

## **State of Alaska Non-tank Vessel Clean-Up Contractor (NVCC) Coverage Agreement Terms and Conditions**

1-Call Alaska LLC, a Florida corporation, that is a wholly owned subsidiary of the RESOLVE Marine Group, Inc and existing under the laws of FLORIDA and having its principal office at 1510 SE 17th Suite 400, Fort Lauderdale, Florida the “Provider”; and the entity or entities identified on the **State of Alaska Non-tank Vessel Clean-up Contractor (NVCC) Coverage Agreement** as the “Client”.

### **1. PROVIDER’S OBLIGATIONS**

- 1.1 The Provider shall provide, or cause to be provided, the services set out below for the Client and the Vessel(s) within the Area of Service, defined in the signed 1-Call Alaska Coverage Agreement between the Provider and the Client, in exchange for the Retainer Fee provided in the 1-Call Alaska LLC Rate Sheet.
- 1.2 In accordance with the provisions and definitions set forth in Alaska Statutes 46.04.055 and 46.04.030. The Provider shall maintain an approved Nontank Vessel Cleanup Contractor (NVCC) Program within the Aleutian and Cook Inlet Subareas, referred to hereafter as the 1-Call Alaska Response Area.
  - 1.2.1 Provider shall make available to the Client its Alaska NVCC certification approval letter for the Client’s and /or its plan preparer’s use in obtaining Alaska Streamlined Oil Discharge Prevention and Contingency Plan approval within the 1-Call Alaska Response Area.
  - 1.2.2 In the event of a spill or threat of spill, 1-Call Alaska LLC may, at the Client’s request, provide the initial Incident Commander (IC) on behalf of the Covered Vessel and spill management team until a formal transition occurs from the provider to the Client’s designated Incident Management Team (IMT). The IC will initiate response activities and direct reasonable response resources in the initial phase of the response to the spill or threat of a spill. The IC will liaise so far as practicable with the Client and the regarding the response and resource direction. Client authorizes and directs its Incident Management Team to coordinate with the IC as soon as possible upon a report of a spill or threatened oil spill from the Covered Vessel.
- 1.3 The Provider shall provide, or cause to be provided, the services set out below for the Client and the Vessel within the area of service, upon request from the Client in exchange for a rate determined by parties at the time of activation.
  - 1.3.1 supply and deployment of Response Resources required by the Client to conduct Oil Spill Response Activities.

- 1.3.2 shall be entitled to employ or engage such agents, superintendents, surveyors, engineers, consultants and experts to supervise or advise in relation to the services provided hereunder; and enter into subcontracts with related parties or independent contractors to perform any part of the services which Provider is obliged to perform under this agreement
- 1.3.3 supervision and coordination of deployment and use of Response Resources in such manner as directed by the Client.
- 1.4 The Provider and/or Resolve Marine Services Alaska, shall obtain and maintain all classifications necessary to satisfy the requirements of an approved Nontank Vessel Cleanup Contractor in the 1-Call Alaska Response Area.
- 1.5 The Provider warrants that it shall have or obtain sufficient response resources to enable the Client to meet the mandated levels of response capacity under Federal and State law.

## 2. CLIENT OBLIGATIONS

- 2.1 The Client shall:
  - 2.1.1 Permit the tracking of its covered vessels when operating in the United States Exclusive Economic Zone off of the State of Alaska.
  - 2.1.2 Provide a valid email address and voice telephone number to each vessel. The Client shall ensure that the Provider is made a part of the vessels email whitelist if necessary and to always keep this contact information current.
  - 2.1.3 Designate a Incident Management Team and provide the Provider with the name, address, twenty-four (24) hours-a-day telephone number and email address of the IMT, and shall amend or update this information as necessary.
  - 2.1.4 Deliver to the Provider a copy of their finalized Alaska Streamlined Oil Discharge Prevention and Contingency Plan
  - 2.1.5 Be responsible for deciding which Response Resources shall be requested from the Provider to conduct Response Activities.
  - 2.1.6 Be responsible for disposal of all oil and hazardous substances collected by the Provider.
  - 2.1.7 Ensure the vessels listed in Appendix B comply with the procedures set forth in Provider's voyage and oil spill notification procedures consistent with their Alaska Streamlined Oil Discharge Prevention and Contingency Plan submissions.

### 3. COMPENSATION

- 3.1 The Basic Compensation is to be paid to the Provider in the form of annual retainer fee which is levied on a vessel-by-vessel basis. The Client will only be charged on a vessel making a non-innocent passage voyage through State of Alaska waters (3nm or less from shore). After one year is paid the vessel will not be charged another retainer until one year (365 days) have past. See the 1-Call Alaska Rate Sheet for specific rates.
- 3.2 Payment of the retainer is due to 1-Call Alaska within 30 days from the Invoice Date. If an invoice is not paid within 30 days, the full retainer amount will be charged irrespective of prior arrangements and/or agreements. After 30 days interest will accrue monthly at a per annum rate of 4% above US Prime rate, until payment is received in full. Wire Transfer Fees are in addition to the invoiced amount and will not be deducted from our payment.
- 3.3 The annual retainer fee does not include or compensate for the deployment by the Provider of response assets or personnel to provide response activities under the terms of the Agreement or these Terms and Conditions either at the request of the client [or any US Government representatives/USCG].

