

## Sale Contract

### EMSA's people carrier (8 persons)

CONTRACT NUMBER - 20XX/EMSA/SA/1/2023

The European Maritime Safety Agency (hereinafter referred to as "EMSA"), with its seat at Praça Europa 4, 1249-206 Lisbon, Portugal, VAT registration no.: 507 685 326, represented Andrea Iber, Head of Legal, Finance & Facilities - Unit 4.2,

on the one part,

and

[full official name]

[official legal form]

[statutory registration number]

[full official address]

[VAT registration number]

("the Buyer"), [represented for the purposes of signature of this contract by [name, forename and function]]

on the other part,

HAVE AGREED

to the special conditions, the general conditions and the following annexes:

Annex I Call for Purchase Proposals (reference No EMSA/SA/1/2023 of [insert date])

Annex II Technical Specifications

Annex III Buyer's Purchase Proposal (reference No [complete] of [insert date])

Annex IV Delivery Statement Template

which form an integral part of this contract ("the Contract").

- The terms set out in the special conditions shall take precedence over those in the other parts of the Contract.
- The terms set out in the general conditions shall take precedence over those in the other parts of the Contract.
- The terms set out in the Call for Purchase Proposals (Annex I) shall take precedence over those in the Buyer's Purchase Proposal (Annex II).

## **SPECIAL CONDITIONS**

### **ARTICLE 1 – SUBJECT MATTER**

The overall objective of this Sale Contract is to transfer the ownership of EMSA's people carrier.

### **ARTICLE 2 – ENTRY INTO FORCE AND DURATION**

The Contract shall enter into force on the date on which it is signed by the last contracting party.

### **ARTICLE 3 – CONTRACT PRICE**

The total amount to be paid by the Buyer under the Contract shall be EUR [amount in figures and in words] for the purchase of a Mercedes-Benz Vito 115 (8 persons).

### **ARTICLE 4 – PAYMENT REQUEST AND DEPOSIT**

4.1 Upon the entry into force of this Contract, EMSA shall issue to the Buyer, by e-mail with acknowledgement of receipt, a Debit note. The Debit Note shall cover the subject as in Article 1 and the request for payment on EMSA's bank account by the Buyer of the price stated in Article 3.

4.2 The Buyer shall deposit the amount stated in Article 3, as also stated in the Debit Note, on EMSA's bank account, within a period of seven (7) calendar days. The Buyer shall bear all the costs connected with the execution of the payment.

4.3 Payments shall be made to the EMSA's bank account denominated in euro, identified as follows:

Name of bank: [complete]

Address of branch in full: [complete]

Exact designation of account holder: [complete]

IBAN code: [complete]

4.4 The Payment shall be deemed to have been made on the date on which the Contract price stated in Article 3 is received on EMSA's bank account.

4.5 On expiry of the time limits laid down in Article 4.2, EMSA may demand late interest in accordance with the following provision:

Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations ("the reference rate") plus eight (8) percentage points ("the margin"). The reference rate in force on the first day of the month in which the payment is due shall apply. 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 when Buyer's bank account is debited.

4.6 In case the Buyer fails to make the payment within 30 calendar days from the day of receipt of the Debit Note, EMSA may terminate the Contract with immediate effect, making the Contract as of that moment null and void. The transfer of the amount made by the Buyer to EMSA's bank account after this termination will be considered 'without cause' and will be transferred back to the account of origin. All costs connected herewith shall be borne by the Buyer.

## **ARTICLE 5 – TRANSFER OF OWNERSHIP AND DELIVERY ASSET**

5.1 The ownership of the asset shall be transferred from EMSA to the Buyer after EMSA has confirmed by letter that the agreed price is deposited on EMSA's bank account, in accordance with Article 4. The delivery of the asset may only be done once the name in the car registration document has been officially changed from EMSA to the Buyer's name..

5.2 As proof of the payment EMSA shall issue a Letter of Confirmation to the Buyer.

5.3 The transfer of the asset entails also the transfer of all (implicit and explicit) rights and obligations connected to it.

5.4 As from the moment of transfer of ownership, the Buyer shall carry the sole responsibility over the assets stated in Article 1. The implementation and costs connected to arrangements as with regard to transportation and insurance (and any other measures deemed necessary by the Buyer) shall fall solely under the Buyer's responsibility.

