or event beyond the control of the parties that prevents either of them from fulfilling any of their obligations under this agreement. The situation or event must not be attributable to the negligence of the debtor. Breaches or errors of subcontractors, defaults of service, defects in equipment or material or delays in making them available, labour disputes, strikes and financial difficulties may not be invoked as force majeure, unless they stem directly from a relevant case of force majeure;
7. “**Form**” means Part II of this Agreement;
8. “**Notice of mobilisation**” means the Notice sent by the Contractor to the Requesting Party confirming that the equipment and/or dispersants are ready for delivery at the place of delivery;
9. “**Notice of demobilisation**” means the Notice sent by the Contractor to the Requesting Party indicating the date and time of arrival back at the place of delivery/redelivery of the Equipment in a clean and fit

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<sup>1</sup> Normally type 3 dispersant.

for purpose state, or at the Requesting Party's option, like for like replacement, both being at the Requesting Party's expense and/or unused dispersants in its original IBC(s);

10. **"Notice of ending operational activities"** means the Notice sent by the Requesting Party or its Nominee to the Contractor after completion of all the oil pollution response operations which justified the mobilisation of equipment and/or dispersants under this agreement and indicating whether any unused dispersants in its original IBC(s) will be redelivered or not;
11. **"Requesting Party"** means the party stated in Box 2 of the Form;
12. **"Place of delivery/redelivery"** means the place as stated in Box 4 of the Form, usually the Contractor's warehouse, where the equipment and dispersants are stored, or any other place as may be mutually agreed and from where the equipment and/or dispersants should be mobilised and demobilised after ending of operational activities;
13. **Time** means time UTC. Any reference to time in this Agreement should be understood as UTC.

## **2. PURPOSE**

- a) The Requesting Party and the Contractor shall reach an agreement through signing the Form.
- b) The Contractor agrees to have the Equipment and/or Dispersants mobilised at the Place of delivery/redelivery.
- c) Demobilisation of Equipment or of any unconsumed Dispersants remaining in its original sealed IBCs shall be mutually agreed between the parties.
- d) For the purposes of the delivery and redelivery, both parties agree to use the Handover/redelivery statement (Appendix A).
- e) Upon mobilisation, the Requesting Party shall inspect the Equipment and/or Dispersants in their IBCs and note their condition through filling in the Handover/redelivery statement. The Requesting Party shall note any defect in the equipment and/or dispersants upon delivery, failing which the Requesting Party shall be deemed to have accepted them in good condition.

## **3. ENTRY INTO FORCE AND DURATION**

- a) This agreement shall enter into force on the date on which it is signed by the last party as indicated in the Form.
- b) When this agreement is for the mobilisation of equipment and/or dispersant, this agreement lasts from its entry into force until the date and time the Requesting Party acknowledges receipt of the Notice of Demobilisation as sent by the Contractor.
- c) When this agreement is for the mobilisation of Dispersant only and where the Requesting Party declares in the Notice of ending operational activities that no unused dispersants in their original IBC(s) will be redelivered, this agreement lasts from its entry into force until the date the Contractor acknowledges receipt of the Notice of ending operational activities as sent by the Requesting Party.

## **4. THE CONTRACTOR**

The Contractor is responsible to:

- a) Let the equipment and/or dispersants available at the place of delivery/redelivery to the Requesting Party;
- b) Provide for suitable loading and unloading capacities of the equipment and/or dispersant upon delivery as well as for the unloading of the equipment and/or any remaining dispersant redelivered in the original sealed IBC by the Requesting Party upon demobilisation;
- c) Co-operate with the Requesting Party in obtaining authorisations, permits, clearances, licences required under the national laws and regulations in force at the place where the equipment will be deployed and/or the dispersants will be sprayed;
- d) Send promptly written Notices of mobilisation and demobilisation to the Requesting Party as per the contact details set out in Box 2;

- e) Acknowledge receipt of the Notice of ending operational activities sent by the Requesting Party.

