

MODEL LRIT SERVICES AGREEMENT

BETWEEN

THE INTERNATIONAL MOBILE SATELLITE ORGANIZATION

AND

(THE OPERATOR)

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**MODEL LRIT SERVICES AGREEMENT
BETWEEN
THE INTERNATIONAL MOBILE SATELLITE ORGANIZATION
AND
(THE OPERATOR)**

LRIT SERVICES AGREEMENT made on _____ day of _____ 20__ between:

(1) **THE INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO)** ("the Organization"), an intergovernmental organization established under the Convention on the International Mobile Satellite Organization, 1976, as amended, with its headquarters at 4 Albert Embankment, London, SE1 7SR;

AND

(2) [.....], ("the Operator"), [a Company] [an Administration] [incorporated under the law of], with its registered office at [.....].

(3) The Organization or the Operator being individually referred to as "Party" and collectively referred to as "Parties".

WHEREAS:

(A) The International Maritime Organization (IMO), by adopting Regulation V/19-1 of the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended, has established the international system for the Long-Range Identification and Tracking of Ships (LRIT);

(B) The Maritime Safety Committee (MSC) of IMO, at its eighty-fifth session adopted Resolution MSC.275(85), *Appointment of the LRIT Coordinator* and has appointed IMSO as the LRIT Coordinator;

(C) The IMSO Assembly, at its twentieth session, adopted amendments to the IMSO Convention entrusting the Organization with the LRIT Coordinator functions and decided that the amendments should be applied provisionally from 6 October 2008, pending their formal entry into force in accordance with Article 18 of the IMSO Convention; and

(D) The Operator, either directly or through its contractors, has been appointed by the Flag State Administration[s] of [name of Flag State(s)] to operate [their] [national / regional / cooperative] LRIT Data Centre.

THIS AGREEMENT sets out the obligations of the Parties in relation to the Review and Audit of the LRIT Data Centre.

IT IS THEREFORE AGREED AS FOLLOWS:

1 INTERPRETATION

1.1 Definitions

In this Agreement the following terms shall have the following meanings:

Assembly means the Assembly of Parties referred to in the IMSO Convention;

Force majeure event means any unforeseeable and irresistible act of nature or other circumstances which arise from causes beyond the control and without the fault or negligence of the Parties.

IMO means the International Maritime Organization, established under the International Maritime Organization Convention, 1948 as amended;

IMSO Audit Procedures means the general arrangements set out by the Assembly to facilitate the annual review and audit of the performance of LRIT Data Centres by the Organization;

LRIT Audit Fee means the charges levied by the Organization for the review and audit of the performance of LRIT Data Centres, which it shall establish, publish and circulate annually;

LRIT Data Centre means the LRIT Data Centre operated by the Operator under this Agreement;

Review and Audit means the annual review and audit of the performance of LRIT Data Centres by the Organization;

SOLAS Convention means the International Convention for the Safety of Life at Sea, 1974, as amended.

1.2 Headings

Headings are inserted for convenience only and shall not affect the interpretation of this Agreement.

1.3 References

Any references to IMO or IMSO instruments in this Agreement are understood to refer to those instruments as may be amended or replaced from time to time according to relevant decisions of IMO or IMSO.

2 LRIT SERVICE

2.1 The Operator shall perform LRIT service obligations as specified and in accordance with, but not limited to the following instruments as may be amended from time to time:

.1 Regulation V/19-1 of the SOLAS Convention;

- .2 Resolution MSC.263(84) on the Revised Performance Standards and Functional Requirements for the LRIT;
 - .3 MSC.1/Circ.1259 and MSC.1/Circ.1294 on LRIT technical documentation;
 - .4 MSC.1/Circ.1412 on Principles and guidelines relating to the review and audit of the performance of LRIT Data Centres and the International LRIT Data Exchange;
 - .5 IMSO LRIT Audit Procedures; and
 - .6 this Agreement.
- 2.2 The Organization shall conduct Review and Audit as specified and in accordance with, but not limited to, the following instruments:
- .1 MSC.1/Circ.1412 on Principles and guidelines relating to the review and audit of the performance of LRIT Data Centres and the International LRIT Data Exchange;
 - .2 IMSO LRIT Audit Procedures; and
 - .3 This Agreement
- 2.3 The Organization shall conduct the Review and Audit annually.
- 2.4 The Organization shall perform its LRIT Coordinator functions and duties in a fair and consistent manner.

3 LRIT AUDIT FEE

- 3.1 The Operator, either directly or through its contractors, shall pay to the Organization in pound sterling, the applicable LRIT Audit Fee in accordance with the Organization's applicable Terms.
- 3.2 In the event this Agreement is terminated pursuant to Clause 15:
- (a) the Organization shall refund any LRIT Audit Fee already paid, provided that the Review and Audit was not carried out and the Data Centre is not liable to undergo Review and Audit for the period it had operated in the LRIT system; and
 - (b) the Operator shall continue to pay the Organization any outstanding LRIT Audit Fee in relation to the Review and Audit already provided.

4 INFORMATION AND COOPERATION

- 4.1 The Operator shall cooperate with the Organization and shall submit the information required by the Organization to conduct the Review and Audit.
- 4.2 The Organization shall establish the details for the preparation and submission of the information referred in Clause 4.1 above including its format, content, size and timing.

4.2 Following the Review and Audit, the Organization shall provide IMO and the Operator with the report of its findings.

4.3 The Parties hereby undertake to ensure that its officers, employees, agents and professional and other advisers keep confidential information, which they have acquired pursuant to this Agreement, and shall not disclose to any third party any such information unless required under this Agreement.

