

ANNEX III
INCIDENT RESPONSE CONTRACT – AIRPLANE¹ (IRC-A)

DEFINITIONS

In this IRC-A, save where the context otherwise requires, the following terms shall have the meaning set forth below:

1. **Aircrew:** All the crew on board the Airplane, meaning the pilots and the Operating Crew.
2. **Airplane:** The airplane or airplanes used for the performance of this IRC-A identified in Box A2 of the Contract Form and with particulars stated in Annex 4 (Airplane datasheet).
3. **Contracting Party:** The Requesting Party, on the one hand, and the Contractor, on the other hand, collectively the **Contracting Parties**.
4. **Contract Form:** The form attached to this IRC-A in Annex 3.
5. **Contractor:** Person or persons jointly and severally liable vis-à-vis the Requesting Party for the performance of this IRC-A. The Contractor has been awarded by EMSA the service Contract for aerial dispersant application service following a public procurement procedure based on Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts as amended.
6. **Coordinator:** Shall have the meaning set forth in Article III.2.1.
7. **Day(s):** Calendar day(s) of 24 hours.
8. **Dispersant:** Approved¹ oil dispersant to be efficiently applied by the Airplane over the Oil Spill. If the Dispersant is supplied by EMSA, this will be the dispersant type and quantity identified in Box D.2 (i) of the Contract Form.
9. **Equipment:** The Dispersant application system to be used on board of the Airplane identified in Box D1 of the Contract Form.
10. **Equipment Base:** Place identified in Box C4 of the Contract Form where the Equipment is stored, loaded at the beginning of the operations and unloaded at the end of the operations.
11. **EMSA:** The European Maritime Safety Agency.
12. **IRC-A:** This Incident Response Contract.
13. **Notice of Ending Operational Activities:** Notice sent by the Requesting Party or its nominee or by the OSC or its nominee to the Contractor indicating the time and date in which the assistance of the Airplane for aerial dispersant application service shall cease.
14. **Notice of Pollution:** Notice sent by EMSA to the Contractor following receipt of a request for assistance from a Requesting State indicating relevant details of the incident.
15. **Notice of Readiness:** Notice sent by the Contractor to the Requesting Party or its nominee and to the OSC or its nominee confirming that the Airplane is fully equipped as per Box D1 of the Contract Form and ready for leaving the Equipment Base in order to go to the Operational Base.
16. **Notice of Redelivery:** Notice sent by the Contractor at the end of all the operations at the Equipment Base (including off-loading of the equipment, cleaning the airplane and equipment) indicating the time and date.

¹ Note: **Parts to be completed in final contract are marked in yellow.**

Parts to be adapted to options are marked in green

¹ Normally 'type 3' dispersant.

17. **Oil:** Petroleum in any form including crude oil, fuel oil, residual oil, bunker oil, sludge, or other type of dispersible oil.
18. **Oil Spill:** The incident which led to the Services of the Contractor being requested by the Requesting Party.
19. **On Scene Commander (OSC):** A person so called or whoever may for the purpose of this IRC-A be considered as equivalent thereto appointed by the Requesting Party to assume the operational control of flight operations in case of an Oil Spill. The OSC is authorised to delegate one or more tasks to one or more nominees on board the Airplane.
20. **Operating Crew:** The crew on board the Airplane, responsible for operating the Equipment.
21. **Operational Base:** The airport as provided for in Box E4 of the Contract Form where the Dispersant will be loaded on the Airplane. The Operational Base will be indicated by the Requesting Party.
22. **Pilot-in-command:** The pilot designated by the operator or the owner, as being in command and charged with the safe conduct of a flight.
23. **Requesting Party:** Public body representing the Requesting State, to which the Contractor agrees to render the Services, identified in Box E1 of the Contract Form.
24. **Requesting State:** Any European Union (EU) Member State, European Free Trade Association (EFTA) Member State or the European Commission who requests for assistance in the context of an incident response mobilisation.
25. **Services:** Aerial Dispersant application services, including all activities under Article III.2.
26. **Sortie(s):** A sortie includes the flight from the Operational Base to the location of the Oil Spill, the spraying of Dispersant over the Oil Spill and the return to the Operational Base for refilling and/or refuelling.
27. **Support Crew:** the crew that provides the ground support operations such as loading/offloading of the Equipment.
28. **Time:** UTC. Any references to time in this contract should be understood as UTC.