## **5. THE REQUESTING PARTY**

The Requesting Party shall:

- a) Take possession of the equipment and/or dispersants at the place of delivery/redelivery;
- b) Arrange for transportation of the equipment and/or dispersants from the place of delivery/redelivery to the incident site and back to the place of delivery/redelivery where unused dispersants in their original IBCs are to be redelivered.
- c) Transport back to the to the place of delivery/redelivery the Equipment in a clean and fit for purpose state, or at the Requesting Party's option, like for like replacement, both being at the Requesting Party's expense;
- d) Obtain all authorisations, permits, clearances, licences required under the national laws and regulations in force at the place where the equipment will be deployed and/or the dispersants will be sprayed;
- e) Send written Notice of ending operational activities to the Contractor as per the contact details set out in Box 1;
- f) Redeliver promptly, where applicable, any unused dispersants in their original IBCs. Following receipt of the Notice of ending operational activities by the Contractor, the contracting parties shall mutually agree the exact date and time for the redelivery;
- g) Acknowledge receipt of the Notice of Demobilisation sent by the Contractor;
- h) Dispose of empty IBCs.
- i) not sublet or loan the Equipment or any part thereof, without the prior written approval of the Contractor. Notwithstanding any approval from the Contractor, the person or company taking such sublet, loan, subcontract or assignment (as the case may be) shall be deemed to be the agents of the Requesting Party for all the purposes of this agreement and the Requesting Party shall always remain responsible to the Contractor for due performance of this agreement.

## **6. INVOICING AND PAYMENT**

- a) The Contractor may issue invoices for payments due under this agreement weekly and in Euro.
- b) The Requesting Party shall make payment within thirty (30) calendar days (the Due Date) from the date of each invoice, net of bank charges and withholding tax (which shall be for the Requesting Party's account), in the mode stated in Box 11.
- c) Any VAT, withholding tax or other taxes, as applicable, chargeable on payments due under this Contract shall be added to the relevant sums due hereunder.

## **7. CHARGES**

The Requesting Party agrees to pay the Contractor all costs related to the loading and unloading activities in consideration of the services provided by the Contractor as per the maximum loading and unloading prices per individual equipment item and/or one IBC with dispersant quoted in Boxes 7 and 8.

The Requesting Party acknowledges and agrees that any sums due under this Clause shall be deemed as being remuneration due under this Contract:

## **8. DISPERSANTS**

- a) As from delivery until redelivery, the Requesting Party remains responsible for the reasonable and safe use of the dispersants and the dispersant application operations.
- b) The risks related to the dispersants are transferred to the Requesting Party as from delivery until redelivery to the Contractor.
- c) The Requesting Party warrants that the dispersants from the date of delivery until the date of redelivery will be free of any lien or encumbrance whatsoever and that no third party has or will obtain any interests or rights in relation to the dispersants.

## **9. THE EQUIPMENT**

**9.1.** The following conditions are to be complied with by the Requesting Party when in the possession of the equipment:

- a) The Equipment is to be installed, operated and maintained by suitably trained and authorised personnel acting under appropriate supervision;
- b) The Equipment is not to be operated in conditions which exceed the recommendations given by the manufacturers and/or the Contractor;
- c) The Equipment shall not be used recklessly, or without due regard for the safety of any person or property, or with deliberate intent to cause injury, loss or damage;
- d) The Requesting Party shall keep the Contractor fully informed of any malfunctioning of the Equipment, loss or damage thereof.

**9.2.** The Requesting Party is responsible for the safe use of the equipment and its preservation from the time of handover until redelivery. The Requesting Party will be responsible for the routine equipment maintenance as well as running repairs to maintain equipment operational. All losses or damages sustained by the Equipment from the time of handover until redelivery will be for the sole account of the Requesting Party. If the Equipment is not redelivered by the Requesting Party in working condition, normal wear and tear being for the account of EMSA, the Requesting Party shall indemnify EMSA for all costs reasonably incurred by it in restoring the Equipment or any part of it or in replacing the Equipment or any part of it if it cannot be so restored at a cost below the cost of replacement. Where equipment is lost, becoming a constructive total loss or is damaged beyond repair, the Requesting Party shall indemnify EMSA of the replacement cost up to the relevant Equipment value indicated in Box 6.2 of the Form. Where Equipment is damaged and if so agreed between the Requesting Party and EMSA, the Requesting Party shall pay directly the entity contracted by EMSA for performing the repairs, the Requesting Party would then actually honour EMSA's contractual obligations.