5 CONSULTATION

The Parties shall consult and cooperate at the request of either of them at any time, with respect to the implementation of this Agreement.

6 COMPLIANCE

6.1 If the Organization determines that the Operator is or is likely to be in default in complying with the provisions of this Agreement, and is unable to resolve the matter to its satisfaction through the consultation referred to in Clause 5 or through the informal means referred to in Clause 7.1, the Organization shall include details of the non-compliance in the audit report and notify IMO and the Flag State Administration(s) concerned, accordingly.

6.2 Any decision by IMO in relation to such audit report shall be final and binding on the Parties, as appropriate. The Parties shall implement the decision of IMO without delay.

7 SETTLEMENT OF DISPUTES

7.1 The Parties shall use all reasonable endeavours to resolve any dispute, arising out of or in relation to the provisions of this Agreement amicably, other than those arising from the regulations, recommendations or decisions of IMO.

7.2 The Parties may jointly or individually submit to arbitration any dispute arising out of or in relation to the provisions of this Agreement, other than those arising from the regulations, recommendations or decisions of IMO.

7.3 Unless otherwise agreed in writing between the Parties, any such dispute shall be finally settled by arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) then prevailing. The place of arbitration shall be London, and the language used in the arbitral proceedings shall be English.

7.4 The decision of the Arbitrator shall be binding upon the Parties.

7.5 The Parties shall immediately implement any decision of the Arbitrator in relation to the provisions of this Agreement.

7.6 Any failure by the Operator to immediately implement the decisions of the Arbitrator shall constitute a breach of this Agreement and shall result in immediate termination of this Agreement.

- 7.7 If the Organization fails to implement the decisions of the Arbitrator, the Operator may request the Flag State Administration to refer the matter to IMO for resolution in accordance with its rules and procedures.
- 7.8 The Operator shall bear all costs associated with the arbitration proceedings including the Organization's legal fees to the extent such fees are determined by the Arbitrator to be reasonable in amount.
- 7.9 The Organization shall inform the Secretary-General of IMO if any matter related to the provision of LRIT services is sent to arbitration and of any subsequent decision by the Arbitrator.
- 7.10 This Agreement shall be interpreted and applied in accordance with the generally recognized principles of contract law, taking into account the special meaning of the terms used in this Agreement and the special status enjoyed by the Organization.

8 ASSIGNMENT

The Operator may not assign any of its rights or obligations under this Agreement in whole or in part without the prior approval in writing of the Organization.

9 WAIVER

No waiver by the Organization, or the Operator or failure to perform any provision of this Agreement shall operate or be construed as a waiver with respect to any other or further failure whether of a like or different character.

10 SEVERANCE

If any provision of this Agreement is finally determined to be, or becomes, invalid, illegal or unenforceable, then such provision shall, so far as invalid or unenforceable, be given no effect and shall be deemed not to be included in this Agreement, but shall not affect or invalidate the remaining provisions of this Agreement.

11 FORCE MAJEURE

No delay or failure by the Organization or the Operator in performing any of their obligations referred to in this Agreement shall constitute a breach of this Agreement nor give rise to any claim or action against either of them to the extent that such delay or failure is caused by an event of *force majeure*. If either the Organization or the Operator is unable to carry out any of such obligations by reason of an event of *force majeure*, it shall promptly advise the other thereof in writing and shall use its best endeavours to resume the performance of its obligations so affected.

12 WARRANTIES AND REPRESENTATIONS

- 12.1 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 Agreement.

- 12.2 The Organization undertakes that it will be consistent and non-discriminatory in the Terms and Conditions it agrees from time to time with other Operators in relation to general provisions, common principles and appropriate obligations.

13 NOTICES

- 13.1 Any notice or other communication required to be given under this Agreement shall be in writing and shall be sent to the Party concerned by post or email transmission as follows:

For the International Mobile Satellite Organization:

To: The Director General
International Mobile Satellite Organization
4 Albert Embankment
London SE1 7SR
United Kingdom
Email address: Director-General@imso.org

For the Operator: *[insert name, address and email address]*

- 13.2 Either Party to this Agreement may change the address or the name of the person for whose attention notices are to be addressed by serving a notice on the other in accordance with this clause.
- 13.3 Notices served in accordance with Clause 13.1 shall be deemed to have been served ten (10) working days after the letter was posted or immediately following an email being transmitted to the addressee, provided proof of receipt is obtained.

14 AMENDMENTS

This Agreement may be amended only by an instrument in writing signed by duly authorized representatives of the Organization and the Operator.

15 TERMINATION

This Agreement may be terminated:

- .1 at any time by written agreement between the Organization and the Operator;
- .2 at any time by written notice given by one Party to another;
- .3 as a result of disconnection of the LRIT Data Centre from the LRIT system or removal of the Operator's appointment to operate the LRIT Data Centre;
or
- .4 under Clause 7.6.

16 SURVIVAL

- 16.1 The rights and obligations contained in Clauses 3.2 and 3.3 shall survive any termination or expiration of this Agreement.
- 16.2 The rights and obligations contained in Clause 4.3 shall survive any termination or expiration of this Agreement for two years.
- 16.3 The dispute resolution provisions in Clause 7 shall also survive any termination to the extent they may be applied to Clauses 16.1 and 16.2.

17 ENTIRE AGREEMENT

The entire agreement and understanding between the Parties with respect to the subject matter hereof, is set out in this Agreement.

This Agreement has been executed the day and year first before written.

Signed on behalf of:

Signed on behalf of:

**INTERNATIONAL MOBILE
SATELLITE ORGANIZATION**

(OPERATOR)

Director General

Duly authorized person
