

## MONITORING, COLLECTION, VERIFYING AND REPORTING AGREEMENT

This Monitoring, Collection, Verifying and Reporting Agreement (“the Agreement”), dated the \_\_\_\_ day of \_\_\_\_\_ 201[ ], is between:

**LISCR, LLC** (“the Administrator”), whose principal place of business is 8619 Westwood Center Drive, Suite 300, Vienna, Virginia, 22182, United States of America, appointed as agent of the Commissioner of Maritime Affairs of the Republic of Liberia in accordance with Section 13 of the Maritime Law, (Title 21 of the Laws of the Republic of Liberia Revised), and

[**COMPANY NAME**] (“the Verifier”) whose address for the purposes of this Agreement is [ADDRESS], (Registration No. \_\_\_\_\_ Accreditation Body)

the Administrator and the Verifier hereinafter each also referred to as the “Party” and collectively as the “Parties”.

WHEREAS the International Maritime Organization (IMO) has amended MARPOL Annex VI to establish a data collection system, the IMO Fuel Oil Data Collection System (DCS), under which ships above 5,000 GT will submit annual reports detailing fuel consumption data, distance travelled and time not at berth as of 1 January 2019 onwards;

WHEREAS the DCS monitoring will be based on data collection methodology set out in the Ship Energy Efficiency Monitoring Plans (SEEMP) and subsequent annual fuel oil consumption reporting in compliance with MARPOL, Annex VI, Regulation 22A specifications and referenced appendices;

WHEREAS the Administrator has a duty to aggregate vessel annual fuel oil consumption data and related reporting for submission to the IMO secretariat and issuance of a Statement of Compliance;

WHEREAS the Administrator with respect to data collection and verification based on SEEMP in compliance with MARPOL Annex VI specifications and (EU) 2015/757 for the monitoring, reporting and verification (EU MRV) of carbon dioxide (CO<sub>2</sub>) emissions from maritime transport is fully entitled to manage the data transfer and verification process for Liberian flagged vessels;

WHEREAS Regulation (EU) 2015/757 requires the monitoring, reporting and verification of CO<sub>2</sub> emissions of vessels of 5,000 GT and above that call EU ports for commercial purposes from 1 January 2018 onwards;

WHEREAS the Verifier is a recognized verified authorized as an accredited verification body providing independent accredited verification services for the assessment and verification of emission reports of shipowners per the referenced EU regulation;

WHEREAS the IMO DCS and EU MRV impose similar obligations allowing for synergies in data collection and verification of CO<sub>2</sub> emissions from maritime transport;

WHEREAS it is the desire of the Administrator to promote a level playing field amongst EU MRV accredited verifiers including classification societies, the Administrator will implement equivalent terms, conditions and fees with all verifiers authorized by the Administration to provide IMO-DCS verification services.

WHEREAS the Parties wish to provide the services for Liberian flagged vessels falling within the scope of the IMO DCS and, where applicable, the EU MRV through a mutual beneficial cooperation;

THIS AGREEMENT WITNESSES that the Parties agree as follows:

## **1. Purpose**

The Agreement defines the terms and conditions under which the Verifier is authorized to verify SEEMP updates (Part II) and corresponding annual fuel oil consumption reports of Liberian flagged ships.

