

**SURETY BOND GUARANTY**

Surety Co. Bond No.

SURETY BOND GUARANTY FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER THE OIL POLLUTION ACT OF 1990 AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED

(Name of Vessel Operator)

Of ,

(City, State and Country)

("Principal"), and the undersigned surety company or companies ("Surety" or "Sureties"), each authorized by the United States Department of the Treasury to do business in the United States as an approved surety, are held and firmly bound unto the United States of America and other claimants in the penal sum of

\$

for costs and damages for which the Principal is liable under the Oil Pollution Act of 1990 ("OPA 90") and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA") (referred to collectively as the "Acts"). "Principal" includes, in addition to the vessel operator, the owner and demise charterer of each vessel covered by this guaranty ("covered vessel").

The Principal has elected to file with the Director, Coast Guard National Pollution Funds Center ("Center") this surety bond guaranty as evidence of financial responsibility to obtain from the Coast Guard a Certificate, or Certificates, of Financial Responsibility (Water Pollution) under 33 CFR part 138, to meet any liability for costs and damages incurred in connection with a covered vessel under section 1002 of OPA 90, as limited by section 1004(a), or section 107(a)(1) of CERCLA, as limited by sections 107(c)(1)(A) and (B), or both.

The Surety agrees that the penal sum of this surety bond guaranty shall be available to pay to the United States of America or other claimants under the Acts any sum or sums for which the Principal may be held liable under the Acts. The penal sum shall be the total applicable amount, determined in accordance with the Applicable Amount Table referenced at 33 CFR 138.80(f)(3), for which payment we, the undersigned, bind ourselves and our heirs, executors, administrators, successors and assigns, jointly and severally.

No more than 10 Sureties (including lead Sureties) may execute this guaranty. If there is more than one surety company executing this guaranty, we, the Sureties, bind ourselves in the penal sum jointly and severally for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of the percentage of the penal sum only as is set forth opposite the name of each Surety. If no percentage is indicated for a Surety or Sureties, the liability of such Surety or Sureties shall be joint and several for the total of the unspecified portions.

(Name of lead guarantor)

is designated as the lead guarantor having authority to bind all guarantors for actions of guarantors under the Acts, including but not limited to receipt of designation of source, advertisement of a designation, and receipt and settlement of claims (inapplicable if only one Surety executes this guaranty).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

The Coast Guard estimates that the average burden for completing this form is 30 minutes. You may submit any comments concerning the accuracy of this burden estimate or any suggestion for reducing the burden to the: Commandant (NPFC), U.S. Coast Guard, 2703 Martin Luther King Jr. Ave., SE, Washington, DC 20593-7605 or Office of Management and Budget, Paperwork Reduction Project (1625-0046), Washington, DC 20503.

Principal and the Surety or Sureties agree that if all or a portion of the penal sum is paid, the penal sum is considered reinstated to its full amount until 30 days after receipt from the Surety of written notice to the Director, NPFC, that the penal sum has not been reinstated. Principal and the Surety or Sureties further agree that if at the time of an incident, release, or threatened release a covered vessel is a tank vessel or is carrying a hazardous substance as cargo, the penal sum of this surety bond guaranty automatically increases, if necessary, to the total applicable amount appropriate for such vessel as determined in accordance with the Applicable Amount Table referenced at 33 CFR 138.80(f). In no case, however, shall the penal sum be increased to an amount greater than the total applicable amount.

The penal sum is not further conditioned or dependent in any way upon any contract, agreement or understanding between the Principal and Surety. If the Principal is responsible for more than one vessel covered by this guaranty, then the penal sum is the total applicable amount for the vessel having the greatest liability under the Acts.

The liability of the Surety as guarantor under OPA or CERCLA, or both, shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments amount in the aggregate to the penal sum of this bond guaranty.

Any claim, including any claim by right of subrogation, against the Principal for costs and damages arising under either section 1002 of OPA 90, as limited by section 1004(a), or section 107(a)(1) of CERCLA, as limited by sections 107(c)(1) (A) and (B), or both, may be brought directly against the Surety, and the Surety consents to suit with respect to these claims. However, in any direct action under OPA 90 the Surety's liability shall not exceed the amount determined under part I of the Applicable Amount Table referenced at 33 CFR 138.80(f)(1) and, in any direct action under CERCLA the Surety's liability shall not exceed the amount determined under part II of the Applicable Amount Table referenced at 33 CFR 138.80(f)(2). The Surety's obligation hereunder with respect to any one incident or release or threatened release shall be reduced by all payments or succession of payments for costs and damages, to one or more claimants, made by or on behalf of the Principal under OPA 90 or CERCLA or both, as applicable, for which the Principal is liable. The Surety hereby agrees that the Surety shall be entitled to invoke, in any direct action, only the rights and defenses set forth in 33 CFR 138.80(d).

