



## **NETWORK ENROLLMENT AGREEMENT**

### **Tank Vessel**

## **PART II - TERMS and CONDITIONS**

The NETWORK and the Planholder identified in Part I of this agreement agree that the terms and conditions set forth herein shall be applicable to the Planholder's enrollment in the NETWORK TV APC and the utilization of such TV APC for regulatory compliance.

### **1. BASIC AGREEMENT**

The Planholder requests and the NETWORK allows the Planholder to enroll in the NETWORK TV APC and utilization of such TV APC for regulatory compliance subject to the terms and conditions set forth herein.

### **2. ENROLLMENT**

Enrollment of the Planholder and Planholder's tank vessels in the NETWORK TV APC shall occur upon (a) the completion and submission of Part I of this agreement, (b) issuance thereafter of a Certificate of Participation by the NETWORK to the Planholder; Planholder may identify tank vessels on Part I and/or on Schedule A.

The Certificate of Participation will be applicable to such of Planholder's tank vessels within the geographical areas covered by the NETWORK's TV APC as are identified to the NETWORK in Planholder's Part I of this agreement and/or on Schedule A.

Planholder may identify and thus add additional tank vessels at any time by submitting an updated Schedule A to the NETWORK.

### **3. TERM**

The NETWORK Certificate of Participation shall cover all vessels owned and identified by Planholder on the Part I, Schedule A, or as hereafter amended by Planholder. The NETWORK Certificate of Participation is valid as long as the Participating company remains current with invoiced vessel fees. Each invoice provides unlimited transits through the NETWORK Coverage for 12 months from the date the vessel is invoiced.

#### **4. FEES, CHARGES, ETC.**

The fee for enrollment in the NETWORK TV APC and utilization of such TV APC by the Planholder for regulatory compliance is based on the most current NETWORK TV APC vessel fee schedule, available at <http://www.ak-mprn.org/> The fee is applicable on a per vessel basis.

Planholder's Network Certificate of Participation shall be valid and in full force at the time of issuance and Planholder will not be invoiced for any of Planholder's tank vessel identified on Part I and/or Schedule A unless and until that vessel enters any area covered by the NETWORK'S TV APC or as otherwise requested by Planholder. Should a Planholder vessel not listed in Schedule A enter any area covered by the NETWORK'S TV APC, it will be deemed to be covered and Planholder agrees to pay the applicable invoice for that vessel. Said fee is payable in U.S. dollars without deduction or offset. Vessel fees are due and payable upon receipt of the invoice.

The fee covers enrollment; in the event of an incident, the Planholder is solely responsible for the cost of any response services.

The NETWORK is hereby authorized to unilaterally cancel any Certificate of Participation which it has issued retroactive to the date issuance identified on the Certificate in the event that full payment has not been received by the NETWORK within thirty (30) days of the issuance of a Certificate of Participation. The NETWORK will provide notice of cancellation to USCG as well as to the Planholder identified on Part I.

#### **5. RESPONSIBILITIES OF THE NETWORK**

During the term of each Certificate of Participation, the NETWORK shall maintain the NETWORK TV APC in effect and approved by the United States Coast Guard. Any changes to the NETWORK TV APC mandated and/or approved by USCG shall be immediately provided to each Planholder by posting on the NETWORK website, with the NETWORK TV APC and each corresponding Certificate of Participation to be deemed automatically modified to correlate with such approved changes.

#### **6. RESPONSIBILITIES OF THE PARTICIPANT**

During the term of each Certificate of Participation issued by the NETWORK, the Planholder shall:

- A. Provide accurate information to the NETWORK, through completion of Part I hereof or as otherwise may be requested by the NETWORK, including in the event any information previously provided has changed or is no longer accurate.
- B. Assure that all communication links identified to the NETWORK in Part I shall remain open and shall be monitored at all times (24/7 monitoring).
- C. Monitor the NETWORK website to determine whether any changes to the NETWORK TV APC have been mandated or approved by the USCG.
- D. Pay the fee identified above when and as due.
- E. Review the NETWORK TV APC; make it available to all authorized representatives including the Vessel Qualified Individual, all enrolled vessels and the masters and officers of all enrolled vessels; and assure compliance therewith.

