

CONTRACT FOR THE EXECUTION OF OIL SPILL CONTROL OPERATION

(For the ship owners)

Terms and Notes

**Warning:** Please note that this is translation of the original Contract and notes thereon in Japanese language, only for your reference. Only the Japanese texts are deemed valid, and any and all parts of this translation shall not affect any interpretation or construction of the original Japanese text.

(Re: Article 42-14, Item 2. of the Law Relating to Prevention of Maritime Pollution and Maritime Disasters)

Revised in September 2017

\_\_\_\_\_ (hereinafter the "Ship Owners") and Maritime Disaster Prevention Center (hereinafter, "Center") with respect to the oil spill from M.S./S.S. \_\_\_\_\_ which occurred at \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_ hereby conclude the contract for the execution of necessary operation for the removal of the oil spill on behalf of the Ship Owners (hereafter the "Operation") as follows.

Notes:

This services have been made by the Center as the "item 2 operation" (Article 42- 14, item 2 of the Law Relating to the Prevention of Maritime Pollution and Maritime Disasters (hereinafter, the "Law")), for the specified oil.

(Principle)

Article 1

The Ship Owners shall commission Center with execution of the Operation in the sea area on behalf of the Ship Owners, and Center shall execute effective and appropriate the Operation faithfully and carefully.

NOTES:

The scope of the Center's operation is specified in Article 2. In light of the Center's objective

under the Law which is the prevention of occurrence and expansion of disaster at sea, the Center's Operation is principally made at sea (up to the highest high water level).

(Scope of the Operation)

Article 2

The Scope of the Center's Operation in case of incident is any or all of the followings.

- (1) Deployment of oil booms and other necessary measures to prevent spread of spilled oil
- (2) Recovery of spilled oil from the sea surface
- (3) Treatment of spilled oil on the sea surface by spraying chemical agents such as dispersant.
- (4) Other measures to be taken for the oil spill control upon consultation between the Ship Owners and the Center.

NOTES:

- (1) The measures to be taken by the Ship Owners when there is a spill incident are prescribed in Article 32 of the Regulation for Implementation of the Law.
- (2) The Ship Owners by themselves may possibly conduct a part of the Operation in case of oil spill incident. Thus, this Article limits the scope of the Center's operation as all or in part, which scope shall be agreed between the parties.
- (3) The Center is expected to conduct the Operation pursuant to this Agreement. However, the Center considers that the Center's engagement in pollution prevention and cleanup operation would not affect P&I and the other insurance coverage in any manner.

(Operation)

Article 3

The Operation shall be taken by the Center or a disaster response contractor with whom the Center has concluded a contract in advance for the Emergency Response operations (hereinafter, the "Disaster Response Contractor"). The action taken by the Disaster Response Contractor shall be deemed as taken by the Center.

NOTES:

(1) Under the regulation on consignment in the Japanese Civil Law, re-consignment requires prior approval of the Ship Owners. Therefore, the Center clearly states that services are contracted out in this article, and this Contract allows the Center to do so. Also, the Center will consign the job to the Disaster Response Contractor in almost all spill incident cases and clearly states for the Ship Owners in this article; the Center will assume responsibility for the Disaster Response Contractor's conduct.

(2) The Center, conforming to the regulation on consignment in the Japanese Civil Law, will carry out the Operation in accordance with the Ship Owners instructions. However, in reality, the Operation will be conducted smoothly after the discussion at the crisis response meeting organized chiefly by the Japan Coast Guard involving various agencies (including the Ship Owners).

(3) In carrying out the pollution prevention/cleanup operation, if the Center receives suggestion or recommendation from the Japan Coast Guard of a more effective method of operation than the method the Center and the Ship Owners developed, the Center shall notify the Ship Owners of it and carry out such operation.

(4) The Ship Owners is not prevented from using other experts at the same time and developing independent measures notwithstanding this Contract. In addition, even when the Ship Owners agreed with for the Center to do the Operation, if the Ship Owners wish to use a specific Disaster Response Contractor, the Center will follow this intention as much as possible.

(Reporting)

Article 4

The Center shall provide the Ship Owners with progress reports during the Operation from time to time or upon having the Ship Owner's request, as well as the final report describing details and results of the Center's Operation and its result after the completion of the Operation without delay.

NOTES:

The Center should maintain a close communication with the Ship Owners during the Operation, by reporting progress of the Operation. Also, the Center is expected to send its final report after the completion of the Center's operations to let the Ship Owners confirm the performance.