## **2. General**

- a) The Verifier shall be authorized to provide IMO-DCS verifications services for Liberian flagged ships.
- b) The Verifier shall document its verification service procedures to ensure compliance with IMO-DCS prescribed criteria and submit them to the Administrator no later than 1 March 2018. The Verifier shall notify and provide copies to the Administrator of any revised verification service procedures.
- c) The Verifier shall maintain a valid accreditation certificate from an accredited body confirming the Verifier's authorization to perform IMO-DCS verification. A copy of the accreditation certificate shall be provided to the Administrator upon the signature of the Agreement. The Verifier shall inform LISCR on any change of the accreditation status with relevance to this Agreement (renewal, suspension, withdrawal) within 5 business days.
- d) At the end of each calendar year the Verifier will provide the following information:
  - (i) Accreditation certificate from the accreditation body;
  - (ii) Lead verifiers engaged by the Verifier for services under the IMO-DCS;
  - (iii) Liberian flagged vessels verified in the calendar year;
  - (iv) Liberian flagged vessels contracted for the following year; and
  - (v) A consolidated XML file with the required data and format as per paragraph 3.a(ii).
- e) The Verifier acknowledges and understands that time is of the essence communicating IMO-DCS information to the IMO and accordingly agrees to promptly respond to electronic mails and other communication regarding such aspects and to strictly adhere to all deadlines set by the DCS.
- f) The Verifier shall safeguard the interests of the Administrator at all times in its performance of services.
- g) The Verifier shall make all payments promptly when they become due under paragraph 6 of the Agreement.

## **3. Verification**

- a) With regards to Liberian flagged vessels for which the Verifier is contracted to provide IMO-DCS verification services, the Verifier shall provide the Administrator:
  - (i) a recommendation regarding the issuance of a Confirmation of Compliance for the updated SEEMP and a Statement of Compliance for the fuel oil consumption data report made pursuant to a review and examination of required IMO-DCS vessel documentation; and
  - (ii) information, within 14 days of a successful review and examination, required for the Administrator to issue the Confirmation of Compliance and Statement of Compliance including, but not limited to:
    - Annual data for the Bunker Delivery Notes (BDN) summaries in the format as per Appendix 1 of IMO Resolution MEPC.293(71);
    - Annual data for the collected data summaries in the format as per Appendix 2 of IMO Resolution MEPC.293(71);
    - Confirmation that the updated SEEMP complies with the requirements of MARPOL, Annex VI, Regulation 22A;
    - Confirmation that the annual fuel oil consumption report complies with Part II of the updated SEEMP and the requirements of MARPOL, Annex VI, Regulation 22A.
- b) The Administrator retains exclusive competence over the following:
  - (i) Issuance of SEEMP Confirmation of Compliance with MARPOL, Annex VI, Regulation 22A;
  - (ii) Issuance of annual fuel oil consumption Statement of Compliance with MARPOL, Annex VI, Regulation 22A;
  - (iii) On-board verification of Confirmation of Compliance and Statement of Compliance;
  - (iv) Mandatory annual IMO DCS reporting under MARPOL, Annex VI, Regulation 22A.

#### **4. Communication and Records**

- a) All instructions, report forms and other documentation shall be written in English;
- b) The Verifier and the Administrator, recognizing the importance of technical liaison, agree to cooperate toward this end and maintain an effective dialogue.
- c) The Verifier will maintain a database, which the Administrator will be able to have access to or request data from pertaining to all Liberian registered ships which have contract with the Verifier for services related to the IMO DCS, and the database will be updated following each ship being contracted for this service.
- d) The Administrator will undertake the annual IMO-DCS reporting required by MARPOL, Annex VI, Regulation 22A.

## **5. Oversight**

- a) The Administrator shall audit the Verifier to satisfy itself that the Verifier complies with the Agreement, applicable IMO-DCS requirements, as outlined in IMO Resolution MEPC.293(71) and any other applicable guidelines developed by the IMO;
- b) The frequency and scope of regular audits will be informed by separate notice.
- c) Upon request, the Verifier shall provide to the Administrator such information as the Administrator reasonably deems necessary to satisfy its reporting and other requirements towards IMO under the authorities in the context of the duties a flag State Administrator and ensure the proper execution of verification services.
- d) The Administrator will perform an annual on-board verification of Liberian flagged vessels' IMO-DCS compliance documents;
- e) The Verifier shall forward a copy of the accreditation body audit report or any other relevant oversight documents to the Administrator within 28 days of their receipt.

## **6. Fees**

- a) The Verifier will pay the Administrator an annual fee of USD 5,000 the first year and USD 2,500 each subsequent year to be authorized as an IMO-DCS service provider for Liberian flagged vessels.

