

Lisbon,

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CONDITIONS OF USE

FOR USING THE EU LONG RANGE IDENTIFICATION AND TRACKING DATA CENTRE (EU LRIT DC)

The European Maritime Safety Agency (EMSA), represented by Willem de Ruiters, Executive Director, herein after referred to as "EMSA", of the one part,

and

[official name in full]

[*official legal form*]

[official address in full]

[*name of EU Member State*], which is represented by [*name of Administration and responsible person's name in full and function*],

of the other part.

WHEREAS the International Maritime Organization (IMO) adopted on 19 May 2006 Resolutions of the Marine Safety Committee MSC 202 (81), which introduces amendments to SOLAS Regulation V/19-1 and provides for the establishment of the Long-Range Identification and Tracking system (LRIT) (Regulation V/19-1 of the International Convention for the Safety of Life at Sea, 1974, as amended).

HAVING REGARD TO the European Council Resolution of 2 October 2007 to establish a European LRIT Data Centre (EU LRIT DC). The objective of the EU LRIT DC is the identification and tracking of EU flagged ships. The data generated will be integrated in the wider International LRIT system. All Member States can share a LRIT information repository, a common interface to the International Data Exchange (IDE) for requesting LRIT information on ships flying non-EU flags.

ACKNOWLEDGING paragraph 1 of the said Council Resolution: the European Commission is in charge of managing the EU LRIT DC, in cooperation with Member States, through the European Maritime Safety Agency (EMSA). The Agency is in charge of the technical development, operation and maintenance of the EU LRIT DC.

UNDERLINING that the EU LRIT DC Users have the right to receive LRIT information pursuant to the provisions of SOLAS regulation V/19-1 specifically, based on:

- a) Flag State entitlements;
- b) Port State entitlements;
- c) Coastal State entitlements;
- d) SAR user entitlements.

REITERATING the objective of the EU LRIT DC which should include maritime security, Search and Rescue (SAR), maritime safety and the protection of the marine environment.

CONFIRMING that the EU LRIT DC is set-up in accordance with all relevant IMO LRIT performance standards and requirements. The EU LRIT system is technically compliant with the IMO Maritime Safety Committee Resolution MSC 263(84) adopted in May 2008 - Revised performance Standards and functional requirements for the Long-Range Identification and Tracking of ships (revoking MSC 210(81) and MSC 254(83)). It also complies with MSC.1/Circular 1257 on the Guidance on the survey and certification of compliance of ships with the requirement to transmit LRIT information and any other relevant IMO requirements.

Article 1. Definitions

Unless expressly provided otherwise:

1. *LRIT* means Long Range Identification and Tracking of ships.
2. *LRIT NCA* means the National Competent Authority (NCA) appointed by the EU MS which is entitled to receive LRIT information and is responsible to create, coordinate and channel the requests of all potential national LRIT DC Users of the data centre and their access rights through the web interface of the EU LRIT system.
3. *LRIT DC User* means any user of the EU LRIT system which is entitled to receive LRIT information through the EU LRIT Data Centre.
4. *EU LRIT DC* means the EU LRIT Data Centre which is set-up for processing LRIT information from vessels flying the flag of EU MS and their Overseas Territories as listed in Annex II to the Treaty.
5. *EU LRIT Ship DB* means the EU LRIT Ship Database which is a system used for storing, maintaining and distributing the list of ships instructed by the LRIT National Competent Authority (NCA) to transmit LRIT information to the EU LRIT Data Centre.
6. *EU MS* means the European Union Member States as well as the EFTA countries Norway and Iceland.
7. *EMSA* means the European Maritime Safety Agency established under Regulation 1406/2002/EC who is operating the EU LRIT Data Centre on behalf of the participating Flag States.
8. *Contracting Government* means a government that is a Contracting Party to SOLAS.
9. *DDP* means the LRIT Data Distribution Plan which is managed by the International Maritime Organization.
10. *EU LRIT System* means the system comprising of the EU LRIT DC, EU LRIT Ship DB, ASP application, and the EU LRIT Invoicing & Billing component.
11. *SAR* means Search and Rescue
12. *SSN* means SafeSeaNet which is a Community ship traffic monitoring and information system based on Directive 2002/59/EC as amended.
13. *STIRES* means the SafeSeaNet Tracking Information Relay and Exchange System (STIRES) and is a module of SafeSeaNet.
14. *ASP* means Application Service Provider
15. *EU ASP* means the recognized ASP which is contracted by EMSA to provide services to the EU LRIT Data Centre.
16. *CSP* means Communications Service Provider
17. *IDE* means International Data Exchange.