**9.3.** If part of or all the Equipment is prevented from working by reason of deficiency, breakdown or others, accident which prevents the Equipment from working, the Requesting Party or his nominee will transport the Equipment back to the Place of Redelivery and send a Notice of Redelivery to the Contractor.

The Contractor may propose to the Requesting Party to replace the Equipment or part of it by any other Equipment items which is suitable for the purpose of this agreement and at a time and condition which is acceptable to the Requesting Party. Thereafter the replacement Equipment shall be subject to all terms of this agreement. It is understood that the Contractor shall only claim costs as per Article 7 without prejudice to the possibility of the Requesting Party to terminate this Agreement as per Article 14.

## 10. LIABILITIES

- a) EMSA or the Contractor shall have no liability to the Requesting Party for any loss or damage caused to any person, property or the environment arising out or in any way connected with this agreement, unless caused by the gross negligence or wilful misconduct of EMSA or of the Contractor.
- b) Unless wilful misconduct or gross negligence on the part of the Contractor or of EMSA, the Requesting Party shall be liable for and agree to indemnify, defend and hold harmless the Contractor and EMSA against all claims, costs, expenses, actions, proceedings, suits, demands and liabilities whatsoever arising out or in any way connected with this agreement.

## 11. COMPENSATION FOR OIL POLLUTION DAMAGE

In case the Requesting Party seeks to recover the costs incurred in relation to this agreement from the entity liable under International Conventions and/or national regulations for pollution damage resulting from marine oil spills, the Requesting Party shall include EMSA's costs related to establishing the mobilisation and demobilisation services and purchasing the equipment and dispersants in its claim and, if successful, reimburse EMSA. For this purpose, the Requesting Party, EMSA and the Contractor shall co-operate and provide each other any documentation, explanation and information necessary in this regard.

## 12. INSURANCE

- a) The Requesting Party can cover its liability for loss of or damage to the equipment by taking out an all-risk insurance. The insurance shall cover all risks of actual physical total or partial loss or damage to the Equipment whilst in storage, transit, handling, operational activities in/on water. The insurance cover shall be taken out no later than the day on which the Equipment is delivered to the Requesting Party by the Contractor and must be maintained until redelivery of the Equipment to the Contractor. The European Maritime Safety Agency (EMSA) owner of the Equipment must be named as co-insured and the Requesting Party shall cause the insurers to indemnify EMSA for the damage to or loss of the equipment and to waive subrogation rights against EMSA and the Contractor.
- b) For insurance purposes, the individual values to be declared are the ones per equipment stated in Box 6.2 of the Form.
- c) The insurance shall be primary and non-contributory.
- d) Deductibles shall be borne by the Requesting Party.
- e) Exclusions to the insurance cover cannot be opposed to EMSA.
- f) Where permissible under the terms of the Requesting Party's insurance policy, the Requesting Party shall require the insurer to indemnify EMSA directly for lost or damaged dispersants as per the limits set under clause 7 (b) above, following which the Requesting Party's obligations for the dispersants under clause 7 (b) shall cease together with the payment of the indemnity.
- g) The indemnity is valued as follows:
  - For Equipment which can be repaired, the Requesting Party shall indemnify EMSA for all costs for repairing or restoring the Equipment or any part of it;
  - For Equipment or Equipment parts lost or damaged and which cannot be repaired at a cost below the replacement cost, the Requesting Party shall indemnify EMSA up to the Equipment values stated in Box 6.2

### **13. APPLICABLE LAW AND SETTLEMENT OF DISPUTES**

This Agreement shall be governed by the national law of the Requesting Party and any dispute arising out of this Agreement shall be referred to a court of the Requesting Party, indicated in Box 5.

### **14. EARLY TERMINATION**

Either party may terminate the agreement for convenience by giving to the other party, no less than 24 hours' written notice of termination upon expiry of which this Contract will terminate. Upon such termination, the parties shall immediately start to demobilise the Equipment and/or Dispersant and any applicable terms of this Agreement shall continue until such demobilisation has been completed.

