To the Members

Regulations of the People’s Republic of China on the prevention and control of marine pollution from ships

We refer Members to previous circulars on the Regulations of the People's Republic of China (PRC) on the Prevention and Control of Marine Pollution from Ships (“the Regulations”) and the requirement that owners/operators of (a) any ship carrying polluting and hazardous cargoes in bulk or (b) any other ship above 10,000 gt enter into a pollution clean-up contract with a Maritime Safety Agency (MSA) approved ship pollution response company (SPRO) before the ship enters a PRC port.

Prior to the entry into force of the Regulations on 1 January 2012, Members were advised of the new requirements along with a recommended IG spill response contract and authorisation letter for agents to negotiate and sign the contract on behalf of overseas operators. A set of Frequently Asked Questions (FAQs) has since been issued by all IG Clubs to assist owners in complying with the requirements and lists of all China MSA approved contractors have also been published on the Club’s website on an ongoing basis following publication by the China MSA.

On 14 September, the China MSA issued revised Detailed Rules on the Implementation of the Administration Regime of Agreement for Ship Pollution Response amending the Detailed Rules previously issued by the China MSA which came into effect on 1 January 2012. The revised Detailed Rules had immediate effect. At the same time, the China MSA repealed a number of Notices on implementation of the Regulations, which has resulted in some changes to the spill response requirements that have been in force since 1 January 2012. A further MSA notice is expected shortly. Once this notice has been issued a revised set of FAQs will be published to take account of the changes.

The China MSA has issued an amended model spill response contract as an annex to the revised Detailed Rules. The model contract consists of only two articles (both of which are mandatory), but expressly provides that supplemental articles may be included as part of the agreement between the operator and approved contractor. A revised, IG recommended spill response contract is therefore attached to this circular, the content of which does not differ substantially from the previous IG recommended contract. The revised contract includes the two mandatory articles contained in the amended model contract issued by the China MSA. These mandatory articles introduce two new requirements that of booming during ship-to-ship transfers and a requirement that the SPRO assists in joint emergency exercises (Article 2.4 and 2.5).

The IG has maintained contact with the China MSA and understands that the IG’s recommended contract attached to this circular is consistent with the revised Detailed Rules.

Members have previously been advised of the terms of contracts which are required in other jurisdictions and those contracts that conform with the International Group Guidelines on vessel response plans, see Circular 02/2009. The recommended contract attached conforms with the International Group’s Guidelines. Any Member requested to agree to a variation of the attached recommended contract is advised to check with the Club to ensure that such variations do not cause the contract to fall outside the scope of the IG Guidelines.
If Members are in any doubt about the contract then it is recommended that they contact their Club before contracting with any SPRO.

All Clubs in the International Group of P&I Clubs have issued similar circulars.

Any questions with regard to the above may be addressed to Sara Burgess or Mary Cantle in Gard (UK) Limited.

Yours faithfully,
GARD AS

Claes Isacson
Chief Executive Officer
附件二


协议编号：
Agreement No.:

船舶污染清除协议

（样本）
Agreement for Ship Pollution Response

(Sample)

中华人民共和国海事局制
Printed by Maritime Safety Administration of the People’s Republic of China
Introduction to the Sample Agreement

1. This Sample Agreement for Ship Pollution Response (hereinafter referred to as “this Agreement”) is formulated in accordance with the provisions of Article 29 of the Regulations of the People’s Republic of China on Emergency Preparedness and Response on Marine Environment Pollution from Ships for the purpose of effectively implementing the regime of agreement for ship pollution response.

2. The owner, manager or actual operator of a ship (Party A) shall, prior to ship’s operation or entering into or leaving from a port, conclude this Agreement with a qualified ship pollution response organization (Party B) in accordance with Article 33 of the Regulations of the People’s Republic of China on Administration of the Prevention and Control of Marine Environment Pollution from Ships, relevant provisions of the Regulations of the People’s Republic of China on Emergency Preparedness and Response on Marine Environment Pollution from Ships and relevant provisions of the Detailed Rules of Maritime Safety Administration of the People’s Republic of China on the Implementation of the Administration Regime of Agreement for Ship Pollution Response.

3. The Article 1 and Article 2 on rights and obligations of this Agreement are mandatory and both parties shall not change the contents of these articles. For matters not covered in this Agreement,
the parties may reach a separate supplementary agreement. In no case should such supplementary agreement violate relevant provisions of laws, regulations and rules as well as stipulations in this Agreement concerning both parties’ fundamental rights and obligations. The conclusion of this Agreement shall not prejudice the rights and obligations that shall be enjoyed or borne by both parties in accordance with relevant laws, regulations and rules, including the right of limitation of liability.