Terms not otherwise defined should have the same meaning as the meaning attributed to them in SOLAS.

Article 2. Purpose and Objectives

2.1 For the purposes of these Conditions of Use, the signing party mentioned above nominates the following LRIT National Competent Authority (LRIT NCA) contact point which is the government body responsible to create, coordinate, and channel the requests of all potential LRIT DC Users in his/her country of the data centre and their access rights through the web interface of the EU LRIT System.

LRIT NCA Contact Point	
Name of contact or Entity /Administration	
Job Title	
Contact Details including tel/email:	

2.2 The purpose of these Conditions of Use is to define the roles and responsibilities of the LRIT NCA and EMSA.

Article 3. Intellectual property rights

3.1 LRIT Information for all ships to which SOLAS regulation V/19-1.2 applies obtained during the set-up, implementation and operation of the EU LRIT DC, is owned solely by the State of the flag under which the ship is flying.

Article 4. Data use and distribution

4.1 The LRIT NCA grants EMSA the right to receive, store, retrieve and exchange LRIT information as needed for the purposes of the EU LRIT System. These rights are non-transferable (EMSA can not transfer these rights to anybody else) and non-exclusive (the NCA can grant similar rights to another body). The LRIT NCA also grants EMSA the right to charge for the data when providing data to other LRIT Data Centres in accordance with the DDP (Data Distribution Plan). The LRIT NCA also grants EMSA the right to enquire, request and obtain the relevant ship information and if available, owner/operator information needed for the operation of the EU LRIT System.

4.2 The EU LRIT system allows for the possibility of internal routing of LRIT information transmitted by ships flying the flag of the EU MS (in accordance with IMO Resolution MSC 263 ((84)) and especially to distribute the data via the STIRES module of SSN.

4.3 EMSA shall not be liable for any damage caused should the LRIT NCA decide to share, redistribute or recirculate LRIT data with a third party either within or outside its country.

Article 5. Role and rights of EMSA

General

5.1 EMSA is responsible for the setting-up, implementation, testing, commissioning, operating and maintenance of the EU LRIT Data Centre (EU LRIT DC) in accordance with IMO requirements (complying with the provisions of MSC 263 (84), MSC 202 (81), and MSC 211 (81) and any other relevant IMO requirements). For these purposes EMSA acts as the EU LRIT DC Administrator towards the International Maritime Organization (IMO), the International Mobile Satellite Organisation (IMSO), the International Data Exchange (IDE), the Communication Service Provider (CSP)/Application Service Provider (ASP) and other LRIT Data Centres without prejudice to the competences of the Member State as a Contracting Government to IMO.

5.2 EMSA ensures the daily operation and maintenance of the system in accordance with the IMO availability and performance criteria, including the annual review and auditing by IMSO. EMSA is the administrator of the system.

5.3 EMSA has the right to manage all components of the EU LRIT system. The aim of the management control process is to keep track of the activities performed in the system and to control the quality of service and the quality of data (all data related to the ship/equipment/network/systems identification are correct) delivered to the LRIT DC Users. Any problems with ships flying the flag of the EU MS will be communicated to the responsible LRIT NCA.

5.4 EMSA ensures that the EU LRIT DC is able to operate as a fault tolerant system, which means that the system is able to recover from errors and restore to normal operation.

