

# Salvage and Marine Firefighting Service Agreement

This Agreement (“Agreement”) is entered into by and between (Company Name), for itself and on behalf of its subsidiaries and affiliates, (“Plan Holder”) and T&T SALVAGE, LLC, (“Contractor”).

## 1.0 Scope of Agreement:

Effective (contract date), Plan Holder hereby designates Contractor as the Salvage and Firefighting Primary Resource Provider to be listed in Plan Holder’s USCG vessel response plan, VRP # \_\_\_\_\_, as required by 33 CFR 155, Salvage and Marine Firefighting requirements. Contractor agrees to commit resources to Plan Holder in the event of an incident requiring salvage and/or firefighting response and agrees to provide the services that are listed in 33 C.F.R. 155.4030(a) through 155.4030(h), and that these services are capable of arriving within the planning response times listed in 33 C.F.R. Table 155.4030(b).

The foregoing notwithstanding, it is understood that Contractor’s resources may not be immediately available, and cascading of resources from other locations or providers may be required. It is further understood that Plan Holder is permitted hereunder to verify the availability of Contractor’s response resources through tests, inspections and drills.

The work to be performed under this Agreement will be as requested by an authorized representative of Plan Holder and shall be performed as outlined below:

## 2.0 Work Procedures:

### 2.1 Work Commencement

This Agreement being a time and materials contract, Contractor will begin each part of the work covered by this Agreement at such time as Plan Holder initiates a response to an incident by a direct telephone call to Contractor at the following number:

**24-Hour Emergency Number +1 713.534.0700**

Secondary Emergency Number: +1 409.744.1222

The person initiating the response shall provide Contractor with:

- His or her name and title
- Plan Holder’s Representative name, address, and telephone number
- Vessel Name
- The location of the incident (latitude/longitude)
- The nature and scope of the incident

- The approximate time incident occurred
- Any other pertinent information relating to the incident

Upon receiving the call, and in reliance thereon, Contractor will exercise due diligence to begin mobilizing resources for purposes of responding to the incident.

2.1 (a) Plan Holder has the right to appoint a representative (“Plan Holder’s Representative”) to attend the salvage operation to attend on board throughout the salvage and or firefighting response.

## 2.2 Labor Verification

Time sheets will be filled out daily by Contractor for services performed. Daily time sheets will be verified and signed by the Contractor’s supervisor and shall be attached to Contractor’s invoice. These shall be submitted to Plan Holder’s Representative on daily basis. If Plan Holder’s Representative does not agree with the daily time sheet, he shall give notice in writing to the Contractor forthwith stating which items he does not agree with.

## 2.3 Supervision, Labor, Equipment, Supplies And Safety

Contractor shall, at Contractor’s expense and in a diligent and workmanlike manner, furnish supervision, labor, equipment, machinery, tools, material, and supplies necessary for the safe performance of the work herein contemplated.

## 2.4 Fleet Updates

As used herein, “Fleet” is defined as the vessels listed in an approved vessel response plan (VRP) as referenced in Section 1.0 Scope of Agreement. Plan Holder agrees to notify Contractor in a timely manner of all changes in the named Fleet, including but not limited to vessel additions, deletions, and name modifications which occur during the term of this Agreement. It is understood that Contractor is under no obligation whatsoever to respond to vessels not identified or covered by this Agreement.

## 2.5 Drills and Exercises

Contractor will support Plan Holder’s compliance with 33 C.F.R. 155.4052 by participating as directed in drills and exercises. Contractor’s participation in Plan Holder drills and exercises will be quoted separately and will be based upon scope of participation. Plan Holder shall make its vessels reasonably available to Contractor for familiarization and casualty response planning purposes.

## 2.6 Marine Pre-Fire Plan Certification

Contractor will provide guidance and support to the Plan Holder during the creation of their Marine Pre-Fire Plan as required by 33 CFR 155.4035; and, there will be no additional fee for Pre-Fire Plan (PFP) certification so long as the Plan Holder provides all PFP documentation in electronic format.

Plan Holder shall provide the electronic files allowing a minimum of 7 days for process review and certification of the PFP.

If the Plan Holder is unable to prepare their pre-fire plan, T&T Salvage will provide this service at a rate of USD \$75.00 per hour plus the cost of any file digitization at cost plus 15%.