四、对协议文本中括号中需要选择的内容以及空格部位需要填写的内容，双方应当协商确定。

4. Choices of options with square brackets and the contents to be filled in blank spaces shall be determined by both parties through negotiation.

五、协议采用 14 位数字编号（如 01-1001-2011-0001），其中，前两位表示直属海事局代码，第 3 位表示船舶污染清除单位资质等级，分别用 1、2、3、4 对应一、二、三、四级船舶污染清除单位的资质，第 4 至 6 位表示船舶污染清除单位代码，由各直属海事局确定，第 7 至 10 位表示签订协议的年份，第 11 至 14 位表示协议序号，由各船舶污染清除单位确定。

5. The Agreement adopts fourteen numbers as its serial number (such as 01-1001-2011-0001), amongst which the first two numbers represent the code of a MSA directly under the P.R China MSA; the third number represents the qualification level of the ship pollution response organization (SPRO), 1, 2, 3 and 4 respectively represents level-1, level-2, level-3 and level-4; the fourth to sixth number represents the code of the ship pollution response organization and shall be determined by the MSA directly under the P.R China MSA; the seventh to tenth represents the year in which the Agreement is concluded; the eleventh to the fourteenth represents the sequence number of the Agreement and shall be determined by the SPRO.

各直属海事局代码分别为：辽宁局 01, 天津局 02, 河北局 03, 山东局 04, 江苏局 05, 福建局 06, 上海局 07, 浙江局 08, 广东局 09, 深圳局 10, 广西局 11, 海南局 12。

Codes of MSA directly under the P.R China MSA are as follows: Liaoning MSA: 01, Tianjin MSA: 02, Hebei MSA: 03, Shandong MSA: 04, Jiangsu MSA: 05, Fujian MSA: 06, Shanghai MSA: 07, Zhejiang MSA: 08, Guangdong MSA: 09, Shenzhen MSA: 10, Guangxi MSA: 11, Hainan MSA: 12.
船舶污染清除单位连锁机构应当按照以下规则予以编号：代表其它船舶污染清除单位签订协议的船舶污染清除单位，应当在其签订的协议正本上按照上述要求用本单位的证书编号予以编号，即采用14位数字编号（如01-1001-2011-0001）。为了方便船舶办理进出港口或作业手续，被代表的其它船舶污染清除单位将协议副本报当地海事管理机构备案的，应当在协议副本上加注被代表的其它船舶清除单位的证书编号（如01-1001-2011-0001-07-1007）。协议船舶可持协议正本或副本办理船舶进出港口或作业手续。

For those chain SPROs, the following rules are applicable: For the SPRO representing other SPRO, the 14-number rule as above-mentioned shall be used on the original Agreement, such as 01-1001-2011-0001. To facilitate ship’s entering or leaving or operation permission procedures, other SPRO being represented shall make a mark by adding the serial number of SPRO being represented after 14-number above, such as 01-1001-2011-0001-07-1007 on the copy Agreement. Whether the original or copy agreement may be present to MSA for procedures of ship’s operation or entering into or leaving from a port.
甲方:
Party A:
住所地:
Domicile:
法定代表人:
Legal representative:
联系人:
Contact person:
通讯地址:
Correspondence address:
电话：__________ (24小时应急电话)传真:
Telephone:__________ (24 hour emergency number) Fax:
电子信箱:
E-mail:

乙方:
Party B:
资质等级及服务区域:
Qualification level and service area:
住所地:
Domicile:
法定代表人:
Legal representative:
联系人:
Contact person:
通讯地址:
Correspondence address:
电话：__________ (24 应急电话)传真:
Telephone:__________ (24 hour emergency number) Fax:
电子信箱:
E-mail:
根据《中华人民共和国合同法》、《中华人民共和国海洋环境保护法》、《中华人民共和国防治船舶污染海洋环境保护管理条例》、《中华人民共和国船舶污染海洋环境应急防备和应急处置管理规定》、《中华人民共和国海事局船舶污染清除协议管理制度实施细则》（以下简称《细则》）等有关法律、法规和规章的规定，甲乙双方经过友好协商，在真实、充分地表达各自意愿的基础上，达成如下协议，并由双方共同恪守。

In accordance with relevant provisions of the Contract Law of the People’s Republic of China, the Marine Environment Protection Law of the People’s Republic of China, the Regulations of the People’s Republic of China on Administration of the Prevention and Control of Marine Environment Pollution from Ships (hereinafter referred to as “the Regulations”), the Regulations of the People’s Republic of China on Emergency Preparedness and Response on Marine Environment Pollution from Ships (hereinafter referred to as “the Rules”) and the Detailed Rules of Maritime Safety Administration of the People’s Republic of China on the Implementation of the Administration Regime of Agreement for Ship Pollution Response (hereinafter referred to as “the Detailed Rules”) and other laws and regulations, Party A and Party B agree to reach the following agreement after equal consultation and on the basis of truthfully and/or completely expressing respective intentions, and the said agreement shall be abided by both Party A and Party B.

