

## MEMORANDUM OF AGREEMENT

### KNOW ALL MEN BY THESE PRESENTS:

This Memorandum of Agreement governing the authorization of ship safety inspection services, issuance of Special Permit to carry dangerous cargoes/goods, performance of ship safety enforcement functions and marine casualty investigation for Philippine-registered ships engaged in domestic operations is made and entered by and between:

The **MARITIME INDUSTRY AUTHORITY** herein after called MARINA, a government agency created by virtue of Presidential Decree No. 474, represented herein by its Administrator, **MR. VICENTE T. SUAZO, JR.**, hereinafter referred to as the "**First Party**",

- and -

The **PHILIPPINE COAST GUARD**, herein after called PCG, a government agency created by virtue of Republic Act No. 5173, represented herein by its Commandant, **VADM ARTHUR N GOSINGAN PCG**, hereinafter referred to as the "**Second Party**",

### WITNESSETH:

**WHEREAS**, under Republic Act No. 5173, as amended, the PCG is mandated to enforce laws, or assist in the enforcement of all applicable laws upon the high seas and waters subject to the jurisdiction of the Republic of the Philippines;

**WHEREAS**, under R.A. 9295, the Domestic Shipping Act of 2004, the MARINA has the power and authority to inspect all vessels to ensure and enforce compliance by every domestic ship operator with required safety standards and other rules and regulations on vessel safety;

**WHEREAS**, during the MARINA Board Meetings held on April 21, 2005 and July 15, 2005, the Secretary of the Department of Transportation and Communications (DOTC), as Chairman of the MARINA Board, directed the MARINA and PCG to come up with an agreement involving the implementation of ship safety inspection and enforcement functions pursuant to RA 9295;

**WHEREAS**, there is an imperative need to enter into this arrangement in order to optimize available resources of the government;

**NOW, THEREFORE**, for and in consideration of the foregoing premises, the parties hereby agree and bind themselves to the arrangement indicated herein below:

### Chapter 1 PURPOSE

The purpose of this Agreement is: a.) to authorize the Second Party to perform ship safety inspection services in behalf of the First Party; b.) for both parties to define the coverage, terms, conditions and requirements of such authorization; c.) to authorize the Second Party to issue Special Permit to carry

dangerous cargoes/goods; d.) to assist the First Party to perform enforcement activities; and e.) to provide administrative proceeding for marine casualty or incident.

## Chapter 2 INSPECTION SERVICES

- 2.1 Inspection services comprise the assessment of Philippine-registered ships engaged in domestic trade in order to determine the compliance of such ships with applicable requirements of national laws, rules and regulations and international conventions; Provided, that said laws, rules and regulations and international conventions are within the jurisdiction of the MARINA. Provided further that such laws, rules and regulations pertain to ship safety standards. For the purpose of this Agreement, the phrase “inspection services” means the inspection conducted by the Second Party for and in behalf of the First Party prior to the issuance of ship safety certificates by the First Party, pursuant to MARINA Memorandum Circular No. 203, and its amendments, adopting the Ship Safety Inspection System (SSIS).
- 2.2. Authorization by the First Party of the Second Party to perform ship safety inspection services shall be based on ships homeported in areas covered by the Maritime Regional Offices (MROs), to wit.

### **A. Zamboanga Maritime Regional Office (ZMRO)**

- A.1 Mapun, Cagayan de Tawi-Tawi
- A.2 Taganak, Tawi-tawi

### **B. Tacloban Maritime Regional Office (TMRO)**

- B.1 Biri, N. Samar
- B.2 Bobon, N. Samar
- B.3 Catarman, N. Samar
- B.4 Gamay, N. Samar
- B.5 Laoang, N. Samar
- B.6 Mapanas, N. Samar
- B.7 Mondragon, N. Samar
- B.8 Palapag, N. Samar
- B.9 Pambujan, N. Samar
- B.10 San Jose, N. Samar

### **C. Batangas Maritime Regional Office (BMRO)**

#### **Quezon**

- C.1 Aurora Province
  - C.2 Patnanungan
  - C.3 Jomalig
  - C.4 Panulukan, Polilio, Island
  - C.5 Burdeous
  - C.6 Polilio
  - C.7 General Nakar
  - C.8 Infanta
  - C.9 Real
- } Northern Quezon

C.10 Tagkawayan	}	Southern Quezon
C.11 Buenavista		
C.12 San Narciso		
C.13 San Andres		
C.14 San Francisco		
C.15 Mulanay		
C.16 Catanauan		