Whereas:

The Requesting Party identified in Box E1 of the Contract Form, on behalf of the Requesting State identified in Box E1 of the Contract Form, which is represented for the purposes of the signature of this IRC-A by the responsible person identified in Boxes E2 and F2 of the Contract Form, on one side

and

the person(s) identified in Box C1 of the Contract Form, represented for the purposes of the signature of this IRC-A by the person(s) identified in Boxes C1 and F1 of the Contract Form, on the other side

HAVE AGREED:

that the Contractor shall provide the Airplane(s) referred to in Box A2 of the Contract Form to the Requesting State indicated in Box E1 of the Contract Form, as represented by the Requesting Party in Box E1 of the Contract Form, for the purposes of providing the Services under the terms and conditions of this IRC-A.

I. SERVICES

I.1. For the purposes of provision of the Services, the Requesting Party and the Contractor agree on the terms and conditions of this IRC-A by signing the Contract Form attached. The provisions of this IRC-A are pre-fixed and known to both the Contracting Parties and will equally apply to them.

The Requesting Party has the option either to use Dispersant supplied by EMSA or its own Dispersant, but such an option must be declared by ticking the appropriate Box D.2 (i) or Box D.2 (ii). Should Box D.2 (i) and Box D.2 (ii) of the Contract Form be left blank, the Requesting Party will provide the Dispersant.

The Requesting Party has the option either to use either a spotter airplane offered by the Contractor or its own spotter airplane, but such an option must be declared by ticking the appropriate Box D.3 (i) or Box D.3 (ii). Should Box D.3 (i) or Box D.3 (ii) of the Contract Form be left blank, the Requesting Party will provide the spotter airplane.

I.2. The Contractor shall carry out the Services and fulfil the obligations required under this IRC-A promptly and with due care as well as with the utmost despatch within the capabilities of the Airplane and its Equipment, and shall render all customary assistance during the provision of the Services. Spraying activities shall be performed during daylight hours. These activities shall be performed without any obligations of the Requesting Party to pay to the Contractor anything in excess of what is provided for in Article IV of this IRC-A.

I.3. The Requesting Party shall provide the Aircrew with all the instructions, and the Aircrew shall keep full and correct logs accessible to the Requesting Party or its nominee(s) for, at least, a period of three years after the signature of this IRC-A.

I.4. The Airplane and the equipment shall, at the time of the signature of the IRC-A by the last Contracting Party and until the term of this IRC-A, be in good order and condition and, without prejudice to the generality of the foregoing, in every way fit to operate effectively at all times in order to provide the Services and to fulfil the obligations provided for in this IRC-A.

II. PERIOD

II.1. The Services and the obligations provided for under this IRC-A shall start when the Contract Form is completed and signed by both Contracting Parties and sent to the Contractor.

II.2. The Services shall be provided for a maximum period of 21 consecutive Days. This maximum period of execution of the Services may be extended only with the express written agreement of both Contracting Parties which must be reached before the end of this 21 days period or, in case the period has already been extended, before the extended period elapses.

II.3. The provision of Services may at any time be ended by Notice of Ending Operational Activities. Upon receipt of the Notice of Ending Operational Activities by the Contractor the Airplane will end all its activities and with utmost despatch proceed to the Equipment Base, off-load the equipment and undertake the cleaning actions foreseen in Article IV.4 (f). The Notice of Redelivery shall be sent by the Contractor upon accomplishment of these activities. No more Rates will be due as from the moment of the Notice of Redelivery is sent.

III. EXECUTION OF SERVICES

III. 1. REQUESTING PARTY

III.1.1. During the execution of this IRC-A the Requesting Party shall:

- a) designate an OSC or equivalent who will be in charge of coordinating the operations for the provision of the Services;
- b) provide the Aircrew with a description of the incident including the Oil Spill location, time, type and actual quantity of Oil released. This information may be accompanied by images based on satellite images or aerial photography to improve the design of the Dispersant spraying operations and also monitor the effectiveness of Dispersant application;