### 4. RESPONSE PROCEDURE/CONTRACT

- 4.1 The Client may initiate a request for the deployment of Response Resources for Response Activities by a direct telephone call to the Provider at +1 (907) 243-0069, and such telephone call shall be deemed a request for the deployment of Response Resources by the Client for purposes of this Agreement.
- 4.2 The Client shall be responsible to notify governmental authorities as required by Federal Law or State Law of the Discharge. The Provider, however, is not precluded from notifying governmental authorities if deemed appropriate.
- 4.3 Pending agreement between the Provider and Client as referred to in clause 4.5 below, upon receipt of the request for the deployment of Response Resources by the Client, the Provider shall use Best Endeavors to deploy such Response Resources in accordance with response time requirements specified under Federal law and State Law. Upon the Provider's arrival at the scene of the Discharge, the Qualified Individual, or other authorized representative of the Client, shall give the Provider written authorization to proceed with deployment of Response Resources. The Provider thereafter shall continue to act in accordance with the instructions of the Qualified Individual, or other authorized representative of the Client, subject to the terms of this Agreement.
- 4.4 The Client shall give the Qualified Individual, or other authorized representative on scene, full authority to approve the daily worksheets submitted by the provider.
- 4.5 As soon as practicable following the initiation of a request for the deployment of Response Resources for Response Activities referred to at 4.1 above, the Provider and

Client shall enter into an Oil Spill Response Contract on the BIMCO US Responsecon form. Personnel and equipment rates are based upon the prevailing rates and standard trading terms on the date of engagement.

- 4.6 The Provider shall, pending discussion and agreement of the appropriate contract, respond to a request for the deployment of Response Resources for Response Activities as appropriate.
- 4.7 The Provider shall be entitled to security for payment for the services in accordance with the security provision in clause 5(h) and all other provisions of the contract on the BIMCO US Responscon form entered into pursuant to clause 4.5.

## 5. LIMITATIONS ON PROVIDER'S OBLIGATIONS

- 5.1 In the event the Provider is requested to deploy Response Resources for Response Activities for more than one Discharge within the Area of Service, the Provider and Client shall make good faith efforts to agree on allocation of Response Resources between the spills. In the absence of such agreement, the Provider shall allocate its Response Resources as directed by the On-Scene Coordinator (OSC) or other U.S. Government representatives for the concurrent spills. In the absence of such direction the Provider shall not be obligated to remove or divert Response Resources from Response Activities in connection with another spill initiated prior to the request for deployment of Response Resources by the Client if the Provider deems that such Response Resources are necessary for proper completion of the previously initiated Response Activities.

## 6. DISCLAIMERS AND LIABILITY

- 6.1 The Client acknowledges that Response Resources deployed by the Provider under this Agreement will be deployed on an emergency basis and that the purpose of Response Activities for which such Response Resources will be deployed is to remove, to the maximum extent practicable, Oil from a Discharge. The Provider does not warrant, by the terms of this Agreement or by undertaking, that Response Activities conducted with Response Resources will render the scene of the Discharge, or areas affected by the Discharge, safe for any form of human activity, or in compliance with any Federal law or State Law.
- 6.2 In no event shall the Provider, its affiliates, agents, employees or subcontractors be liable for or obliged in any manner for any loss of profits and loss of use to the Client.
- 6.3 The Provider, its affiliates, agents, directors, officers, employees or subcontractors shall be entitled to the protection of Responder Immunity Law and nothing herein shall be construed to allow the Client to recover by way of contribution, indemnity or otherwise from the Provider, its affiliates, agents, directors, officers employees or subcontractors, any amounts for which the Client is liable to or has paid to third parties and for which the Provider, its affiliates, agents, directors, officers, employees or subcontractors

would have no liability under the Responder Immunity Law applicable in the jurisdiction where the Discharge and/or Response Activities have occurred. In no event shall the Provider, its affiliates, agents, directors, officers, employees, or subcontractors be liable for or obliged in any manner for damages suffered by the Client arising from services hereunder whether damages to third parties or the Client directly, unless the damages were directly caused by the gross negligence or willful misconduct of the Provider, its affiliates, agents, directors, officers, employees, or subcontractors.

- 6.4 At no time shall the Provider be considered to have title to, or otherwise own, any Oil or Hazardous Substances on the Vessel or being removed from the water, shoreline or elsewhere, or to be in possession or control of any such Oil or Hazardous Substances, except as the Client's agent.