The annual fee includes the Verifier's participation in the Administrator's oversight programme.

The annual fee will be invoiced on an annual basis starting from 2018.

- b) The Verifier will pay the Administrator a ship certification fee of USD 375 for each Liberian flagged ship for which the Administrator issues the following documents:
  - (i) Confirmation of Compliance with MARPOL, Annex VI, Regulation 22A to the effect that the SEEMP has been updated, reviewed and deemed compliant;
  - (ii) Statement of Compliance with MARPOL, Annex VI, Regulation 22A to the effect that the annual fuel oil consumption reporting has been reviewed and deemed compliant.

Ship certification fees will be invoiced on a quarterly basis.

- c) IMO DCS verification services (in combination with the EU MRV services) performed by the Verifier on behalf of the Administrator will be charged directly by the Verifier to the Party requesting such services.

While acting for the Administrator under this Agreement, the Verifier shall be free to enter into contracts directly with its clients and such contracts may contain the Verifier's normal contractual conditions for limiting its legal liability.

IMO-DCS service contracts shall however specify that the Administrator issues the Confirmation of Compliance for the updated SEEMP and Statement of Compliance for the annual fuel oil consumption reporting as required by the MARPOL, Annex VI, Regulation 22A, based on the Verifier's recommendation.

- d) Fees invoiced by the Administrator are payable within thirty (30) of receipt. Where the Verifier is in default of payment, the outstanding amount will be subject to late fee per Administrator policy.
- e) Fees payable to the Administrator are non-refundable under any circumstances.

## **7. Term**

This Agreement shall be for a duration of five (5) years from the date of its signature and continue thereafter unless or until either Party provides written notice of termination thirty (30) day prior to the date of termination.

## **8. Amendments**

- a) Any amendment to this Agreement must be agreed in writing by the Parties.
- b) This Agreement may be amended from time to time based on the evolution of the relevant regulations and based on experience of the verification processes.

## **9. Liability**

- a) The Verifier shall provide a copy of its terms and conditions pertaining to financial liability.
- b) As agencies, instrumentalities and representatives of the Republic of Liberia, the Administrator and all duly appointed Special Agents, and its members, officers, employees, appointees, employees, inspectors or auditors of the Liberian Registry wherever located, share in the Government of Liberia's full immunity from suit as a matter of law with respect to any act or omission or thing done by any of them in the exercise or in the performance of any of their duties.
- c) The functions and duties of the Liberian Registry (including but not limited to the registration and regulation of vessels in accordance with Liberian law) are inherently governmental and sovereign functions, and in no way fall within any commercial activity exception to the defense of State immunity.

## **10. Termination**

- a) This Agreement may be terminated at any time following the completion of the term in Paragraph 7 of this Agreement:

- (i) By mutual written agreement of the Parties; or
  - (ii) Upon thirty (30) days prior written notice by either Party.
- b) Either Party may terminate this Agreement forthwith by written notice to the other 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 60 days, failing which the notifying Party has the right to terminate the Agreement immediately;
- c) Either Party may terminate this Agreement forthwith by written notice to the other Party if the other Party:
  - (i) Makes any arrangement with or composition with its/his creditors or suffers any similar action in consequences of debts;
  - (ii) Appoints a receiver, an administrative receiver or similar officer in respect of the whole or any part of its/his assets or business;
  - (iii) Passes a resolution for, has a petition presented for, or enters into Administrator or liquidation;
  - (iv) Becomes bankrupt or otherwise insolvent; or
  - (v) The equivalent of any of the above in any applicable jurisdiction.
- d) Termination of this Agreement for any reason whatsoever will be without prejudice to any accrued rights or obligations of either Party.
- e) The Verifier shall, for a period of five years after termination of the Agreement:
  - (i) keep and maintain accurate and systematic accounts and records in respect of the services hereunder; and
  - (ii) allow the Administrator or its designated representative to periodically inspect the same and make copies as well as to have them audited by auditors appointed by the Administrator at the Administrator's cost.

