



## Definitions

- "SESME"
  - SEACOR Environmental Services Middle East Ltd-LLC (SESME), A Limited Liability Company registered in Abu Dhabi under licence no. 1078839 and whose registered office is at P.O. Box 12945 • Oil Spill Response Centre ESNAAD, Mussafah Base • Abu Dhabi and other associated companies.
- "Client"
  - the person with whom SESME is contracting to undertake the Work.
- "Engagement"
  - each and every contract made from time to time between the Client and SESME to undertake any Work arising out of an acceptance by SESME of a Scope;
- "Report"
  - any findings, presentation of data, forecasts, statements of opinion, recommendations or reports relating to or arising out of the Work undertaken by SESME.
- "Scope"
  - the express unambiguous instructions given by the Client to SESME in connection with the Work, setting out the exact nature and extent of the Work to be undertaken by SESME, as accepted by SESME, and as may be modified or varied from time to time with the express agreement of the Client and SESME.
- "Site"
  - the location at which the Work is to be undertaken as is specified by the Client to SESME orally and/or in writing prior to the commencement of the Work.
- "Work"
  - in relation to each Engagement, the actual services to be undertaken by SESME, its employees, agents or sub-contractors, in accordance with the Scope and the phrase "Work" shall include the preparation by SESME of any Report in relation thereto.

### 1. **SESME' Standard of Care**

SESME will, subject to these Terms, use its reasonable endeavours to undertake the Work for the Client with the skill, care and diligence to be expected from a person of comparable size as SESME in undertaking substantially similar services under substantially similar conditions.

### 2. **The Work**

The Client and SESME acknowledge and agree that the exact nature and extent of the services being undertaken by SESME in the performance of the Work will at all times be determined by the Client and that SESME in performing the Work will at all times be acting in accordance with the Client's determination, save that where the safety of any person (including any of SESME' employee, agents or sub-contractors) may be at risk, SESME may decline to carry out any instructions issued by the Client.

### 3. **Provision of Access and Information**

The Client shall provide access to the Site at such times as may reasonably be required by SESME for its employees, agents or sub-contractors to undertake the Work.

The Client shall make full disclosure of all information in its possession relating to the Site including, but without limitation, any rules relating to access to or use of the Site. In addition, the Client shall notify SESME of any known or possible hazards existing at the Site including, but without limitation, hazardous materials, and difficulties with access and underground utilities.

SESME shall be entitled to rely on the accuracy of any drawings, data, information and statements made by the Client, its employees, agents, sub-contractors and/or by any third parties whether in respect of the Site or the subject matter of the Work. SESME shall have no liability to the Client in connection with the performance of any Work or with the contents of any Report, which are based on drawings, data, information or statements which prove to be inaccurate or misleading.



4. **Changed Conditions**

Should any event or circumstance, beyond the reasonable control of SESME, materially affect the ability of SESME to undertake the Work in the manner required by the Scope or in the time required for satisfactory completion of the Work contained within the Scope (such events or circumstances to include, without limitation, restrictions as to Site access, changed requirements of the Client, delay by the Client in providing information or data to SESME, requirements of public authorities or other third parties with relevant jurisdiction, changes in the law, civil disturbance or unrest, or changes in physical or meteorological conditions), then the Client agrees that the remuneration of SESME and the time-scale for performance of the Work, shall be adjusted to such extent as is fair and reasonable to take into account such events or circumstances.

Should any events or circumstances of the kind referred to above occur such that SESME, acting reasonably, is unable to complete the Work in accordance with the Scope or which is likely to result in a delay of more than 1 month to in the projected timetable, then SESME shall be entitled to terminate any Engagement and the provisions of paragraphs 12 (Termination), and 13 (Payment on Termination), shall apply accordingly.

5. **Samples and Hazardous Substances**

Any samples, hazardous materials or other substances occurring on the Site and removed by SESME, in the performance of the Work, shall at all times remain the property of the Client and shall be held by SESME as agent for the Client. SESME will make all reasonable efforts to assist the Client to ensure that such samples, hazardous materials or other substances are safely handled, transported and disposed of but in the handling, transportation and disposal of the same will remain the Client's sole responsibility and the Client will bear all and any costs associated in connection with the same.