This bond is effective the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, 12:01 a.m., standard time  
(Day) (Month) (Year)

at the address of the Surety first named herein, and shall continue in force until discharge or terminated as herein provided. The above named Vessel Operator or the Surety may at any time terminate this bond guaranty by written notice sent by certified mail, registered mail, overnight delivery, or other comparable service to the other party, with a copy (showing that the original notice was sent to the other party by certified mail, registered mail, overnight delivery, or other comparable service) to the Center. The termination is effective thirty (30) days after the Center receives the written notice of termination. The Surety shall not be liable hereunder in connection with an incident, release, or threatened release occurring after the termination of this bond guaranty as herein provided, but the termination shall not affect the liability of the Surety in connection with an incident, release, or threatened release occurring prior to the date the termination becomes effective. Nor shall the Surety be liable hereunder in connection with a non-covered vessel, which is a vessel specifically named in other evidence of financial responsibility, which is applicable to that vessel on behalf of the above named Vessel Operator, and which is accepted by and on file with the Center during an incident, release, or threatened release giving rise to a claim against the Surety or Principal.

The Surety designates

(Name of Agent)

with offices at

(Address)

as the Surety's agent in the United States for service of process for the purposes of this surety bond guaranty and for receipt of notices of designation and presentations of claims under the Acts. If the designated agent cannot be served due to death, disability, or unavailability, the Director, Coast Guard National Pollution Funds Center, is the agent for these purposes.

Title 33 CFR part 138 governs this bond guaranty.

In witness whereof, the Vessel Operator, for itself and owners, and Surety have executed this instrument on the

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ .  
(Day) (Month) (Year)

**VESSEL OPERATOR**

\_\_\_\_\_  
(Signature of Sole Proprietor or Partner)

\_\_\_\_\_  
(Typed)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
(Signature of Sole Proprietor or Partner)

\_\_\_\_\_  
(Typed)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
(Signature of Sole Proprietor or Partner)

\_\_\_\_\_  
(Typed)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
(Corporation)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
(Signature)

(Affix Corporate Seal)

\_\_\_\_\_  
(Typed Name and Title)

**SURETY**

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Percentage of Participation)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Affix Corporate Seal)

\_\_\_\_\_  
(State of Incorporation)

\_\_\_\_\_  
(Signature(s))

\_\_\_\_\_  
(Typed Name(s) and Title(s))

*[NOTE: For every co-Surety, provide information in the same manner as for Surety above.]*

## APPLICABLE AMOUNT TABLE

- (I) Applicable Amount Under the **Oil Pollution Act of 1990** reference 33 CFR 138.80(f)(1).
- (II) Applicable Amount Under the **Comprehensive Environmental Response, Compensation, and Liability Act, as Amended** reference 33 CFR 138.80(f)(2).
- (III) Total Applicable Amount reference 33 CFR 138.80(f)(3)= applicable amount calculated under (I) plus applicable amount calculated under (II).

## PRIVACY NOTICE

**Purpose:** The Coast Guard will use this information as evidence that the owners and operators, including demise charterers, of certain vessels have established and are maintaining evidence of financial responsibility (i.e., ability to pay) sufficient to meet the maximum amount of liability to which they could be subjected under the Oil Pollution Act of 1990 (33 U.S.C. 2702(a); 33 U.S.C. 2704) (OPA'90), and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9607) (CERCLA), in the event of a discharge, or substantial threat of discharge, of oil or a release, or threatened release, of hazardous substances, into the navigable waters, adjoining shorelines or the exclusive economic zone of the United States.

**Routine Uses:** This information will be used by and disclosed to Coast Guard personnel and contractors or other agents who need the information to assist in activities related to the OPA'90 and CERCLA evidence of financial responsibility requirements, including personnel responsible for the storage and ultimate disposal of the information. Additionally, the Coast Guard may share the information with facility operators, law enforcement or other government agencies as necessary to respond to actual or threatened discharges of oil or releases of hazardous substances, or pursuant to its published Privacy Act system of records notice.

**Disclosure:** Furnishing this information (including your SSN) is voluntary; however, if the requested information is not furnished, the Coast Guard will be unable to certify compliance by vessel owners and operators, including demise charterers, with the applicable OPA'90 and CERCLA evidence of financial responsibility requirements. This may result in the withholding or revocation of vessel clearance and other sanctions as specified OPA'90, 33 U.S.C. 2716(b) and 42 U.S.C. 9608(a).