Annex

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
协议样本说明
Introduction to the Sample Agreement

一、为了有效实施船舶污染清除协议管理制度，根据《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》第二十九条的规定，制定船舶污染清除协议样本（以下简称本协议）。
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.

二、船舶所有人、船舶管理人或者船舶的实际经营人（甲方）与取得相应资质的船舶污染清除单位（乙方），应当根据《中华人民共和国防治船舶污染海洋环境管理条例》第三十三条以及《中华人民共和国防治船舶污染海洋环境应急预案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》的有关规定，在船舶作业前或者进出港口前签订船舶污染清除协议。
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 Administration of the Prevention and Control of Marine Environment Pollution from Ships, 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.

三、本协议中的权利义务条款为强制性条款，协议双方不得更改其内容。本协议未尽事项，协议双方可另行补充约定，但不得违反国家有关法律、法规、规章规定以及本协议中甲乙双方的
The articles 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。对于双方选择的，在中括号以划√方式选定，或者在空格中填写；对于双方不选择的，应在中括号或空格部位打×，以示删除。

4. Choices of options with square brackets and the contents to be filled in blank spaces shall be determined by both parties through negotiation. As for the choices, options shall be chosen by marking a “√” in the square brackets, or filling in the blank spaces. With respect to those that both parties do not apply or choose, a “×” shall be marked in the square brackets or in blank spaces, indicating deletion.

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。

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。

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, 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 ship pollution response organization.

6. 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.
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： 传真： 
Telephone: 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： 传真： 
Telephone: Fax: 
电子信箱： 
E-mail: 


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.

**Article 1  Rights and Obligations of Party A**

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,____ 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 writing 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 keep this Agreement onboard 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.

3. Party A shall cooperate with Party B to carry out ship pollution emergency response exercises as required by the Detailed Rules.

4. 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 writing 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, upon receiving the notice concerning the agreed ships’ entry into the service area, make sure that the emergency ships, facilities and staffs 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.

4. 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.

5. 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, after the completion of the cleanup operation, cooperate with Party A to conduct the evaluation on such actions.

第三条 费用

Article 3 fees and expenses

1. Party A shall, under the command of Party A, carry out pollution control and cleanup actions. And shall, after the completion of the cleanup operation, cooperate with Party A to conduct the evaluation on such actions.
1. Party A shall pay Party B the ship pollution response agreement fees in accordance the rates (appendix II) and mode of payment agreed by both parties for the purposes of compensating Party B the incurred reasonable cost of emergency preparation.

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.

3. When a pollution control and cleanup action lasts more than ___ 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 ___ 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 ___ working days after Party B issues the invoice to Party B 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. Party A shall timely pay the undisputed sum and provide an appropriate security for the sum in dispute.
Article 4 Contact Person

1. Both parties shall make arrangement for their own contact persons, and ensure that such contact persons can keep in touch with each other 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.

2. Where any Party of the two parties 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.

Article 5 Confidentiality Obligation

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 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.
Article 6 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. In case Party A or Party B needs to modify or terminate the Agreement, the other party shall be informed in accordance with the agreed time and 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.

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.

Article 7 Liability for Breach of Contract and Tort

1. Where any party is found to violate this Agreement or and any other violation of this Agreement occurs, the party shall bear civil liability in accordance with the relevant laws and regulations.

第七条 违约及侵权责任

Article 7 Liability for Breach of Contract and Tort

1. 任何一方因违反本协议的约定或在履行本协议的过程中因过错给对方造成损失的，应根据本协议向对方承担违约责任或依照有关法律的规定向对方承担侵权责任。
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. 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. 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.

第八条 适用法律及管辖

Article 8 Applicable Law and Jurisdiction

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：
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.

Article 9 本协议未尽事项，由双方约定后签订补充协议（见附录三）。

Article 10 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，一份由乙方提交当地港口的海事管理机构。

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 shall be submitted to the local MSA at the port.

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: 
Appendix I:

List of the Agreed Ships

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<th>Name of vessel</th>
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