### **15. FORCE MAJEURE**

- a) If a party is affected by force majeure, it must immediately notify the other party, stating the nature of the circumstances, their likely duration and foreseeable effects.
- b) A party is not liable for any delay or failure to perform its obligations under the agreement if that delay or failure is a result of force majeure. If the contractor is unable to fulfil its contractual obligations owing to force majeure, it has the right to remuneration only for the services actually provided.
- c) The parties must take all necessary measures to limit any damage due to force majeure.
- d) Force majeure either suspends the performance of the contract or leads to the termination of the agreement as provided for in Article 13.

## PART II – Form

1. Contractor	2. Requesting Party
1.1. Name:	2.1. Name:
1.2. Full Address:	2.2. Full Address:
1.3. Contact person:	2.3. Contact person:
1.4. Tel.:	2.4. Tel.:
1.5. Fax:	2.5. Fax:
1.6. E-mail:	2.6. E-mail:
3. Dispersants	4. Place of delivery/redelivery
3.1. Quantity (number of IBCs of 1 m <sup>3</sup> each)	
3.2. Value of the dispersants per IBC (EUR):	
3.3. Total value of the dispersants (EUR):	
5. Court of disputes	6. Equipment
	6.1. Equipment type and particulars
	6.2. Equipment value (EUR):
7. Mobilisation costs	8. Demobilisation costs
7.1. Maximum price for loading Sweeping arm system - Lamor LSS 12 (excluding cranes)	8.1. Maximum price for unloading Sweeping arm system - Lamor LSS 12 (excluding cranes)
7.2. Maximum price for loading the Oil Boom Set - Lamor Ocean Master 1900	8.2. Maximum price for unloading the Oil Boom Set - Lamor Ocean Master 1900
7.3. Maximum price for loading the Skimmer Set - High Capacity Skimmer Lamor LWS 1300	8.3. Maximum price for unloading the Skimmer Set - High Capacity Skimmer Lamor LWS 1300
7.4. Maximum price for loading the following items of the Dispersant system: Dispersant Tank container, Oil/chemical Transfer Pumps, Oil/chemical hose(s), Manifold and Spill kit	8.4. Maximum price for unloading the following items of the Dispersant system: Dispersant Tank container, Oil/chemical Transfer Pumps, Oil/chemical hose(s), Manifold and Spill kit

7.5. Maximum price for loading the Discharging System	8.5. Maximum price for unloading the Discharging System
7.6. Maximum price for loading one IBC with Dispersant	8.6. Maximum price for unloading one IBC with Dispersant

<p>This Agreement for mobilisation and demobilisation of equipment and/or dispersants consists of the terms and conditions contained in Part I, Part II, appendices A and B. If there is any conflict between different provisions in this Agreement, the provisions set out in Part I take precedence over those of Part II and the appendices. The provisions set out in Part II take precedence over those in the appendices.</p>	
<b>Signature (Contractor):</b>	<b>Signature (Requesting Party):</b>
Place, Date & Time (UTC):	Place, Date & Time (UTC):

**APPENDIX A - HANDOVER – REDELIVERY STATEMENT**

	Equipment / Dispersant <sup>2</sup> handover	Equipment / Dispersant redelivery
From:		
To:		
Place of Handover:		

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<sup>2</sup> Delete as appropriate

Place of Redelivery		
Technical Support Personnel complete list:	<ul style="list-style-type: none"> <li>-</li> <li>-</li> <li>-</li> </ul>	
Place and Date of arrival:		
Place and Date of departure:		
	Equipment / Dispersant <sup>3</sup> handover	Equipment / Dispersant redelivery

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<sup>3</sup> Delete as appropriate

From:		
To:		
Place of Handover:		
Place of Redelivery		
Technical Support Personnel complete list:	<ul style="list-style-type: none"> <li>-</li> <li>-</li> <li>-</li> </ul>	
Place and Date of arrival:		
Place and Date of departure:		

	Equipment / Dispersant <sup>4</sup> handover	Equipment / Dispersant redelivery
From:		
To:		

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<sup>4</sup> Delete as appropriate

N°	Category	Item	Description	ID Code	Condition Good/Average/Poor at receipt	Condition Good/Average/Poor at return	Comments

Comments on the condition and completeness of the equipment / dispersants <sup>5</sup>
Contractor: Name: Date: Signature:
Requesting Party: Name: Date: Signature:

Handover	Redelivery

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<sup>5</sup> Delete as appropriate