## **11. Non-disclosure**

- a) The Agreement and any information disclosed by the Verifier and the Administrator to the other party for the purpose of monitoring, reporting and verifying carbon dioxide emissions of Liberian flagged vessels shall be kept confidential by the Parties.
- b) "information" includes the whole or any portion of any knowledge, data, or information relating to the activities or business of each Party which may be in tangible or intangible form, expressed orally, in writing or in any other form (whether or not marked confidential) including, but not limited to, financial information and data, business and financing plans, budgets, prices, marketing plans, market information, strategic information, information concerning customers, bookings and revenues, samples, trade secrets, technical information, drawings, sketches, data, techniques, studies, processes, systems, ideas, know-how, industry affiliations, photographs, computer programs, models, source codes, object codes, manuals, tape recordings and any documentation or other form of record;

- c) The Parties agree to not directly or indirectly disclose, verbally, in writing or in any other form, or allow the information to be disclosed to any other person, firm or company unless such disclosure is required to perform any obligations under this Agreement;
- d) The Parties agreed to not copy, store or distribute any information or allow any information to be copied, stored or distributed except for such copies, storage or distribution as are strictly required for the performance of the Agreement;
- e) The Parties shall protect the commercial interest of the disclosing Party and shall take the same precautions to protect information as a careful and prudent person would be expected to employ for its own business and confidential Information and, in doing so, shall use reasonable care to protect the information from unauthorized use, harm, exploitation, manipulation, modification, interference, misuse, misappropriation, copy or disclosure whatsoever, except as specifically authorized by the disclosing Party in writing;
- f) The Parties shall treat communications with the other Party as confidential and use reasonable care in maintaining the confidentiality of communications even if they do not include protected information.

## **12. Governing Law**

This Agreement shall be governed by the laws of the State of Virginia, United States of America, in every particular, including formation, interpretation and performance and shall be deemed to have been made and concluded in Virginia, United States of America. The descriptive headings on the sections of this Agreement are inserted for convenience only and shall not be considered operational parts of the Agreement.

## **13. Notice**

Any notice to be given under this Agreement shall be in writing and sent by registered mail to the other Party at the address and marked for the attention of the person set out below, or a person as that Party may notify the other from time to time in accordance with this Clause.

For the Administrator

Name Surname:

Position:

Liberian Administration

Address:

Tel:

Email:

For the Verifier

Name Surname:

Position:

Company:

Address:  
Tel:  
Email:

#### **14. Force Majeure**

Neither Party shall be liable in respect of any failure to fulfill its obligations under this Agreement where such failure is due to reasons or circumstances beyond its reasonable control including, but not limited to, delay by the client, government interferences, direction or restriction, war or civil disorder, strike, blockade, insurrection, riot, act of nature, disaster, disease, epidemic, terrorist act, or other emergencies. In such circumstances, this Agreement may be terminated by written notice from one Party to the other with no further obligations and liabilities provided that the force majeure event shall have continued for thirty (30) consecutive days from when it was notified in writing to the other Party, and provided further that such termination shall be without prejudice to any accrued rights and liabilities under this Agreement.

#### **15. Entire Agreement**

This Agreement contains the entire contract between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings between Parties concerning the subject matter hereof.

#### **16. Severability**

If any part, term, or provision of this Agreement shall be held illegal, unenforceable or in conflict with any law of a government having jurisdiction over this Agreement, the validity of the remaining portions or provisions of the Agreement shall not be affected thereby and shall remain in force. In the exceptional case where such severance would void the entire Agreement of its substance, the whole Agreement may be terminated.

#### **17. Commencement of Agreement**

This Agreement commences on \_\_\_\_, 2017

IN WITNESS WHEREOF the undersigned, duly authorized by the Parties, have signed this Agreement

**The Verifier**

\_\_\_\_\_

Date: \_\_\_\_\_

**The Administrator**

\_\_\_\_\_

Date: \_\_\_\_\_