第一条 甲方的权利义务

Article 1 Rights and Obligations of Party A

1. 甲方应当向乙方提供本协议框架下接受服务船舶（以下简称协议船舶，见附录一）的基本信息，并按照双方约定方式和内容，在协议船舶进入乙方服务区域前的_____天内，向乙方提供船舶有关动态信息。甲方应当在协议船舶驶离乙方服务区域前___小时，将船舶有关动态信息告知乙方。甲方应当书面确认已收到乙方按照本协议第二条第二款提供的应急值守相关信息。

1. Party A shall provide Party B with basic information of the ships (hereinafter referred to as “the agreed ships”, Appendix I) to receive services under this Agreement, and shall, within__ days prior to the agreed ships’ entry into Party B’s service area, inform Party B of the agreed ships’ dynamic information in accordance with the time, way and contents agreed by both parties. Party A shall, within__ hours prior to the agreed ships’ departure from Party B’s service area, inform Party B of the agreed ships’ relevant dynamic information. Party A shall
confirm in written form the receipt of information on relevant emergency standby provided by Party B in accordance with stipulations of paragraph 2 of Article 2 of this Agreement.

2. Party A shall make arrangement for her contact persons, and ensure that such contact persons can keep in touch with Party B in the course of the emergency preparedness and response as per this Agreement. Where Party A needs to change its contact person or the contact person’s contact detail, such party shall inform the other party by a written notice in a timely manner and no alteration shall be made until receiving the other party’s notice for confirmation.

3. Party A shall keep a copy of this Agreement on board the agreed ships, and make sure that relevant staffs onboard the ships are familiar with the contents of this Agreement and the contents of Pollution Response Operation Plan formulated by Party B.

4. Party A shall cooperate with Party B to carry out ship pollution emergency exercises in accordance with the provisions of the Detailed Rules.

5. Party A shall, when a pollution accident happens to the agreed ship, inform Party B immediately and organize to carry out the pollution control and cleanup action. Party A shall, after the termination of such actions, cooperate with Party B to carry out the evaluation on such actions.

第二条 乙方的权利义务
Article 2 Rights and Obligations of Party B

1. Party B shall possess relevant qualification approved by Maritime Safety Administration (MSA), and maintains its corresponding
capability of pollution response.

2. Party B shall confirm in written form the receipt of the agreed ships’ relevant basic information and dynamic information provided by Party A in accordance with stipulation of paragraph 1 of Article 1, and inform Party A of information on relevant emergency standby provided by Party B in accordance with the time, way, and contents agreed by both parties.

3. Party B shall make arrangement for her contact persons, and ensure that such contact persons can keep in touch with Party A in the course of the emergency preparedness and response as per this Agreement. The telephone number provided by Party B shall be an emergency number, and the number shall be kept attended. Where Party B needs to change its contact person or the contact person’s contact detail, such party shall inform the other party by a written notice in a timely manner and no alteration shall be made until receiving the other party’s notice for confirmation.

4. Party B shall, upon receiving the notice concerning the agreed ships’ entry into the service area, be on emergency standby duty and make sure that the emergency ships, facilities and equipments are standby. After receiving the notice that the agreed ships of Party A have departed from the service area, Party B may cancel such standby status. Among them, in case of the agreed ships engaged in transfers of oil or bulk HNS cargo, Party B shall deploy oil boom around the agreed ships or take other appropriate alternative measures according to relevant requirements, where in case of the agreed ships engaged in
loading/unloading operation of oil or bulk HNS cargo, Party B shall make sure that around the agreed ships oil boom is deployed or other appropriate alternative measures are taken.

5. 乙方应当与甲方选择适当的时机和适当的协议船舶，开展联合船舶污染应急演练。

5. Party B and Party A shall carry out joint ship pollution emergency exercises at appropriate time with the involvement of the appropriate agreed ships.

6. 乙方应当在签订本协议时，将其制定的污染清除作业方案中英文文本向甲方提供。

6. Party B shall, when concluding this Agreement, provide Party A with a Chinese and / or English version of the Pollution Response Operation Plan formulated by Party B.