**D. Northern Luzon Maritime Regional Office (NORLUMRO)**

D.1 Batanes Group of Islands

**E. Cotabato Maritime Regional Office (COTMRO)**

E.1 Kalamansig, Sultan Kudarat

E.2 Palimbang, Sultan Kudarat

- 2.3. The Second Party shall be governed by the Ship Safety Inspection System (SSIS) in the conduct of inspection service authorized herein, and the procedures, standards and forms prescribed therein shall be strictly adhered to by the Second Party.
- 2.4. The designated ship inspectors of the Second Party shall meet the qualification requirements prescribed for ship safety inspectors under the SSIS. Such qualified ship inspectors of the Second Party shall be fully familiar with the pertinent safety rules and regulations for domestic ships, and undergo orientation/training on the SSIS.
- 2.5 All ship safety certificates shall be issued by the First Party to ships inspected by the Second Party homeported in the areas covered under Chapter 2, Section 2.2 hereof.
- 2.6 The Second Party shall submit within five (5) working days after the conduct of the inspection to the concerned Maritime Regional Office of the First Party a copy of the Inspection Reports.

Chapter 3  
ISSUANCE OF SPECIAL PERMIT TO CARRY  
DANGEROUS CARGOES/GOODS

- 3.1 The Second Party shall continue to issue Special Permit to carry dangerous cargoes/goods on board Philippine registered ships engaged in domestic trade, pursuant to MARINA Memorandum Circular No. 101, and its amendments.
- 3.2 The Second Party shall submit copies of the Special Permit issued to the nearest Maritime Regional Office of the First Party not later than the fifth working day of the following month.

Chapter 4  
ENFORCEMENT FUNCTIONS

The Second Party shall continue to assist the First Party in the following enforcement activities, prior to the ship's departure and while the ship is under way:

- 4.1 Verify validity of ship and crew documentation prior to ship's departure.

- a. CWL/BRL/PYL
  - b. SSC
  - c. Permit to Operate Cargo and Fishing Vessels
  - d. Special Permit to Navigate
  - e. Special Permit to Carry Dangerous Goods/Cargoes
  - f. QDC
  - g. MSMC
  - h. MBOL/BC/MDM/MIP/MAP
- 4.2 Verify compliance with all the terms and conditions of the Certificate of Public Convenience (CPC), or CPC Exemption, specifically:
- a. Approved routing pattern/s;
  - b. Validity of passenger insurance policy; and
  - c. Maximum authorized passenger capacity through head counting in case there is clear indication of overloading/overcrowding.
- 4.3 Serve copies of MARINA-issued Cease and Desist Order (CDO) to the Master of the ship and to enforce the same.
- 4.4 Undertake mandatory pre-departure inspection in accordance with PCG Memorandum Circular Nos. 04-98 and 03-96, as adopted by the First Party and their subsequent amendments.
- 4.5 Issue Maritime Violation Receipt (MVR) to the Master of the ship who fails to comply with the provisions of relevant laws, rules and regulations on vessel safety. A copy of the MVR shall be submitted to the First Party for adjudication pursuant to Section 18 of RA 9295. However, when the violation warrants detention of the ship, the Second Party shall request the Philippine Ports Authority in writing, together with a copy of the MVR, to deny departure clearance of the ship in accordance with Executive Order No. 493.

Upon correction of the detainable violation(s), the Second Party shall immediately request the Philippine Ports Authority in writing to lift the denial of departure clearance of the ship without prejudice to an adjudication of same detainable violation(s), by the First Party pursuant to Section 18 of RA 9295.

Copies of all MVRs issued and written requests made by the Second Party shall be provided the concerned Maritime Regional Office of the First Party within five (5) working days from issuance or date of written request.

- 4.6 Receive/Accept and forward copy of Master's Oath of Safety Departure (MOSD) to the First Party on a monthly basis.

## Chapter 5 ADMINISTRATIVE PROCEEDING ON MARINE CASUALTIES OR INCIDENTS

- 5.1 For purposes of this Chapter, the following terms are defined as:
- 5.1.1 Marine Casualty means an event involving any ship which occurs within the navigable waters of the Republic of the Philippines, or an event

involving any Philippine vessel, which occurs outside Philippine territorial waters, that has resulted in any of the following:

- a. The death of, or serious injury to, a person that is caused by, or in connection with, the operations of a ship; or
- b. The loss of a person from a ship that is caused by, or in connection with, the operations of a ship; or
- c. The loss, presumed loss or abandonment of a ship; or
- d. Material damage to a ship; or
- e. The stranding or disabling of a ship, or the involvement of a ship in a collision; or
- f. Material damage being caused by, or in connection with, the operation of a ship.

This provision, however, does not apply when the incident/accident involves only naval ships or ships of war.

- 5.1.2 Marine Protest – It is a declaration on oath, by the Master, of the circumstances attending the damage or loss of his vessel, intended to show that the loss occurred by the perils of the sea, and concluding with a protestation against any liability of the owner to the freighters.