- c) arrange all logistics, including all licences, taxes, charges, duties required for accommodating the Airplane inside the airport indicated as Operational Base for the provision of the Services and ensure the availability of suitable fuel and refuelling capabilities in order for the Airplane to be able to perform the Services without delay;
- d) arrange for the transport of Dispersant to the Operational Base and hand over a quantity of Dispersant to the Contractor to allow the Contractor to perform the Services and the obligations provided for in this IRC-A;
- e) *[In case the spotter plane is provided by the Requesting Party: provide a spotter airplane and associated Aircrew to track the spilled Oil, to guide the Airplane performing the spraying service and to monitor the effectiveness of the spraying operations. The spotter airplane will fly with the aim to assist the Aircrew of the Contractor's Airplane in the Dispersant application operations. A trained aerial observer will be on board the spotter airplane to monitor the effectiveness of the spraying operations and to direct the pilot of the Contractor's Airplane in conducting the operations by indicating when to commence, and to cease spraying.]*
- f) after receipt of information referred to in Article III.2.1.(k) and without prejudice to Article II.3., give notice to the Contractor that at a defined date the Services foreseen in the IRC-A will end, or propose the extension of the IRC-A's duration for other purposes within the scope of the Dispersant application activities (and therefore the Services) where the Airplane could further be effectively used;
- g) arrange the necessary facilities to allow the demobilisation of the Airplane and its Aircrew in order to resume its normal activities; and
- h) acknowledge in due time the receipt of the Notices of Readiness and Redelivery sent by the Contractor.

III.1.2. The Requesting Party shall have sole responsibility for taking the necessary steps and covering the cost to obtain any permit or licence, as well as any customs clearance, required for performance of the IRC-A under the laws and regulations in force at the place where the Services are to be executed.

III.1.3. Should the Contractor fail to perform its obligations under the IRC-A in accordance with the provisions laid down therein, the Requesting Party may – without prejudice to its right to terminate the IRC-A – reduce or recover payments in proportion to the scale of the failure.

III.2. CONTRACTOR

III.2.1 During the execution of the IRC-A the Contractor shall:

- a) have the Airplane fully equipped and ready to fly within 12 hours from the time and date when the Requesting Party sends the signed IRC-A to the Contractor;
- b) provide aerial Dispersant spraying services;
- c) provide a valid Notice of Readiness to the OSC, for the requested operation;
- d) ensure that, without prejudice to Article III.2.1.(f), the Airplane will act in accordance with the provisions of Article I and other relevant applicable provisions of this IRC-A, under the direction of the OSC, from the time and date a Notice of Readiness is given to the OSC or its nominee until the Airplane is relieved from its duties by the OSC or its nominee;
- e) designate a coordinator for aerial dispersant application, with sound knowledge of the English language (hereinafter referred to as the “**Coordinator**”). The Coordinator will guide the aerial Dispersant application operations according to the OSC's instructions;
- f) ensure that the Airplane will not act against the orders of the OSC or its nominee. Nevertheless, the Pilot-in-command of the Airplane shall at all times have the ultimate decision as to the use and safety of the Airplane and/or its Aircrew. The Pilot-in-command may not follow orders of the OSC and/or its nominee which in his opinion could endanger the Airplane and/or the Aircrew. In such case he has to

inform the OSC or its nominee on his decision, the reasons and the possible consequences;

- g) verify that a sufficient number of Aircrew is available to carry out the Services for an average of three to four Sorties per Day during the entire performance of the IRC-A;
- h) ensure that the Aircrew will efficiently operate all the machinery and Equipment on board of the Airplane and will promptly load the quantity of Dispersant by following the instructions of the OSC;
- i) *[In case the contractor includes a spotter plane in the service and the Requesting Party requests it add: support the operation by providing a spotter airplane and associated Aircrew to track the spilled Oil, to guide the Airplane performing the spraying service and to monitor the effectiveness of the spraying operations. The spotter airplane will fly with the aim to assist the Aircrew of the Contractor's Airplane in the aerial Dispersant application operations. A trained aerial observer will be on board of the spotter airplane to monitor the effectiveness of the spraying operations and to direct the pilot of the Contractor's Airplane in conducting the operations by indicating when to commence and cease spraying;]*
- j) be responsible for damages or losses sustained by the Equipment unless he/she can prove that the damages or losses are only a result of the direct instructions of the Requesting Party or its nominee or the OSC or its nominee in which case the Requesting State and/or the Requesting Party are liable for the damages or losses, normal wear & tear being for the account of the Contractor;
- k) upon request by the OSC and/or considering the Dispersant payload and the reserve fuel requirements, approach to the selected support facilities provided by the Requesting Party in order to resupply the Airplane with Dispersant, refuel, allow the shift of the Aircrew and/or provide minor maintenance² to the Airplane should it be necessary. After finalisation of these operational activities the Airplane will report its status to the OSC, request new mission orders and proceed with further spraying operations;
- l) inform the OSC or its nominee in case:
 - 1. the operational efficiency of the Airplane declines for whatever reason,
 - 2. the Services required by OSC do not correspond to the Airplane's capabilities.
- m) off-load the Equipment, clean the Airplane and the Equipment as quickly as possible and send a valid Notice of Redelivery to the OSC.