6. **Operations, Equipment and Personnel**

The responsibility for the control of all matters at the location of the clean-up operation shall be that of the Client provided that SESME or any of its employees or those of Contractors, or of an Affiliate of the Contractors working at the site may decline to carry out any instruction and take any action it or they see fit in any situation where the safety of personnel may be at risk and as to whether any such situation exists shall be at the sole discretion of SESME and the aforementioned employees who are present at the clean-up operations

(During the period of hire of any equipment hereunder the Client shall

- (i) take all reasonable steps necessary on its part to protect and preserve such equipment in good working order
- (ii) keep SESME fully informed of the location of the equipment and of any malfunctioning thereof or loss of or damage thereto, and not transport, remove, deploy, use or dispose of the equipment to or in an area outside that which is specified by SESME in accordance with this Agreement
- (iii) not sell, hire, charge, encumber or part with possession of the equipment without the prior consent of SESME
- (iv) permit SESME or Contractors or the employees or agents of either of them such access to such equipment as they may reasonably request
- (v) take all such steps as may be necessary to keep such equipment free from all liens, charges and encumbrances, and to prevent such equipment becoming the property of any person other than SESME or the Contractors
- (vi) not make or allow to be made any modification or alteration to any of such equipment otherwise than by personnel provided by SESME hereunder or with the prior consent of SESME or the Subcontractors; and
- (vii) be responsible for complying with and obtaining any necessary permissions under any laws for the time being applying in any country in which such equipment may be during the period of hire and relating to the operation of such equipment or the work of personnel provided under this Agreement and for dealing with any customs formalities



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- entry permits or other matters in connection with use, import or return of such equipment hereunder and cessation of provision of the personnel provided hereunder.
- (viii) Be responsible for the return of the equipment hired by the Client to SESME, as soon as practicable after it ceases to be required for the purpose for which it was hired in the same conditioned as it was delivered upon commencement of mobilization, fair wear and tear excepted. Additionally, and notwithstanding any of the other provisions hereof, in the event that any equipment which is the subject of this Agreement, is not returned to the SESME or is lost or damaged other than by normal wear and tear until such time as the equipment in question is returned or has been replaced by substitute equipment as the case may be, the Client shall pay to SESME in respect thereof the fees calculated at the rate set out in the Schedule hereto and the period of hire shall be deemed to continue for such purpose
- (ix) The cost of cleaning, repairing or rehabilitating equipment hired or utilised hereunder to their pre-hire condition will be charged to the Client. For this purpose materials and services will be charged at cost and work at man/hour rates to be specified for personnel from time to time by SESME. Any equipment that is damaged beyond reasonable repair will be charged at replacement value to the Client unless such damage is due to the negligence of SESME.
- (x) During the time of hire of any equipment SESME shall have absolute discretion in determining what equipment SESME shall provide under this Agreement, and SESME reserves the right to at its sole discretion to at any time (including during a response) substitute equipment providing that such equipment is fit for purpose.

During the time of hire of any personnel SESME shall have absolute discretion in determining the personnel, whom SESME shall provide under this Agreement, and SESME reserves the right to at its sole discretion to at any time (including during a response) substitute the personnel provided

**7. Transport**

The place of delivery and return shall be at SESME's designated location or such other place where the equipment and personnel then is situated, at SESME's sole option.

The client shall be responsible for and shall bear the costs of transportation from the place of delivery, unless otherwise agreed with SESME provided that the Client shall consult with SESME and keep SESME fully informed of all such arrangements.

Should SESME agree to arrange transportation of the equipment and personnel on behalf of the Client, the Client shall be deemed to appoint SESME as its agent to arrange transport of such equipment and personnel from origin to the delivery point, and return. SESME may arrange such transport with such carrier and on such terms and conditions as SESME would arrange if it were the principal. All costs and expenses relating to the transportation of the equipment shall be borne by the Client.

**7. Documents and Reports**

All documents made available by the Client under these Terms shall remain the property of the Client and shall be returned to the Client after use or on completion of the Work or on termination of any Engagement. SESME shall have the right to retain a copy of any such documents its files. All other documents and records (including copies of any Report) generated by SESME, its employees, agents or sub-contractors shall be the sole property of SESME.

Property in any Report will remain with SESME until all invoices are paid in full by the Client. Reports shall be used only by the Client for the purpose set out in such Reports and shall not be relied on or used for any other purpose whatsoever by the Client or by any other third party without the prior written consent of SESME.

Copyright in the Report and any intellectual property rights arising from the Work shall at all times belong to SESME unless there is a specific written acknowledgment by SESME to the Client to the contrary.

**8. Charges**

Hire Charges per Day. The Client shall pay to SESME in respect of each item of equipment and/or personnel hired the following applicable daily rates:

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Hire Charges per day for equipment on standby shall apply in respect of any equipment which has been called for mobilization to respond to a discharge, and which is in transit, on standby or otherwise not in use, from the time that notice is received that the Client requires the equipment for its use until the equipment is fully demobilized or if other daily rate applies.

Hire Charges per day for personnel on standby shall apply in respect of all personnel which have been called for mobilization to respond to a discharge, and who are in transit, on standby or otherwise not working from the time that notice is received that the Client requires SESME's personnel until SESME's personnel have been demobilized or if other daily rate applies.