The Marine Protest shall be filed by the Master within twenty four (24) hours following his arrival at the nearest Station or District of the Second Party, copy furnished the nearest Maritime Regional Office of the First Party whenever the casualty results in any of the following:

- a. Actual physical damage to property exceeding one thousand pesos;
- b. Material damage affecting the seaworthiness or efficiency of a vessel;
- c. Stranding, grounding or sinking;
- d. Loss of life;
- e. Injury causing any person to remain incapacitated for a period in excess of 72 hours, except injury to harbor workers not resulting in death and not resulting from the vessel's casualty or vessel equipment casualty.

- 5.2 Both Parties recognize that the First Party has the power and authority to hear and adjudicate any complaint made in writing involving any violation of RA 9295.

- 5.3 Both Parties recognize that under Republic Act No. 5173, P.D. No. 601 and the 1976 Philippine Merchant Marine Rules and Regulations, the Second Party has the power and authority to convene the Board of Marine Inquiry and Special Boards of Marine Inquiry.

- 5.4 Both Parties recognize that the jurisdiction of the Board of Marine Inquiry is to conduct administrative hearings to determine the causes of marine casualties or incidents upon receipt of a marine protest and to review on appeal the results and findings of Special Boards of Marine Inquiry. Both

Parties also recognize that the jurisdiction of the Special Boards of Marine Inquiry is to conduct administrative hearings to determine the causes of marine casualties in their geographical areas of jurisdiction.

#### Chapter 6 INTERPRETATION, EQUIVALENTS, EXEMPTIONS

- 6.1. The interpretations of applicable rules and regulations as well as the determination of equivalents or the acceptance of substitutes to the requirements of such applicable rules and regulations are the prerogative of the First Party.
- 6.2. Exemption from the requirements of applicable rules and regulations shall be the prerogative of the First Party.

#### Chapter 7 SUPERVISION/AUDIT

Both parties will jointly undertake check and balance measures and systems, including joint inspections, mutual feedback system, and regular assessment conferences to ensure the effective compliance with this Agreement.

#### Chapter 8 FEES AND CHARGES

Fees and charges for ship safety inspection services rendered and issuances made by the Second Party pursuant to this Agreement shall be based on the First Party's Memorandum Circular No. 183, and its subsequent amendments. Such fees and charges shall be deposited in the account of the First Party in accordance with the provisions of RA 9295 and the General Appropriations Act.

#### Chapter 9 SUPPLIES AND EXPENSES

- 9.1 Supplies, materials, and other incidental requirements such as Official Forms, receipts, shall be provided by the First Party.
- 9.2 All inspectors of the Second Party performing ship safety inspection services for and in behalf of the First Party at locations outside 100 kilometer radius from their official stations shall be provided reimbursement of travel expenses in accordance with EO 298, subject to the usual accounting and auditing rules and regulations.
- 9.3 In the conduct of ship safety inspection services by the Second Party for and in behalf of the First Party in areas within 100 kilometer radius from the official stations of their inspectors, a reasonable amount to cover gasoline expenses, supported by official receipts shall be allowed for reimbursement, as authorized by a valid travel order issued for the purpose.
- 9.4 Mailing services shall be shouldered by the First Party. The concerned Maritime Regional Office of the First Party shall arrange with a courier service entity in their area for this purpose.

Chapter 10  
FINAL PROVISIONS

Amendments to this Agreement shall become effective only after consultation and written Agreement between the First Party and the Second Party.

If this Agreement is breached by one of the parties, the other Party will notify the violating Party of its breach in writing to allow the notified Party the opportunity to remedy the breach within sixty (60) days, failing which the notifying Party has the right to terminate the Agreement immediately without the need for judicial action/proceedings.

This Agreement may be terminated by either Party after written notice to the other Party.

Chapter 11  
MANDATORY REVIEW

Parties shall undertake a mandatory review of this MOA once every two (2) years and as often as it may deem necessary with the primary objective of promoting and developing a more improved, responsive and efficient delivery of public service to the country's maritime industry.

This Agreement shall take effect fifteen (15) days from the date of signing.

**IN WITNESS WHEREOF**, the parties hereunto affix their signatures this **14<sup>th</sup> day of September 2005**, at **Mandaluyong City, Philippines**.

**MARITIME INDUSTRY AUTHORITY**  
By:

**PHILIPPINE COAST GUARD**  
By:

**MR. VICENTE T. SUAZO, JR.**  
Administrator

**VADM ARTHUR N GOSINGAN PCG**  
Commandant

Signed in the presence of:

**HON. LEANDRO R. MENDOZA**  
Secretary  
Department of Transportation and Communications