III.2.2. If the Airplane engaged under the Services provided for in this IRC-A is prevented from working by reason of deficiency of the Aircrew, strikes, breakdown of machinery, damage to the Airplane, accident to the Airplane or other reasons which prevent the Airplane from performing the Services, then the Airplane shall be deemed non-operational and the Contractor shall not be entitled to receive neither the Hourly Flight Rate nor the Daily Operational Rate as long as that situation persists, without prejudice to the possibility of the Requesting Party or its nominee to terminate the IRC-A as per Article III.1.1.(f), nor to the possibility the Requesting Party has to recover any damages or losses it might have suffered.

Without prejudice of Article II.3, if the Airplane is ordered by the OSC or its nominee to suspend performance for any reason or is prevented from performing the Services safely by reason of adverse weather conditions, risk of damage or injury or by any other causes outside the Contractor's control, the Daily Operational Rate shall continue to be payable. The Daily Operational Rate continues to be due when the Airplane is loading Dispersant, refuelling, shifting the Aircrew and proceeding to any other activities necessary to continue the Services.

III.2.3. The Contractor may, for technical reasons, at its cost and risk replace, with minimum delay, the Airplane by any other airplane which is properly licensed for the purposes of this

² Minor maintenance covers any work / intervention performed for maintaining the Airplane and/or Equipment within normal working parameters while not exceeding a maximum allocated time of one hour.

IRC-A and at a time and conditions which are acceptable to the Requesting Party. Thereafter the replacement airplane shall be subject to all the terms of this IRC-A. It is hereby agreed and acknowledged by the Contracting Parties that any supplementary costs owing to the replacement of the Airplane may not be claimed by the Contractor. The time lost for replacing the Airplane will be non-operational time.

III.2.4. If the Requesting Party has reasons to be dissatisfied with the conduct of the pilot of the Airplane or any member of the Aircrew or the on-board Coordinator during the execution of the IRC-A, the Contractor on receiving particulars of the complaint shall promptly investigate the matter and if the complaint proves to be well founded, the Contractor shall as soon as reasonably possible replace the Airplane pilot or the concerned member(s) of the Aircrew or the on-board Coordinator.

IV. PAYMENTS

IV.1. The Contractor is entitled to receive payment for the Services provided from the time and date indicated in the Notice of Readiness, conditioned to the following:

- a) this IRC-A is signed by the Requesting Party, and
- b) the Requesting Party has acknowledged receipt of the Notice of Readiness sent by the Contractor

and up to the time and date indicated in the Notice of Redelivery sent by the Contractor to the Requesting Party.

IV.2. The Contractor is entitled to receive payment of the following rates, unless otherwise stated in this IRC-A:

(a) Daily Operational Rate [the rate foreseen in Box A10 (spraying airplane) and Box B8 (spotter airplane) of the Contract Form] for the whole duration specified under Article IV.1. The Requesting Party shall pay the Daily Operational Rate per Day of Service even if the Service is performed only during daylight hours.

(b) Hourly Flight Rate [the rate foreseen in Box A11 (spraying airplane) and Box B9 (spotter airplane) of the Contract Form], in addition to the Daily Operational Rate as defined under point (a) above, for the time the Airplane is flying.

IV.3. If the Requesting Party terminates this IRC-A less than 24 hours after it acknowledges receipt of the Notice of Readiness, the Requesting Party shall pay to the Contractor the equivalent of one Daily Operational Rate plus Hourly Flight Rate for any flight hours.