7. 协议船舶发生污染事故时，乙方应当在甲方的组织下开展污染控制和清除行动。乙方应当在行动结束后，配合甲方开展污染清除行动评估。

7. Once a pollution accident happens to the agreed ships, Party B shall, under the command of Party A, carry out pollution control and cleanup actions, and shall co-operate with Party A to conduct the evaluation on such actions.

其它条款 甲乙双方可就本协议相关的其它事项约定并作为本协议的组成部分。

Other Articles  Both parties may conclude other articles as part of the Agreement.

第三条 费用

Article 3  fees and expenses

1. 甲方应按照双方约定的收费标准（见附录二（1））和支付方式向乙方支付船舶污染清除协议费用，用于应急防备的合理支出。

1. Party A shall pay Party B the ship pollution response agreement fees in accordance with the rates (Appendix II.1) and mode of payment agreed by both parties for the purposes of compensating Party B the incurred reasonable cost of emergency preparation.

2. 协议船舶发生污染事故，乙方根据本协议开展污染控制和
清除行动，甲方应当根据附录二（2）的费率向乙方支付实际发生的合理的污染控制和清除费用。

2. If Party B carries out pollution control and cleanup actions in accordance with this Agreement after a pollution accident happens, Party A shall pay Party B the actual and reasonable expenses incurred in such actions based on the tariff set out in Appendix II.2.

3. When a pollution control and cleanup action lasts more than 30 working days, to ensure the smooth performance of the actions by Party B, Party B may demand Party A to pay an interim sum every 30 working days for the actions that has been carried out by Party B. This interim payment shall be remitted to the account appointed by Party B within 30 working days after Party B issues the invoice to Party A and such interim payment should be deducted from the final invoice.

4. Upon terminating the pollution control and cleanup actions, Party B shall present to Party A a breakdown and preliminary evidence for the expenses incurred, such preliminary invoice shall be fully supported by attaching bills showing money expended or details of payment to personnel. Party A shall within 30 working days pay the undisputed sum and provide an appropriate security for the sum in dispute if required, such security to be in the form of a letter of undertaking from a P&I Club if offered. Any dispute between the parties shall be resolved in accordance with the agreed procedure in Article 7.

第四条 保密义务

Article 4 Confidentiality Obligation

本协议签订后，无论本协议是否失效、终止，甲乙双方应当负有保守对方提供的所有资料、信息秘密的义务。除了海事管理机构等可依法取得该资料、信息的政府主管机关或者双方可以向其各自保险人披露本协议之外，甲乙双方不得向其它第三方公开资料、信息内容。
After conclusion of this Agreement, no matter whether this Agreement is in effect or not, or no matter whether this Agreement is terminated, both parties are obliged to keep all the materials and information provided by the other party confidential. Except that both parties may disclose the Agreement to their respective insurers and such government authorities as the MSA may obtain the said materials and information in accordance with law, both parties shall not make in public the contents of such materials and information.

第五条 生效、变更和终止
Article 5 Entry into Effect, Modification and Termination of Agreement

1. The validity of this Agreement is:
   [ ] Fixed term of ___ years (or months);
   [ ] ___ voyages of the agreed ships (the time of each voyage shall be determined by separate agreement).

   This Agreement shall enter into effect as of signed and stamped by both parties.

2. Termination of Agreement when not employed during spill

   In case Party A or Party B needs to modify or terminate the Agreement, Party A or Party B shall give 30 days’ notice to the other party in the agreed way, and such modification or termination shall be confirmed in writing by both parties’ consensus intention through negotiation. However, after the agreed ship(s) has (have) entered into the service area of Party B, neither party shall modify or terminate this Agreement.

   Termination of Response: Notwithstanding any other term of this Contract, each of the Parties shall be entitled at any time to terminate the spill response services, or any portion thereof, being provided under this Contract.
by giving notice to the other, after discussion with MSA. Upon such notice being provided, Party B shall cease to provide the spill response services or any portion thereof, and shall carry out any required demobilisation activities, and Party A shall pay all outstanding fees in accordance with Article 3.4.

3. Where both parties terminate this Agreement, or where this Agreement becomes invalid due to one party’s breach of this Agreement, it shall be reported to MSA immediately.

4. INSURANCE: Party A warrants that it has adequate P&I insurance to meet its liabilities under the contract. Party B shall maintain insurance to cover its liabilities under the contract for a minimum sum of:
   - Level 1 SPRO: RMB 2,000,000.00 (RMB 2 million)
   - Level 2 SPRO: RMB 1,500,000
   - Level 3 SPRO: RMB 1,000,000
   - Level 4 SPRO: RMB 500,000
   and shall provide details of the insurance policy including a copy of the cover note.