- F. Review the NETWORK TV APC Operating Procedures; make it available to all authorized representatives including the Vessel Qualified Individual, all enrolled vessels and the masters and officers of all enrolled vessels; and assure compliance therewith.
- G. Assure that each vessel for which a NETWORK Certificate of Participation is issued is properly maintained, manned and equipped, including navigational aids and communications equipment, such that it can safely navigate and operate within the areas encompassed by the NETWORK TV APC.
- H. Maintain a Certificate of Financial Responsibility (COFR).

## **7. NETWORK PARTICIPANT AND RESPONSE RESOURCES**

Planholder has the exclusive right, discretion and authority to determine whether to activate or to not activate response resources, which response resources are appropriate, and from which person or entity such shall be obtained, including responsibility for payment for any such response services. Network makes no representation or warranty as to the availability or efficiency, or otherwise, of any response services selected by Planholder.

## **8. FORCE MAJEURE**

Neither party shall be responsible for delay or inability to perform arising from a cause which is beyond the actual direct control of that party.

## **9. EXTENSION OF BENEFITS**

All exceptions and/or defenses to and/or limitations upon liability granted to a party whether through this agreement or by operation of law shall be automatically extended to and for the benefit of all officers, directors and employees of that party as well as the officers, directors and employees of any contractor, subcontractor or representative of that party.

## **10. LIABILITY**

A Planholder may obtain regulatory compliance from alternative sources and as Planholder has had the opportunity to assess and evaluate the services offered by the NETWORK and review the terms and conditions of this agreement prior to submitting Part I hereof. Planholder acknowledges exclusive authority to activate any resources identified in the NETWORK TV APC.

The NETWORK agrees to indemnify the Planholder against liabilities (including but not limited to any cost, charge, fee, expense, fine and/or penalty other than the enrollment fee identified above), arising from gross negligence or wilful misconduct of the Network or a breach of this Agreement or breach of applicable law or regulation by the Network only in circumstances where such gross negligence or wilful misconduct arises directly as a result of the conduct of the services provided solely by the Network.

The Planholder agrees to indemnify the Network against liabilities (including but not limited to any cost, charge, fee, expense, fine and/or penalty), arising from gross negligence or wilful misconduct of the Planholder or a breach of this Agreement or breach of applicable law or regulation by the Planholder in the event response services are activated.

The Planholder agrees to indemnify the Network against liabilities for removal costs and damages arising out of a threat or actual discharge of oil from the vessel, except to the extent that:

- A. Responder immunity has been established under Federal or state law;
- B. The liabilities arise from the gross negligence or willful misconduct of the Network;
- C. The Planholder would not have been liable if sued directly;
- D. The Planholder would have been able to limit its liability; and,
- E. The liability arises in respect to death or personal injury.

#### **11. CONSEQUENTIAL DAMAGES**

Neither party shall be responsible to the other for special or consequential damages whatsoever including, without limitation, extra expense, loss of hire, loss of earnings, loss of profits, loss of use and/or business interruption, whether resulting from negligence, unseaworthiness, breach of this agreement or otherwise, even if the possibility of such damages may have been foreseeable.

#### **12. APPLICABLE LAW, FORUM, VENUE AND LEGAL FEES**

This agreement shall be governed by the laws of the state of Alaska and any dispute arising out of or relating to this agreement shall be litigated in the state or federal court located in Anchorage, Alaska, with the substantially prevailing party to recover its reasonable legal fees, costs and expenses.

#### **13. EXECUTION**

This agreement shall be considered fully executed upon submission by Planholder of Part I hereof to NETWORK and issuance thereafter by NETWORK of a Certificate of Participation to Planholder, and such documents shall be considered originals if sent electronically or by facsimile.

#### **14. INTEGRATION**

Part I and Part II hereof constitute a single integrated agreement, superseding any other documents, discussions or negotiations. This agreement may not be modified except through a writing signed by both parties.

— End of Part II —