5.5 EMSA will ensure prompt notification of the LRIT NCA any time there is a technical problem leading to the non-availability of the system and will ensure a prompt and accurate handling of such situations.

5.6 EMSA ensures that the hosting of the EU LRIT DC respects the availability requirements and follows the IMO guidance on system security.

5.7 EMSA distributes LRIT information for [name of signing Member State] based on its submitted DDP as Contracting Government to IMO.

5.8 EMSA provides journals to the LRIT NCA reflecting all LRIT information related to reports of ships flying the flag of its EU MS and all requests of its LRIT DC Users. EMSA will also provide a journal for all of the internally routed LRIT information which will only contain message header information which will be used for audit and invoicing purposes (reference Article 7.3 of MSC 263 (84)).

EU LRIT Ship Database

5.9 EMSA is responsible for the development, operation, hosting and administration of the EU LRIT Ship Database (EU LRIT Ship DB) which is an element of the EU LRIT System. The EU LRIT Ship Database is a system used for storing, maintaining and distributing the list of ships instructed to transmit LRIT information to the EU LRIT DC. The EU LRIT system will only process LRIT reports of ships if they are listed in the EU LRIT Ship DB.

5.10 The EU ship DB contains the following mandatory information for each individual ship:

- IMO number
- MMSI Number
- Ship Name
- Call Sign
- If the equipment has been Type approved or not (Yes/No) and if it has then the Type approval reference number, or
- If it has undergone a Conformance Test, then the Test Report date and the ASP that performed the Conformance test

The following additional data if available would also be very helpful to ensure that the ASP is able to find any missing information which may be needed during vessel integration or equipment failures/errors:

- Shipborne system (radio installation)(i.e. Inmarsat C, Iridium, etc.)
- Shipborne Identifier (i.e. IMN number IMN & serial number for Inmarsat C, subscriber number, terminal ID for Iridium etc.)

- Emergency Contact point/name
- Telephone number
- Fax number
- Comments/text field for further information/

5.11 EMSA ensures that any changes and updates received for the list of ships will be included automatically into the EU LRIT System operations on a daily basis. The information in the EU LRIT Ship DB will be downloaded by the EU LRIT Application Service Provider (ASP) as necessary to provide LRIT reports.

5.12 EMSA provides a web interface access to the EU LRIT Ship DB and a user manual.

EU LRIT Data Centre

5.13 EMSA provides, through the Maritime Support Services, a 24/7 help desk, to process troubleshoots or respond to service calls from LRIT DC Users with regards to the system performance and quality of data.

5.14 EMSA is responsible to perform an evaluation of service performance, data quality, etc. in order to continuously improve the EU LRIT DC service.

5.15 EMSA recognises all nationally type approved shipborne equipment and certificates of compliance.

5.16 EMSA provides the LRIT DC Users with a web interface access to the EU LRIT DC and a relevant user manual. Depending on the development of STIRES, EMSA envisages to also develop an XML interface to the EU LRIT DC by 2010.

5.17 EMSA ensures that the EU LRIT DC provides journals reflecting all LRIT DC User activities for future reference and auditing purposes.

5.18 The EU LRIT DC is subject to audits by IMSO and also by European recognised auditing bodies such as the European Court of Auditors and the Internal Audit service of the European Commission.

Article 6. Role and rights of the LRIT NCA

General

6.1 The LRIT NCA has access to the LRIT information as defined in SOLAS regulation V/19-1.8.1. The LRIT NCA is responsible for managing its own national “*LRIT DC Users*” of the EU LRIT Data Centre and their access rights through the web interface of the system. These LRIT DC Users can represent a Flag State, Port State, Coastal State, or Search and Rescue (SAR) service and are authorised by the LRIT NCA to request/receive/read LRIT information.

6.2 The LRIT DC Users have the possibility to receive and request LRIT information, manage standing orders, request SAR SURPICS and consult ship positions, subject to access rights granted by the LRIT NCA.