第六条 违约及侵权责任
Article 6 Liability for Breach of Contract and Tort
1. Where a Party causes any damage or loss to the other Party due to its breach of this Agreement or fault in the course of performing this Agreement, such Party shall, in accordance with this Agreement, bear the liability for breach of contract to the other Party, or be liable to the other Party for infringement of rights in accordance with provisions of relevant laws.
2、在履行本协议的过程中，甲乙双方造成第三人损害，或者第三人造成甲方或乙方损害的，应当依照有关法律的规定承担相应的责任。

2. Where Party A or Party B causes any damage or loss to a third party due to performance of this Agreement, or where a third party causes any damage or loss to Party A or Party B, the party concerned shall bear corresponding liability in accordance with provisions of relevant laws.

3、甲方或者乙方因执行船舶污染事故应急指挥机构或者海事管理机构的指令或要求而未能履行或未能完全履行本协议约定的义务的，可免除其承担违约责任，但是，对于乙方根据本协议已经履行的污染控制和清除行动的部分，甲方应当根据第三条的约定支付污染控制和清除费用。

3. Where Party A or Party B fails to perform or completely perform the obligations under this Agreement due to executing the orders or requirements of Ship Pollution Accident Emergency Commanding Organ or MSA, such party may be exempted from undertaking the liability for breach of contract. However, Party A shall, in accordance with the stipulation of Article 3 of this Agreement, pay Party B the expenses incurred for pollution control and cleanup actions that Party B has actually conducted in accordance with this Agreement.

第七条 适用法律及管辖

Article 7 Applicable Law and Jurisdiction

1、本协议及其项下争议适用中华人民共和国法律。

1. Laws of the People’s Republic of China shall be applied to this Agreement and disputes arising from this Agreement.

2. 双方对本协议及其项下的争议，由双方协商解决；协商不成的，按照下述方式解决：

【   】申请海事管理机构调解；

【   】提交中国海事仲裁委员会,按照申请仲裁时该会现行有效的仲裁规则在______(地点)进行仲裁；

【√】依法向中华人民共和国有关管辖权的法院起诉。

2. Any and all disputes arising from this Agreement shall be solved through both parties’ mutual negotiation; where no resolution is reached after negotiation, such dispute shall be resolved in accordance with the following:

[   ] Submit such dispute to MSA for mediation;

[   ] Submit such dispute to the China Maritime Arbitration Commission for arbitrating at____(location) in accordance with the arbitration rules effective at the time of arbitration;

[√  ] Bring an action before a court in the People’s Republic of China that has jurisdiction.
第八条 本协议未尽事项，由双方约定后签订补充协议（见附录三）。

Article 8 With respect to matters not covered in this Agreement, both parties may conclude a supplementary agreement. (Appendix III)

第九条 协议份数

Article 9 Copy of this Agreement

本协议正本一式___份，具有同等法律效力，甲方持___份，乙方持___份，一份由乙方及时提交当地港口的海事管理机构以保证船舶进港、作业或离港不延迟。

This original Agreement is in___; each copy bears the same legal effect. Party A holds___copy (copies), Party B holds___copy (copies), and a copy of the agreement shall be submitted by Party B to the local MSA at the port in such a timely fashion that the vessel’s entry, operation or departure will not be delayed.

甲方(盖章):
Party A (seal):
法定代表人/委托代理人(签名):
Legal representative/Entrusted representative: (signature)

年 月 日
Date:

乙方(盖章):
Party B (seal):
法定代表人/委托代理人(签名):
Legal representative/Entrusted representative: (signature)

年 月 日
Date:

附录一：
协议船舶名单

<table>
<thead>
<tr>
<th>船名</th>
<th>IMO编号/船舶呼号</th>
<th>其它需要说明的事项</th>
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IG Sample Agreement dated 20 November 2012
Appendix I:
List of the Agreed Ships

<table>
<thead>
<tr>
<th>Name of vessel</th>
<th>IMO number/ Call sign</th>
<th>Other matters to be Remarked</th>
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Appendix II

附录二（1）：船舶污染清除协议费用
Appendix II.1 Ship Pollution Response Agreement Fee

附录二（2）：船舶污染清除费费率
Appendix II.2 Ship Pollution Response Expense Tariff

Appendix III

附录三：补充协议（如有）
Appendix III Supplementary Agreement (if any)

第1条第1项和第2条第2项规定的表格
Insert boxes for Article 1.1 and Article 2.2

支付方式
Mode of payment