## **ARTICLE 6 – GENERAL ADMINISTRATIVE PROVISIONS**

Any communication relating to the Contract shall be made in writing and shall bear the number of the Contract. Ordinary mail shall be deemed to have been received by EMSA on the date on which it is registered by the department responsible indicated below. Communications shall be sent to the following addresses:

### For EMSA:

EUROPEAN MARITIME SAFETY AGENCY  
CUNHA Joao (EMSA)  
Project Officer  
Praça Europa 4  
1249-206 Lisbon, Portugal  
E-mail: SA12023@emsa.europa.eu

### For the Buyer:

Mr./Ms. [...]  
[Function]  
[Official denomination]  
[Official address in full]

## **ARTICLE 7 – WARRANTIES AND REPRESENTATIONS**

Each party represents and warrants to the other that it has full power and authority to enter into, undertake and perform its obligations set out in this Contract.

## ARTICLE 8 - APPLICABLE LAW AND COMPETENT JURISDICTION

8.1 The Contract shall be governed by Union law, complemented, where necessary, by the national substantive law of Portugal.

8.2 Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the courts of Lisbon, Portugal.

## SIGNATURES

For the Buyer,

[*name/forename/surname/function*]

signature[s]: \_\_\_\_\_

Done at

Date:

In duplicate in English.

For EMSA,

Andrea Iber

Head of Legal, Finance & Facilities - Unit 4.2

signature: \_\_\_\_\_

Lisbon,

Date:

## **GENERAL CONDITIONS**

### **ARTICLE I.1 – PERFORMANCE OF THE CONTRACT**

**I.1.1.** The parties shall perform their tasks and responsibilities under this Contract to the highest professional standards.

**I.1.2.** The Buyer shall have sole responsibility for complying with any legal obligations incumbent.

**I.1.3.** EMSA warrants that:

- the sold asset is suitable for use by the Buyer in accordance with the objective of the sale of asset procedure.
- there are no claims, judgements, liens or other encumbrances of any kind whatsoever against or upon title to the sold asset.

### **ARTICLE I. 2 – LIABILITY**

**I.2.1.** EMSA shall not be liable for damage sustained by the Buyer in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of EMSA.

**I.2.2.** The Buyer shall be liable for any loss or damage caused by itself in performance of the Contract.

**I.2.3.** Under no circumstances will EMSA be liable to the Buyer or any other person for any direct, indirect, incidental, special or consequential damages arising out of or related to this Contract or the sold asset.

### **ARTICLE I.4 – PROCESSING OF PERSONAL DATA**

#### **I.4.1 Processing of personal data by EMSA**

**1.4.1.1** Any personal data included in or relating to the Contract, including its implementation, shall be processed in accordance with Regulation (EU) No 2018/1725. Such data shall be processed solely for the purposes of the implementation, management and monitoring of the Contract by the data controller.

**1.4.1.2** The Buyer or any other person whose personal data is processed by the data controller in relation to this contract has specific rights as a data subject under Chapter III (Articles 14-25) of Regulation (EU) No 2018/1725, in particular the right to access, rectify or erase their personal data and the right to restrict or, where applicable, the right to object to processing or the right to data portability.

**1.4.1.2** Should the Buyer or any other person whose personal data is processed in relation to this contract have any queries concerning the processing of its personal data, it shall address itself to the data controller. They may also address themselves to the Data Protection Officer of the data controller. They have the right to lodge a complaint at any time to the European Data Protection Supervisor.

#### **I.4.2 Processing of personal data by the Buyer**

**1.4.2.1** The processing of personal data by the Buyer shall meet the requirements of Regulation (EU) No

2018/1725 and be processed solely for the purposes set out by the controller.

**1.4.2.2** The Buyer shall assist the controller for the fulfilment of the controller's obligation to respond to requests for exercising rights of person whose personal data is processed in relation to this contract as laid down in Chapter III (Articles 14-25) of Regulation (EU) No 2018/1725.

**1.4.2.3** The Buyer shall inform without delay the controller about such requests.

**1.4.2.4** The Buyer may act only on documented written instructions and under the supervision of the controller, in particular with regard to the purposes of the processing, the categories of data that may be processed, the recipients of the data and the means by which the data subject may exercise its rights.