EU LRIT Ship Database

6.3 Each LRIT NCA nominates the following ship data manager (or Entity or Administration) for the Ship database in order to coordinate with EMSA with regard to the development and operation of the EU LRIT Ship DB and to upload and update its list of ships, subject to SOLAS regulation V/19-1 amended for LRIT requirements, and its relevant information according to Article 5.10 of this document.

Ship Data Manager	
Name of contact or Entity/Administration	
Contact Details including tel/email:	

Should there be a change in this contact point, this should be communicated to EMSA in writing as soon as possible.

6.4 Each LRIT NCA is responsible via its ship data manager for the updating of its list of ships subject to LRIT requirements (i.e. whenever a change occurs) including changes of flag as soon as possible to ensure accuracy of the EU LRIT Ship Database.

6.5 The LRIT NCA shall ensure that the ship data manager only lists vessels in the EU LRIT Ship DB which are subject to regulation V/19-1 SOLAS as amended, and those ships with shipborne equipment that either have been type approved or have undergone conformance tests (reference MSC.1/Circ. 1257). The date of the conformance test for the shipborne equipment as well as the ASP that conducted the conformance test will be part of the Ship DB.

6.6 Each LRIT NCA only has access to the information in the EU LRIT Ship DB regarding ships flying its flag.

EU LRIT Data Centre

6.7 The EU MS, through its LRIT NCA, should recognise the EU LRIT Data Centre Application Service Provider as the Recognised EU ASP. The LRIT NCA should make this approval applicable on a national level to all ships flying its flag in order to allow the EU ASP access to relevant information related to the ship and the shipborne LRIT equipment.

6.8 EMSA shall provide prices for the conformance testing of shipborne equipment from the Recognised EU ASP such that these uniform/standard prices may be circulated to shipowners. Each EU MS has the right to choose its own ASP's to conduct conformance tests on a national level.

6.9 Each EU MS, gives permission to EMSA to request Inmarsat to give the Recognised EU ASP access to the Inmarsat Ship Databases and Directory.

6.10 The LRIT NCA and its LRIT DC Users have access to:

- a communication user interface to enable them to communicate with the system. A default browser-based web interface is set-up enabling the LRIT DC Users to exchange messages with the EU LRIT Data Centre.
- training which is provided on the use of the EU LRIT DC web user interface and the tools to access it.
- a 24/7 help desk to process troubleshoots or respond to service calls from LRIT DC Users with regards to the system performance and quality of data.

6.11 Depending on the development of STIRES, EMSA envisages to develop an XML interface to the EU LRIT DC by 2010. The LRIT NCA will need to develop a national XML interface to be able to access the system.

6.12 The LRIT NCA appoints an operational contact point for LRIT (24/7 if available) to be the permanent point of contact with the EMSA 24/7 help desk in case of an operational emergency (system performance, ship reporting, etc).

Operational Contact Point	
Name of contact or Entity/Administration	
Job title	
Contact Details	Address
Tel/email during working hours:	

Tel outside working hours.	

Article 7. Liability

7.1 EMSA shall not be liable for any damage, direct or indirect, caused by a temporary or partial failure or malfunction of the system, or a termination of service caused by factors outside the control of EMSA.

7.2 EMSA and the LRIT NCA shall cooperate to minimise potential negative consequences of such failure, malfunction or termination. EMSA and the LRIT NCA shall cooperate with a view to defending each of both against potential claims brought by third parties in relation to the operation of the system.

Article 8. Security of data / system

8.1 EMSA considers that LRIT information fall under the scope of Regulation (EC) No 45/2001¹ covering protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Data will only be accessible by the LRIT Co-ordinator who is empowered by IMO for the sole purpose of auditing the LRIT system.

8.2 Documentation related to the EU LRIT Data Centre will be dealt with in accordance with Regulation (EC) No 1049/2001² regarding public access to documents.