(Billing and Payment)

Article 5

1. The Center shall charge the Ship Owners the following cost and fees:
  - (i) Costs and fees of the Disaster Response Contractor for the Operation
  - (ii) Costs for the vessels, materials and equipment owned by the Center and used for the Operation
  - (iii) Administrative cost of the Center for the Operation
  - (iv) Any other costs for the Operation, which are separately agreed between the Ship Owners and the Center.
2. Costs described in the preceding paragraph and the way of payment shall be determined by discussion between the Ship Owners and the Center. With regard to the materials used for the Operation such as chemicals, payment can be made by supply of such materials, if the both parties agree to such way of payment.
3. In case of using the Disaster Response Contractor, the Center shall comply with the Subcontract Act, and for which the Ship Owners shall make the utmost efforts.
4. If, with respect to the cost and fees of this Section 1 (1), the Disaster Response Contractor is deemed to be subcontractor under the Subcontract Act, the Center shall charge the monthly costs described in the paragraph 2 of this Section by the 15<sup>th</sup> of next month to the Ship Owners, and the Ships Owners shall pay the cost within 60 days from the invoice date. In case where the Operation complete within one month, the Center shall charge the costs described in the paragraph 2 of this Section within 15 days from the operation's completion date, and the Ships Owners shall pay the cost within 60 days from the invoice date. In the event that the payment is not made within 60 days from the invoice date, the default interest thereon shall be added, calculated by the interest rate in accordance with article 4-2 of the Subcontract Act (Fair Trade Commission Rules No. 1 on May 8, 1970).
5. Except as provided in the preceding paragraph, the Ship Owners shall promptly make payment for the cost charged by the Center. In the event that the payment is not made within three months from the invoice date, the default interest thereon shall be added, by applying the interest rate in accordance with the Notice to Pronounce Default Interest Rate against Late Payment in Government Contract (the Notice of the Ministry of Finance No. 991, dated December 12, 1949).
6. If neither of the invoice date nor the date of payment is bank business day, the execution date of which shall be the next bank business day.

NOTES:

(1) The amount of fees to be charged shall be determined in consideration of various factors, such as evaluation results and salary schemes of contractors. The parties shall consult with each other to decide the amount to be charged, taking into account past cases, practices and other factors.

(2) The scope and items of the costs to be charged are the same as for the Center's operation to prevent oil spills and clean up oil pollution in the past, in which the Ship Owners could provide with chemicals and other materials instead of monetary payment.

(3) The Center shall make payments to the Disaster Response Contractor in accordance with the Subcontractor Act. Therefore, this Contract follows Article 2-2 (1) of the Subcontract Act providing that "The date of payment of subcontract proceeds shall be fixed within sixty days, and moreover within as short a period as possible, from the day on which a main subcontracting entrepreneur receives the work from a subcontractor (the day on which a subcontractor provides the service entrusted in the event of service contract. The same shall apply in the next paragraph), regardless of whether or not the main subcontracting entrepreneur inspects the work in detail.", and the rate of default interest shall also be fixed in accordance with the Subcontract Act.

(4) Except for the paragraph 4 of this Section, the Center will issue the invoice to request the payment upon having agreement with relevant parties, and thus the Ship Owners would make a quick payment without any hesitation. In case of failure, the Ship Owners shall add in their payment default interest to be accrued from 3 months after the invoice. The rate of default interest shall be fixed by the Ministry of Finance Notice for the government contracts, which will be reviewed and determined every year.

(Liability for Damage)

Article 6

The Center shall be responsible for the damage resulted from the Operation conducted by the Center. Foregoing, however, the Center shall not apply to the damage not attributable to the fault of the Center, such as damage resulted from the act of the Center taken in accordance with the instruction of the Ship Owners without negligence on the Centers part

NOTES:

This Section defines responsibilities' relationship between for the Ship Owners and the Center and/or the Disaster Response Contractor.

In other words, the Center and Disaster Response Contractors shall be responsible for the damage resulted from the Operation conducted by the Center and Disaster Response Contractors. However the damage resulted from the operation without negligence by the Center and Disaster Response Contractor, the third party, who suffers the damage from the Operation, lodges the claim against the Ship Owners and there is no way the Ship Owners charge the claim to the Center and/or the Disaster Response Contractors.

(Termination)

Article 7

1. Either party at any time may terminate this Contract by making a notice to the other party.
2. If any of the following events occur to the Ship Owners, the Center may terminate this Contract by making a notice to the Ship Owners.
  - (1) If there is any breach of this Contract, which is not rectified even after a notice to do so.
  - (2) If the court commences the procedure for bankruptcy, reorganization, liquidation, settlement, rehabilitation (Hasan, Kaisha-Kosei, Kaisha-Seiri, Tokubetsu-Seisan, Minji-Saisei) for the Ship Owners, or the Ship Owners are suspended from deals at Security Clearing House (Tegata Torihiki Teishi), or the Ship Owners stop or suspend its business or are dissolved, or in case the Ship Owners are foreign nationals or corporation, if proceedings arise to any of the above. in the country to which it belongs.
  - (3) If the Ship Owners receive disposition for non-payment of tax or any other duties.
  - (4) If the Center finds that the Ship is not insured with any appropriate hull & machinery or protection & indemnity policy.
3. The preceding two paragraphs shall not prevent either party from seeking indemnity for the loss and damage from the other party.