IV.4. In addition to the Daily Operational Rate and Hourly Flight Rate, the Requesting Party will reimburse the Contractor for the following costs, if not paid directly by the Requesting Party:

- a. fuel consumed during the periods in which the Contractor is entitled to the Daily Operational Rate and the Hourly Flight Rate, calculated on the basis of documented operating hours, based on the flight records of the Airplane and on the average fuel consumption per operating hour, the latter based on historical records. Indication of fuel consumption per hour is stated in the airplane datasheet (Annex 4). The fuel price per tonne will be based on the market price at the place and time where refuelling is made based on the respective invoice and the Airplane log book;
- b. all airport charges during periods in which the Contractor is entitled to the Daily Operational Rate and Hourly Flight Rate;
- c. customs duties, flight permits, and clearance expenses, both for the Airplane and/or the equipment required for the purposes of this IRC-A;
- d. consular charges appertaining to the Aircrew of the Airplane;
- e. other costs directly related to the operational activities performed during periods in which the Contractor is entitled to the Daily Operational Rate and Hourly Flight Rate (e.g. Airplane refuelling service);

- f. costs linked to the cleaning of the Airplane and the Equipment at the end of the Services. It is understood that this will occur at a place where such an operation can be professionally undertaken at controllable competitive costs and in order to enable the Contractor to bring the Airplane and the Equipment back as soon as possible into its original state except normal wear and tear. It is also understood that the identity and the total costs of the cleaner(s) shall be proposed by the Contractor and subject to the written approval by the Requesting Party;
- g. *[In case the Contractor includes a spotter plane in the service and the Requesting Party requests it add: costs linked to the service provided by the spotter airplane, as under points a to f above for the Airplane, and the rates provided for in Boxes B8 and B9 of the Contract Form;]*
- h. costs for the disposal of empty Intermediate Bulk Containers (IBCs) and other wastes generated during the Dispersant application operations;
- i. accommodation and meals for Aircrew based on the respective invoices, and up to the maximum ceilings for daily allowance and hotel prices in Annex 2, unless accommodation and/or meals are provided by the Requesting State.

IV.5. The Hourly Flight Rate and the Daily Operational Rate are earned *pro-rata temporis* and may be invoiced every 7 Days. The Hourly Flight Rate and the Daily Operational Rate shall be paid within 21 Days from the issue of an invoice by the Contractor. Invoices may be faxed or telexed or otherwise electronically transmitted to the Requesting Party. Nevertheless the original invoice will be provided before actual payment is made.

IV.6. Payments shall be deemed to have been made on the date on which the Requesting Party's bank account is debited.

IV.7. Payments shall be made to the Contractor's bank account denominated in Euro, identified in Box C3 of the Contract Form. Article IX.2 shall apply in case of late payments.

IV.8. In case the Requesting State seeks to recover the costs incurred in relation to this IRC-A from the entity liable under International Conventions and/or national law for pollution damage resulting from marine Oil Spills, the Requesting State shall include EMSA's costs related to establishing the service in its claim and, if successful, reimburse EMSA. For this purpose, the Requesting State, EMSA and the Contractor shall cooperate and provide each other any documentation, explanation and information necessary in this regard.

V. ADMINISTRATIVE PROVISIONS

Any communication relating to the IRC-A shall be made in writing or by fax or as scanned copies attached to e-mails and shall be addressed according to Boxes C2 and E2 of the Contract Form. Electronic communication shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.

Without prejudice to the preceding, if the sending party receives a message of non-delivery to or of absence of the addressee, it shall make every effort to ensure the actual receipt of such communication by the other party.

VI. APPLICABLE LAW AND SETTLEMENT OF DISPUTES

VI.1. This IRC-A shall be governed by the national law of the Requesting State and any dispute in connection with and/or arising out of this IRC-A shall be referred to a court of the Requesting State as determined by the Requesting State.

VI.2. Two versions of this IRC-A have been drafted, in English and in the official language of the Requesting State. If legally possible under the law and proceedings of the place of dispute, only the English version of this IRC-A shall be deemed authentic.

Even if another law would be applicable on this IRC-A it is agreed that in the drafting and therefore interpretation of the various clauses of the IRC-A English law has been guiding.

VIII. LIABILITY AND INDEMNITIES

VIII.1. THE CONTRACTOR

Unless otherwise stated in this IRC-A or if caused by the wilful misconduct or gross negligence on the part of the Requesting State, the Contractor shall be responsible for any loss or damage to his own property or his contractors' and/or subcontractors' property (including the Airplane and the spotter airplane) or for personal injury or death of any of his employees or any employee of his contractors and subcontractors (including the Aircrew), arising out of or in any way connected with the performance of this Contract.

To the extent that the Contractor provides the spotter airplane, the Contractor shall be held liable for any claim by a third party for damages, losses arising out of error, act omission or neglect in the assistance, guidance of the spotter airplane to the Airplane in the Dispersant application operations, handling and piloting of the spotter airplane.