## 7. INDEMNIFICATION

- 7.1 The Provider agrees to indemnify, defend and hold harmless the Client from and against any and all costs, liabilities, claims, demands and causes of action which the Client may suffer, incur, or pay out to the extent caused by the gross negligence or willful misconduct of the Provider, its affiliates, officers, directors, employees or subcontractors except to the extent that such liabilities, claims, demands and causes of action occur as a result of the Client's failure to observe or comply with any applicable law, regulation or lawful authority, or its failure to observe or comply with and fulfill its obligations under this Agreement or as a result of the grossly negligent or wrongful acts of the Client, its employees or agents, or of third parties.
- 7.2 The Client shall indemnify, defend and hold harmless the Provider, its affiliates, directors, officers, employees, agents and subcontractors from and against any and all costs, liabilities, claims, demands and causes of action to the extent caused by the Client's failure to observe or comply with any applicable law, regulation or lawful authority, or its failure to observe or comply with and fulfill its obligations under this Agreement or as a result of the gross negligence or willful misconduct of the Client, its employees or agents, except to the extent that such liabilities, claims, demands or causes of action occur as a result of the gross negligence or willful misconduct of the Provider, its affiliates, officers, directors, employees or subcontractors;
- 7.3 The Client shall indemnify, defend and hold harmless the Provider, its affiliates, directors, officers, employees, agents and subcontractors from and against any and all costs, liabilities, claims demands and causes of action for Removal Costs and damages under OPA §1002 or corresponding State Law which result from actions taken or omitted to be taken in the course of rendering care, assistance or advice in connection with a Discharge or threatened Discharge from a Vessel consistent with the National Contingency Plan or as otherwise directed by the Client, the U.S. Coast Guard or other governmental authorities, which the Provider, its affiliates, directors, officers, employees, agents and subcontractors, individually or collectively, may suffer, incur, or pay out, except to the extent that:

- 7.3.1 the Provider, its affiliates, officers, directors, employees, or subcontractors is entitled to immunity from liability under Responder Immunity Law.
- 7.3.2 such liabilities, claims, demands, and causes of action arise out of the gross negligence or willful misconduct of the Provider, its affiliates, officers, directors, employees, or subcontractors.
- 7.3.3 the Client would have been entitled to a complete defense to liability under Federal Law and any relevant State Law had such claim, demand or cause of action been made against the Client or the Vessel directly.
- 7.3.4 such payment or indemnification would result in a payment by the Client in excess of the amount to which the Client would have been entitled to limit its liability under Federal Law and any relevant State Law had such claim, demand or cause of action been made against the Client or the Vessel directly; or
- 7.3.5 such liabilities, claims, demands and causes of action arise in respect of death or personal injury.

## 8. EXCUSE OF PERFORMANCE

- 8.1 The performance of this Agreement, except for the payment of money for services already rendered and such further services as are necessary for standby or to demobilize following suspension, may be suspended by either party in the event performance of this Agreement is prevented by a cause or causes beyond the reasonable control of either party or force majeure and not contemplated as a circumstance in which services hereunder are to be performed. Such causes shall include, but not be limited to, acts of God, acts of public enemies, war, rebellion, sabotage, riot, fire, explosion, unavoidable accident, or flood; Governmental laws, regulations, requirements, orders, or actions; national defense requirements, injunctions or restraining orders, labor trouble, strike, lockout, or injunction. In such event, the parties agree to use their Best Endeavors to eliminate the above referenced causes (provided that neither party shall be required to settle a labor dispute against its own best judgment).
- 8.2 The party asserting a right to suspend performance hereunder shall advise the other party when the suspending event has ended, and when performance will be resumed.
- 8.3 Nothing herein shall be construed to oblige the Provider to deploy Response Resources in connection with Response Activities where, in the good faith judgment of the Provider's supervisory personnel on the scene and with the agreement of the Federal on Scene Coordinator, circumstances in which the Response Activities are to be conducted present an unreasonable risk to life or property.

## 9. TERMINATION

- 9.1 If the Provider is unable, for a period of more than forty-five (45) days, to obtain or maintain Classification as an Alternate Planning Criteria when such Classification is available, this Agreement may be terminated upon notice from the Client. In such event the Provider shall pay to the Client in a form of liquidated damages an amount equal to the prorated portion of the annual retainer fee.

## 10. TERM

- 10.1 This Agreement shall continue in full force and effect for the period of 1 year and for successive periods of one year thereafter unless terminated by either party upon written notice to the other party ninety (90) days or more before the next renewal date.

## 11. GOVERNING LAW AND JURISDICTION

- 11.1 This Agreement shall be governed by and construed in all respects in accordance with the law of the State of Florida except to the extent that this Agreement entitles the Provider to the benefit of Responder Immunity Law applicable in the jurisdiction where the services are rendered in which case the Responder Immunity Law shall govern only the issue of the Provider's liability orders or agreements purporting to modify, vary, supplement or explain a provision of this Agreement shall be effective unless set forth in writing and signed by representative of each party authorized to amend this Agreement.

## 12. INSURANCE

- 12.1 The Provider warrants that they will carry and maintain in full force and effect General Liability and Contractor Liability Insurance more than USD 2 million per occurrence.

### Contact Information

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