**1.4.2.5** The Buyer shall grant personnel access to the data to the extent strictly necessary for the implementation, management and monitoring of the contract. The Buyer must ensure that personnel authorised to process personal data has committed itself to confidentiality or is under appropriate statutory obligation of confidentiality in accordance with the provisions of Article 1.5.

**1.4.2.6** The Buyer shall adopt appropriate technical and organisational security measures, giving due regard to the risks inherent in the processing and to the nature, scope, context and purposes of processing, in order to ensure, in particular, as appropriate:

- a) the pseudonymisation and encryption of personal data;
- b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
- d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;
- e) measures to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.

**1.4.2.7** The Buyer shall notify relevant personal data breaches to the controller without undue delay and at the latest within 48 hours after the Buyer becomes aware of the breach. In such cases, the Buyer shall provide the controller with at least the following information:

- a) nature of the personal data breach including where possible, the categories and approximate number of data subjects concerned, and the categories and approximate number of personal data records concerned;
- b) likely consequences of the breach;
- c) measures taken or proposed to be taken to address the breach, including, where appropriate, measures to mitigate its possible adverse effects.

**1.4.2.8** The Buyer shall immediately inform the data controller if, in its opinion, an instruction infringes Regulation (EU) 2018/1725, Regulation (EU) 2016/679, or other Union or Member State data protection provisions as referred to in the specifications.

**1.4.2.9** The Buyer shall assist the controller for the fulfilment of its obligations pursuant to Article 33 to 41 under Regulation (EU) 2018/1725 to:

- a) ensure compliance with its data protection obligations regarding the security of the processing, and the confidentiality of electronic communications and directories of users;
- b) notify a personal data breach to the European Data Protection Supervisor;
- c) communicate a personal data breach without undue delay to the data subject, where applicable;
- d) carry out data protection impact assessments and prior consultations as necessary.

**1.4.2.10** The Buyer shall maintain a record of all data processing operations carried on behalf of the controller, transfers of personal data, security breaches, responses to requests for exercising rights of people whose personal data is processed and requests for access to personal data by third parties.

**1.4.2.11** EMSA is subject to Protocol 7 of the Treaty on the Functioning of the European Union on the privileges and immunities of the European Union, particularly as regards the inviolability of archives (including the physical location of data and services as set out in Article I.9.2) and data security, which includes personal data held on behalf of the EMSA in the premises of the Buyer or partner.

**1.4.2.12** The Buyer shall notify the EMSA without delay of any legally binding request for disclosure of the personal data processed on behalf of the EMSA made by any national public authority, including an authority from a third country. The Buyer may not give such access without the prior written authorisation of the EMSA.

**1.4.2.13** The duration of processing of personal data by the Buyer will not exceed the period referred to in Article 4. Upon expiry of this period, the Buyer shall, at the choice of the controller, return, without any undue delay in a commonly agreed format, all personal data processed on behalf of the controller and the copies thereof or shall effectively delete all personal data unless Union or national law requires a longer storage of personal data.

**1.4.2.14** If part or all of the processing of personal data is assigned to a third party, the Buyer shall pass on the obligations referred to in this Article in writing to those parties. At the request of the EMSA, the Buyer shall provide a document providing evidence of this commitment.

## **ARTICLE I.5 – CONFIDENTIALITY**

**I.5.1.** EMSA and the Buyer shall preserve the confidentiality of any information and documents, in any form, which are disclosed in writing or orally in relation to the implementation of the Contract and which are explicitly indicated in writing as confidential.

**I.5.2.** The Buyer shall not use confidential information and documents for any reason other than fulfilling its obligations under the Contract, unless otherwise agreed with EMSA in writing.

**I.5.3.** EMSA and the Buyer shall be bound by the obligations referred to the Special Conditions during the implementation of the Contract and for a period of four years starting from the entry into force of this Contract, unless:

- a) the concerned party agrees to release the other party from the confidentiality obligations earlier;
- b) the confidential information becomes public through other means than in breach of the confidentiality obligation;
- c) the disclosure of the confidential information is required by law, regulation or court order.