VIII.2. THE REQUESTING STATE OR THE REQUESTING PARTY

Unless wilful misconduct or gross negligence on the part of the Contractor, the Requesting State and/or the Requesting Party and/or the OSC shall bear the cost for any loss or damage or for personal injury or death of the employees of the Requesting State and/or of the Requesting Party and/or the OSC or OSC's nominee(s), arising out of or in any way connected with the performance of this Contract.

To the extent that the Requesting State provides the spotter airplane, the Requesting State shall be held liable for any claim by a third party for damages, losses arising out of error, act omission or neglect in the assistance, guidance of the spotter airplane to the airplane in the Dispersant application operations, handling and piloting of the spotter airplane.

VIII.3. LIMITATIONS

Except for the provisions in this IRC-A creating any right to limit the liability of the Contractor, the Requesting State and/or the Requesting Party, nothing contained in this IRC-A shall be construed or held to deprive the Contractor, the Requesting State or the Requesting Party, as against any person or third party, including as against each other, of any right to claim limitation of liability provided by any applicable law, statute or convention. Where the Contractor or the Requesting State and/or the Requesting Party may seek an indemnity under the provisions of this IRC-A against each other in respect of a claim brought by a third party, the Contractor or the Requesting State and/or the Requesting Party shall seek to limit their liability before such third party.

VIII.4. HIMALAYA CLAUSE

The limitations of liability set forth for the benefit of the Contractor shall also apply to and be for the benefit of the Contractor's parent, affiliated, related and subsidiary companies, the Contractor's sub-contractor, the owner of the Airplane, Contractors, servant or agent (including its Aircrew and Support Crew), and their respective employees and their respective underwriters. The Contractor shall be deemed to be acting as an agent or trustee of and for the benefit of all such persons and parties set forth above, but only for the limited purpose of contracting for the extension of such benefits to such persons and parties.

VIII.5. EMSA

The Requesting State and the Contractor shall jointly and severally hold harmless and indemnify EMSA against any and all claims arising from losses or damages deriving out of or in connection with this IRC-A (notably, in relation to the Dispersant, its storage and handling) together with all costs charged and expenses suffered or incurred in connection with any such claims, and against all losses or damages suffered by EMSA, provided they do not derive from gross negligence or wilful misconduct of EMSA. This provision is included to the benefit of EMSA.

IX. RECOVERY

IX.1. If total payments made to the Contractor exceed the amount actually due under the IRC-A or if recovery is justified in accordance with the terms of the IRC-A, the Contractor shall reimburse the Requesting State and/or the Requesting Party the appropriate amount in euro on receipt of the debit note, in the manner and within the time limits reasonably set by the Requesting State and/or the Requesting Party.

IX.2. In the event of late payment interest at the rate applied by the European Central Bank to its most recent main refinancing operations (the "Reference Rate") plus eight percentage points or a lower rate if mandatorily applicable in accordance with the applicable laws and regulations (the "Margin") is automatically and without necessity of prior notice due. The Reference Rate shall be the rate in force on the first Day of the month in which the payment is due. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar Day following expiry of the time limit for payment up to the Day of the payment is made.

X. CONFIDENTIALITY

X.1. The Contractor undertakes to treat in the strictest confidentiality and not make use of or disclose to third parties any information or documents which are linked to the performance of this IRC-A. The Contractor shall continue to be bound by the confidentiality obligation foreseen in this Article after the completion of the Services.

X.2. The Contractor shall cause each member of its staff, board and directors to undertake in writing that they will respect the confidentiality of any information which is linked, directly or indirectly, to the execution of the Services and that they will not disclose to third parties or use for their own benefit or of any third party any document or information not publicly available, even after the completion of the Services.

XI. FORCE MAJEURE

XI.1. Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the Contracting Parties which prevents either of them from performing any of their obligations under the IRC-A, which was not due to error or negligence or omission on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence and cannot be rectified. Any default of the Services, defects in Equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.

XI.2. If either Contracting Party is faced with force majeure, it shall notify the other Contracting Party without delay by registered letter with acknowledgment of receipt or equivalent and email, stating the nature, likely duration and foreseeable effects.

XI.3. Neither Contracting Party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, it shall have the right to remuneration only for Services actually executed or the time the Airplane was effectively available and the Requesting Party, the OSC or their nominee shall have the right to terminate the IRC-A.

XI.4. The Contracting Parties shall take the necessary measures to reduce damage to a minimum.