8.3 EMSA ensures that the EU LRIT system is accessible in a secure way by LRIT DC Users and that the EU LRIT System security requirements are compliant with all IMO requirements.

¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

² Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

Article 9. Financial Provisions

General

9.1 EMSA covers all costs associated to the 4 daily mandatory LRIT reports (every 6 hours) delivered to the LRIT DC User. Up to four daily LRIT reports (every 6 hours) per EU flagged ship are covered by the EMSA budget.

9.2 EMSA further provides the LRIT NCA or its national LRIT DC Users with LRIT information/data free of charge for SAR purposes (reference IMO MSC.1/Circ. 1258).

9.3 The LRIT NCA is responsible for the payment of LRIT messages requested by any of its LRIT DC Users, in accordance with the provisions indicated in this article and for messages transmitted by ships under its flag beyond the four daily LRIT mandatory reports. This includes all costs which may be generated by over-reporting of the shipborne equipment.

9.4 The national financial contact point for LRIT is:

Financial Contact Point	
Name & Job Title	
Contact Details including tel/email:	
Invoices to be made out to:	
Invoice reference to be used:	

Invoicing and Billing System

9.5 In order to request and receive LRIT reports as per article 9.3, the LRIT NCA accepts and agrees to the EU LRIT DC payment scheme which EMSA has established for the EU LRIT DC which is in accordance with Article 59 of the Framework Financial Regulation for the bodies referred to in Art. 185 of Council Regulation No 1605/2002³. This system provides that a fixed amount equalling 3,000 euros for Coastal States or 1,000 euros for land-locked States is paid. Paying this subscription/membership fee allows the LRIT NCA access to the EU LRIT Data Centre.

9.6 The LRIT NCA will be invoiced for this subscription/membership fee and the LRIT NCA will pay all outstanding balances within a maximum period of 45 days.

9.6 The financial contact point will receive monthly invoices if the outstanding amount is more than 100 euros and otherwise will receive invoices biannually.

9.7 The LRIT NCA agrees to be charged for messages according to the applicable EU LRIT DC price list (in Special Drawing Rights –SDR and Euros) which is based on the type of user/requestor, type of message and satellite network in use. Furthermore, the LRIT NCA agrees to pay the messages requested through other Data Centres according to their price lists (in SDR and their local currencies) which will have previously been available on the LRIT NCA interface in the EU LRIT Data Centre.

9.8 EMSA will ensure that each LRIT NCA and/or the Financial Contact Point will have access to the web based /Client Invoicing and Billing interface allowing them to check their account status (payable items) with EMSA.

Article 10. Force Majeure

10.1 Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the parties which prevents either of them from performing any of their obligations under this agreement, was not due to error or negligence on their part and could not have been avoided by the exercise of due diligence.

10.2 If either party is faced with force majeure, it shall notify the other party without delay by electronic mail confirmed by a fax message with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.

10.3 Neither party shall be considered in breach of its obligations under this agreement if it has been prevented from performing them by force majeure.

10.4 The parties to this agreement shall take the necessary measures to reduce damage to a minimum.

³ Regulation (EC, Euratom) No 2343/2002 (OJ L 357, 31.12.2002, p. 72) as last amended by Commission Regulation (EC, Euratom) No 652/2008 (OJ L 181, 10.7.2008, p. 23)

Article 11. Entry into Force, Amendments and Duration

11.1 This agreement shall enter into force on the date of its signature by the last party.

11.2 The agreement remains valid unless the LRIT NCA or EMSA requests it to end in writing 6 months before they would like it to end.

11.3 Any amendment to these Conditions of Use shall be the subject to a written agreement concluded by the parties. An oral agreement shall not be binding on both parties.

SIGNATURES

For the EU Member State,

[Insitution

name/forename/surname/function]

For EMSA,

Willem de Ruiters

Executive Director

signature[s]: _____

signature: _____

Done at [place], [date]

Done at Lisbon [date]

In duplicate in English