## **Article I.6 – FORCE MAJEURE**

- I.6.1.** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the agreeing parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a person or entity working on their behalf, and could not have been avoided by the exercise of due diligence.
- I.6.2.** A party faced with force majeure shall formally notify the other party without delay, stating the nature, likely duration and foreseeable effects.
- I.6.3.** The parties shall take the necessary measures to limit any damage due to force majeure. They shall do their best to resume the implementation of the action as soon as possible.
- I.6.4.** Neither party shall be held in breach of its obligations if it has been prevented from performing them by force majeure.

## **ARTICLE I.7 – TERMINATION OF THE CONTRACT**

### **I.7.1. Termination of the Contract by the Buyer**

The Buyer may, only in the event of *force majeure*, terminate the Contract by formally notifying EMSA thereof, stating clearly the reasons and specifying the date on which the termination shall take effect. The notification shall be sent before the termination is due to take effect.

### **I.7.2. Termination of the Contract by EMSA**

#### **I.7.2.1.** EMSA may decide to terminate the Contract in the following circumstances:

- a) if the Buyer does not implement the action as specified in this Contract and in Annex I or fails to comply with another substantial obligation incumbent on it under the terms of the Contract;
- b) in the event of force majeure, notified in accordance with Article I.6 above, where the implementation is impossible or where the necessary modifications to the Contract would result in unequal treatment of other Potential Buyers;
- c) if EMSA has evidence that the Buyer or any related person, as defined in the second subparagraph below, have committed fraud, corruption, or are involved in a criminal organisation, money laundering or any other illegal activity detrimental to the European Union's financial interests;
- d) if EMSA has evidence that the Buyer or any related person, as defined in the second subparagraph below, have committed substantial errors, irregularities or fraud in the award procedure or in the implementation of the Contract, including in the event of submission of false information or failure to submit required information in order to obtain the sale provided for in the Contract; or
- e) For the purposes of the above points (c) and (d) "any related person" shall mean any natural person who has the power to represent the Buyer or to take decisions on its behalf.

**I.7.2.2.** Before terminating the Contract, EMSA shall formally notify the Buyer of its intention to terminate, specifying the reasons thereof and inviting the Buyer, within 45 calendar days from receipt of the notification, to submit observations and, in the case of point (b) of Article I.7.2.1, to inform EMSA about the measures taken

to ensure that it continues to fulfil its obligations under the Contract.

If, after examination of the observations submitted by the Buyer, EMSA decides to stop the termination procedure, it shall formally notify the Buyer thereof.

If no observations have been submitted or if, despite the observations submitted by the Buyer, EMSA decides to pursue the termination procedure, it may terminate the Contract by formally notifying the Buyer thereof, specifying the reasons for the termination.

In the cases referred to in Article I.7.2.1, the formal notification shall specify the date on which the termination takes effect.

#### **ARTICLE I.8 – CHECKS AND AUDITS**

The Buyer shall make available to the competent bodies of the European Union, upon request, all relevant financial information where it implements the Contract or where its affiliated entities or a sub-Buyer/s take part in the Contract.

#### **ARTICLE I.9 – INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS**

**I.9.1.** Industrial and intellectual property rights connected to the asset or related material shall not be transferred to the Buyer excluding right of ownership to the asset.

**I.9.2.** Where industrial and intellectual property rights, including rights of third parties, exist prior to the conclusion of the Contract, EMSA shall establish a list which shall specify all rights of ownership and use of the pre-existing industrial and intellectual property rights and disclose it to the Buyer at the latest before the handover of the asset.

**I.9.3.** If any claims derived from the use or maintenance of the asset and related material that are presented against the Buyer or EMSA concerning intellectual property rights relating to the delivered asset or related material, the Buyer shall be obliged to meet these claims at its own expense.

#### **ARTICLE I.10 – AMENDMENTS**

**I.10.1.** Any amendment to the Contract shall be made in writing.

**I.10.2.** An amendment may not have the purpose or the effect of making changes to the Contract which would call into question the decision awarding the Sale of Asset or be contrary to the equal treatment of other Potential Buyers.

**I.10.3.** Any request for amendment shall be duly justified and shall be sent to the other party in due time before it is due to take effect, and in any case one month before the end of the period set out in Article 4, except in cases duly substantiated by the party requesting the amendment and accepted by the other party.