XII. WAR

XII.1. Unless the consent of the Contractor is obtained first, the Airplane shall not be ordered nor continue to any airport or place or on any flight nor be used on any service which will bring the Airplane within a zone which is dangerous as a result of any actual or threatened act of war,

war hostilities, warlike operations, acts of hostility or malicious damage against this or any other Airplane or its cargo by any person, body or State whatsoever, revolution, civil war, civil commotion or the operation of international law, nor be exposed in any way to any risks or penalties whatsoever consequent upon the imposition of sanctions, nor carry any goods that may in any way expose the Airplane to any risks of seizure, capture, penalties or any other interference of any kind whatsoever by the belligerent or fighting powers or parties or by any government or rulers.

XII.2. Should the Airplane approach or be brought within such zone, or be exposed in any way to the said risks, it shall do so at the Contractor's own risk. Notwithstanding, payment shall be due for all time lost including any time lost in connection to or arising out of the loss of or the injury to the pilot of the Airplane or the Aircrew or the refusal by any of them to proceed to such zone or to be exposed to such risks.

XII.3. The Airplane shall have liberty to comply with any orders or directions as to departure, arrival, routes, airports of call, stoppages, destination, delivery or in any other way whatsoever given by the government of the State of registry of the Airplane or any other government or any person (or body) acting or purporting to act with the authority of such government or by any committee or person having under the terms of the war risks insurance on the Airplane the right to give any such orders or directions.

XII.4. In the event of the Airplane's State of registry becoming involved in war (whether there be a declaration of war or not) either the Contractor or the Requesting Party may terminate this IRC-A.

In the event of any of the Parties becomes unable to perform this IRC-A, for reason of war the other Contracting Party may terminate this IRC-A.

XIII. AMENDMENTS

XIII.1. Any amendment to the terms and conditions of this IRC-A shall be made in writing.

XIV. TERMINATION

XIV.1. Without prejudice to other circumstances expressly provided for under this IRC-A, the Requesting Party shall make no payment to the Contractor and may terminate the IRC-A in the following circumstances:

- a. where execution of the Services has not actually commenced within twelve (12) hours of the time foreseen in Box C4 (Estimated Time Ready to Fly) of the Contract Form, and the new time proposed, if any, is considered unacceptable by the Requesting Party;
- b. where the Contractor is unable, by reasons attributable to the Contractor, to obtain any permit or licence required for the performance of the IRC-A;
- c. If the government of the State of registry and/or the registration of the Airplane, or any agency thereof, requisitions for hire or title or otherwise takes possession of the Airplane during the performance of this IRC-A;
- d. If any government, individual or group, different from the Requesting Party, whether or not purporting to act as a government or on behalf of any government, confiscates, requisitions, expropriates, seizes or otherwise takes possession of the Airplane during the performance of this IRC-A;
- e. If the Airplane is lost, actually or constructively, or missing. In this case, if the Requesting Party terminates the IRC-A due to this circumstance, the hire shall cease from the date the Airplane was lost or, in the event of a constructive total loss, from the date of the event giving rise to such loss. If the date of loss cannot be ascertained or the Airplane is missing, payment of hire shall cease from the date the Airplane was last reported;
- f. If, at any time during the term of this IRC-A, the Contractor fails to perform its obligations hereunder for a period exceeding three Days (consecutive);

- g. where the Contractor is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations.

XIV.2. In case of force majeure, notified in accordance with Article XI.2, either Contracting Party may terminate this IRC-A, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period set in Article II.2.

XIV.3. Termination shall be effective on the date on which a registered letter with acknowledgment of receipt terminating the IRC-A is received by the Contractor or on any other date indicated in such letter of termination.

XIV.4. Consequences of termination

In the event of the Requesting Party terminating the IRC-A in accordance with this Article XIV and without prejudice to any other measures provided for in this IRC-A, the Contractor shall waive any claim for damages, including for consequential damages and for any loss of anticipated profits for uncompleted work. On receipt of the letter terminating the IRC-A, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments.

XV. TIME FOR SUIT

All and any suits if any must be brought within 6 (six) months of the services being terminated failing which they are time-barred.

Specific references may be added later (as an annex 1) to facilitate the acceptance of this IRC-A under national public law of individual Member States.