NOTES:

- (1) This Section relates to Article 651 of the Civil Code, providing that the Contract of

Consignment may be terminated at any time by either party.

(2) Under this Contract, the Center will pursue the Operation responding to oil spill incident. This article, therefore, expressly states that the Center may cancel this Contract or may not implement any or part of the duties hereunder if it is found that the Ship Owners does not have sufficient ability to pay. In particular, an enormous amount of costs could be incurred for actions to deal with a maritime disaster, and thus the Contract obliges the Ship Owners to keep appropriate hull & machinery or protection & indemnity policies and their coverage.

(Anti-Social Person/Entity)

#### Article 8

Each party hereto, as of the date of this Contract and during the term of this Contract, represent and warrant that neither each party nor its agent or broker is or belongs to any of gangster(s), a group of gangsters, its associate member, a person who was a gangster during the last 5 years, a person or entity having relation with gangsters, a professional or entity to threaten to cause trouble at the general meeting of the stockholders, a person or entity to profess itself as engaging in political or social activities for cloak or a person or entity similar thereto (hereinafter, "anti-social person/entity") and that neither each party nor its agent or broker does or will make or be involved in relations with any of the following persons or entities: -

- (1) those whose business is managed or controlled by anti-social person/entity;
- (2) those whose business is substantially related with anti-social person/entity;
- (3) those who uses anti-social person/entity or its power with unfair way, such as planning to obtain unfair benefit or suffer a third party;
- (4) those who contribute the fund or to give any benefit to anti-social person/entity or have such relations with anti-social person/entity; or
- (5) those who have an officer, director or managerial person having relations with anti-social person/entity in the way to be blamed in society.

2 Client may demand MDPC to terminate relations with its sub-contractor or a person or entity whom MDPC assigns or entrusts any of its work or whom such sub-contractor or person or entity assigns or entrusts any of their work if any of them falls in any of those as provided in the preceding paragraph, and to take measures necessary to eliminate such anti-social person/entity.

3 Notwithstanding any term of this Contract, either party may terminate this Contract without any advance notice if the other party or its agent or broker falls in any of those as provided

in the 1st paragraph of this Article.

4 Client may terminate this Contract in case MDPC does not take measures provided in the 2nd paragraph of this Article in spite of Client's demand to do so.

5 In case this Contract is terminated by either party in accordance with the 3rd or 4th paragraph of this Contract, the party who is terminated this Contract is not entitled to claim any loss or damage arising out of such termination.

NOTES:

“Guideline for How Companies Prevent Damage from Anti-Social Forces” (agreed upon at a meeting on June 19, 2007 of cabinet ministers responsible for anti-crime measures), MDPC adds this article in response to these guidelines and request from Ministry of Land, Infrastructure and Transport.

(Dispute Resolution)

Article 9

This Contract shall be governed by the laws of Japan. Any matter not prescribed herein or any dispute arising out of details hereof shall be discussed sincerely between the parties.

Article 10

Any and all dispute between parties arising out of this Contract shall be exclusively referred to the Yokohama District Court.

NOTES:

(1) Japanese laws are expressly specified as the governing law herein as the Ship Owners may be a foreign company. This Contract does not refer to dispute arbitration, which will not disturb such arbitration by the Japan Shipping Exchange, Inc. under agreement of the parties for the sake of facilitating paperwork.

(2) In the event any disputes arises, paragraph 1 stipulates that the parties shall sincerely conduct discussion aiming at a solution with no legal action, in principle; but in the case of a failure to reach a solution, Yokohama District Court has jurisdiction over such disputes.



(Contract Period)

Article 11

This contract expires on the date of completion of payment by the Ship Owners for the invoice provided in Article 5.

NOTES:

This Contract is one time contract for an oil spill incident under the Ship Owners' trust in the Center's capabilities for the Operation. That is why the period of the Contract is based on the completion of payment by the Ship Owners. Considering installment payment, the contract expired date is the date of completion of payment by the Ship Owners for the invoice.

As evidence for this Contract, each party hereto have caused this Contract to be executed in duplicate, and each party keep one of the copies.

Dated:

Ship Owners:

Name

Address

Center:

Name ○○○○

President

Maritime Disaster Prevention Center

Address Minato Mirai 4-4-5, Nishi-ku, Yokohama, Kanagawa, Japan