Hire Charges per day for equipment in use shall apply to any 24 hour period where SESME's equipment is being used at the Client's request. Should the equipment only be used for part of any 24 hour period, the full daily hire rate for equipment in use shall apply.

Charges per day for personnel on hire shall on the basis that less than 4hrs will be billed at 50% of the quoted rate and in excess of 4hrs will be billed at the full day rate.

### 9. **Terms of Payment**

Invoices will be rendered by SESME monthly in arrears (unless other payment terms are agreed in SESME' written acceptance of the Scope). Invoices shall be paid (without deduction or set-off) by the Client within 30 days of the date of submission of the invoice to the Client. Any sums remaining unpaid at the expiry of such 30 day period will bear interest (both before as well as after any judgement or final determination of any dispute in connection with any such invoice) at the LIBOR rate plus 2% from time to time, from the date the invoice is rendered until the date such invoice is paid in full. SESME reserves the right to suspend the performance of any Work if any invoice is not paid in full within 60 days of the date of submission of such invoice to the Client.

Where any expenses, which are to be reimbursed by the Client, are paid by SESME in a currency other than UAE Dirham, SESME shall be reimbursed to the value calculated at the official purchase rate of exchange prevailing at the date when the expense was incurred.

Clients shall remit all payments free of any taxes, levies or claims or duties and shall pay in full any such taxes, levies, claims or duties which may be due.

Unless otherwise stated in SESME's written acceptance of the Scope, a 15% (ten per cent.) charge will be made on all disbursements paid by SESME in connection with the Work in order to cover SESME' administrative costs. Such disbursements include, but are not limited to, sub-contractors fees and expenses, freight and packing charges, customs duties and levies, out-of-pocket expenses and costs of travel, accommodation and meals away from the normal place of business of SESME's employees, agents or sub-contractors incurred in carrying out the Work.

Unless otherwise agreed in writing between SESME and the Client, an amount equivalent to 2.5% (two point five per cent.) of the cost of the Work will be charged to cover the cost of communications.

### 10. **Limitation of Liability and Indemnity**

The Client shall, during and after the period of the service performed by SESME, indemnify and hold harmless SESME, its Affiliates and its and their employees and agents against any claim, demand, action or proceeding arising out of or in any way connected with the performance or non-performance (whether negligent or otherwise, and including any claim, demand, action or proceeding in respect of the services provided) by or on behalf of SESME of its obligations under or arising out of the performance the services, brought or instituted against SESME or its Affiliates or its or their employees or agents by any third party (including any claims from SESME's Contractors)

The Parties specifically agree with one another that, notwithstanding anything contained herein, neither Party shall be permitted to recover consequential, indirect, and special and/or punitive damages from the other arising out of any act or omission.

### 11. **Insurance**

SESME shall maintain professional indemnity insurance in an amount not less than the limit of liability hereunder for a period of six years from the date of the commencement of the

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Work, subject at all times that such insurance continues to be available at commercially reasonable rates.

12. **Termination**

The Client may at any time by giving not less than 14 days prior written notice to SESME terminate any Engagement, except where expressly stated otherwise in SESME's acceptance of the Scope.

Either party may terminate any Engagement forthwith by written notice to the other in the event of a material breach by the other of its obligations under these Terms which is irremediable, or, where remediable, which the other shall have failed to remedy within 14 days after receiving written notice specifying the breach and requiring its remedy.

If any Work is suspended for one month or more, SESME shall be entitled to terminate the Engagement forthwith by notice to the Client and shall be released automatically from any continuing obligation in respect of the Work.

Any termination of any Engagement shall not prejudice or affect any rights or remedies accrued to either the Client or SESME prior to or in consequence of the termination.

13. **Payment on Termination**

On any termination of any Engagement, SESME shall be entitled to payment in full for all Work performed and all costs incurred up to the date of termination as well as for taking such steps as are reasonably necessary to bring to an end to SESME' involvement in the Work. Save any termination of any Engagement arises because of the Client's default or insolvency, SESME shall, in addition and unless otherwise agreed in writing to the contrary, be entitled to reasonable compensation from the termination of its engagement at an aggregate rate equivalent to 25% (twenty five per cent.) of the total value of the Work.

14. **Status of these Terms**

These Terms, together with, or as varied with the express agreement of the Client and SESME shall supersede all prior communications, negotiations, representations, agreements, undertakings or understandings (whether oral or written) between the Client and SESME and shall constitute the entire agreement between the parties. These Terms and any Engagement entered into under these Terms shall be governed in accordance with UAE law and each party agrees to submit to the exclusive jurisdiction of the UAE courts.

**Managing Director**  
**Abu Dhabi**  
**1<sup>st</sup> May 2009**