ANNEX 1
List of specific references to National Public Law of Individual Member
States

ANNEX 2

Daily allowances and accommodation ceilings for countries in the European Union and coastal EFTA Member States

DESTINATIONS	DAILY ALLOWANCE IN €	MAXIMUM HOTEL PRICE IN €
Austria	95	130
Belgium	92	140
Bulgaria	58	169
Croatia	60	120
Cyprus	93	145
Czech Republic	75	155
Denmark	120	150
Estonia	71	110
Finland	104	140
France	95	150
Germany	93	115
Greece	82	140
Hungary	72	150
Iceland	85	160
Ireland	104	150
Italy	95	135
Latvia	66	145
Lithuania	68	115
Luxemburg	92	145
Malta	90	115
Norway	80	140
Netherland	93	170
Poland	72	145
Portugal	84	120
Romania	52	170
Slovakia	80	125
Slovenia	70	110
Spain	87	125
Sweden	97	160
United Kingdom	101	175

ANNEX 3
Contract Form

INCIDENT RESPONSE CONTRACT FORM

A. Information on the Dispersant Spraying Airplane (filled by Contractor)

A1. Airplane Type [Model number and type]	A2. Registration Number [0000]
A3. Place of Registry [Country]	A4. Airplane Owner [Full Name]
A5. Airplane Operator [Full Name]	A6. Dispersant Payload (tonnes) [00 tonnes]
A7. Airport Requirements [Runway length 00 meters] [Cargo handling capabilities] [Refuelling capabilities]	A8. Maximum Number of Occupants [Number of Aircrew + Number of Observers] A9. Estimated Fuel Price [1 tonne = 000.00 EUR]
A10. Daily Operational Rate [000.00 EUR] Per calendar day pro rata temporis	A11. Hourly Flight Rate [000.00 EUR] Per hour of flight pro rata temporis

B. Information on the Spotter Airplane (filled by Contractor only if it is part of its offer)

B1. Airplane Type [Model number and type]	B2. Registration Number [0000]
B3. Place of Registry [Country]	B4. Airplane Owner [Full Name]
B5. Airplane Operator [Full Name]	B6. Airport Requirements [Runway length 00 meters] [Refuelling capabilities] [Other requirements]
B7. Estimated Fuel Price [1 tonne = 000.00 EUR]	B9. Hourly Flight Rate [000.00 EUR] Per hour of flight pro rata temporis
B8. Daily Operational Rate [000.00 EUR] Per calendar day pro rata temporis	

C. Contractor Information

C1. General Contact Information	C2. Contact Information for Notices & Operational Purposes
Contractor's Full Name:	Full Name of Contact Person:
Full Name of Representative & Position:	Full Address:
Full Address:	Direct Telephone 24/7:

Telephone 24/7:	Fax:
Fax:	Email:
Email:	C3. Financial Information
Name & Mobile of Responsible Person:	Full Name of Bank:
C4. Operational Details	Full Address of Bank's Branch:
	Account Holder:
	Full Account Number:
Equipment Base:	
Estimated Time ready to Fly:	SWIFT/BIC Code

D. Information on Provision of Service (choose the options by ticking the appropriate box or boxes)

D1. Spraying Service

- dispersant spraying airplane;
- dispersant spraying equipment.

☐

Aerial dispersant application equipment consists of:

- Spray arms/nozzles;
- Electrical pump with adjustable flow rate (min. 00 litres/min; max. 00 litres/min);
- Dispersant storage tanks (00 tonnes capacity each).

D2. Dispersant

(i) Oil dispersant supplied by EMSA

☐

[Dispersant's commercial name and available quantities]

(ii) Oil dispersant supplied by Requesting Party

☐

D3. Spotter Airplane

(i) Spotter airplane provided by Contractor (if part of its offer)

☐

(ii) Spotter airplane provided by Requesting Party

☐

E. Requesting Party Information

E1. General Contact Information

Requesting Country:

Full Name of Government Body:

Full Address:

Telephone:

E2. Contact Responsible Person (on behalf of Requesting Party)

Full Name & Position

Full Address:

Direct Telephone:

Fax:

Email:

Fax:	
	E3. Operational Contact Information (OSC)
Email:	Full Name & Position:
E4. Operational Base	Full Address:
	Direct Telephone 24/7:
	Fax:
	Email:

F. Signatures	
F1. Signature of Contractor's Representative	F2. Signature of Contract Responsible Person
Full Name & Signature:	Full Name & Signature:
Place, Date & Time (UTC)	Place, Date & Time (UTC)

ANNEX 4
Airplane datasheet