### **3 FUNDING**

#### **3.1 Administrative Fee**

As part of this Agreement, Plan Holder understands and agrees to pay Contractor an annual Administrative Fee of (Amount). The Administrative Fee is due upon receipt of invoice from Contractor. The Administrative Fee is based on calendar year or any part thereof. Contractor reserves the right to adjust the Administrative Fee based upon fleet updates and fluctuations; however, there will be no proration of the Administrative Fee or refunds for vessels which are deleted from coverage during the calendar year or for vessels that do not enter US waters during a calendar year.

#### **3.2 Payment for Work Performed**

Plan Holder will pay Contractor for services rendered hereunder at the rates set forth in "Attachment 1". It is understood that the rates set forth in the attached tariff are subject to change by Contractor upon thirty (30) days written notice to Plan Holder. It is further understood that once the response has been initiated, Plan Holder and Contractor may mutually agree to enter into an alternative funding agreement so long as it does not impede or cause a delay in the overall response effort. Plan Holder shall pay such portion of Contractor's invoices for services rendered hereunder and approved by the Plan Holder's Representative, such approval not to be unreasonably withheld or delayed, within thirty (30) days of receipt.

If any amount payable under this agreement has not been paid within 7 days of the due date, then at any time thereafter the contractor shall be entitled to terminate this agreement without prejudice to the sums already due to the Contractor and to any further rights or remedies which the Contractor may have against the Plan Holder, provided always that the Contractor shall give the Plan Holder at least 3 working days written notice of its notice of its intention to exercise this right.

Without prejudice to the above, in the event that payment is not timely made, the Contractor shall be entitled to interest on the unpaid balance at the rate of two percent above normal commercially available Bank lending rates.

The parties intend that the provisions of this Section constitute the "funding agreement" required by 33 C.F.R. 155.4025, which shall remain in effect throughout the term hereof.

### 3.3 Security

Upon request from the Contractor, the Plan Holder shall provide an irrevocable and unconditional security in a form and amount as agreed between the parties for all or part of any amount which may be or become due under this Agreement. Such security shall be given on one or more occasions as and when required by the Contractor.

If the security required in accordance with this clause is not provided within 5 banking days following the request by the Contractor, then at any time thereafter the Contractor shall be entitled to terminate this agreement without prejudice to the sums already due to the Contractor and to any further rights or remedies which the contractor may have against the Plan Holder, provided always that the Contractor shall give the company at least 7 calendar days written notice of its intention to exercise this right.

### 4.0 INDEPENDENT CONTRACTOR RELATIONSHIP

In the performance of the work herein contemplated, Contractor is and shall be an independent contractor, the Contractor's Salvage Master having overall charge of the operation, and making all final decisions as to what he thinks is best. He shall remain responsible for the operation. Plan Holder's Representative shall be entitled to be kept informed by or on behalf of the Salvage Master. The Salvage Master shall consult with the Plan Holder's Representative during the operation if circumstances allow and the Plan Holder's Representative, once on site, shall be entitled to offer the Salvage Master advice. The foregoing notwithstanding, Contractor's work shall meet the approval of Plan Holder, and Plan Holder shall have the general right to inspect the work to insure the satisfactory completion thereof. In this paragraph, the term "Salvage Master" shall mean "salvage master" or if none "Contractor's representative on site".

### 5.0 OBLIGATIONS

5.1 Contractor agrees to:

- a. Pay off just claims for labor, materials and supplies furnished by Contractor hereunder. Contractor in no circumstances shall allow a lien or charge for services provided to Plan Holder by or on behalf of Contractor to become fixed upon any property of Plan Holder, with the exception of liens or charges arising from Plan Holder's failure to pay any sum due Contractor under this Agreement.
- b. Comply with all laws, rules and regulations, Federal, State, and Municipal, which are now, or in the future may become, applicable to Contractor, Contractor's business, equipment, and personnel engaged in operations covered by this Agreement, or accruing out of the performance of such operations; and
- c. Pay any and all claims which may be asserted or assessed against Plan Holder because of any infraction or violation of any Federal, State or Municipal law, rule, or regulation, or for

nonpayment of taxes, which are now or in the future may become, applicable to Contractor, Contractor's business or personnel, arising from Contractor's operations hereunder.

## 6.0 INDEMNITIES AND INSURANCE

6.1 Contractor and Plan Holder agree that:

a. Contractor agrees to protect, defend, indemnify and hold harmless Plan Holder, its subsidiaries and affiliates, each of their officers, directors, agents and employees, each of Plan Holder's subcontractors and their employees, each of their vessels employed in connection with or as the object of the services being carried out under this Agreement, and each of their respective insurers (hereinafter referred to as the "Plan Holder Indemnitees") from and against all claims, demands, causes of action of any kind and character, **any special, punitive, indirect, exemplary, or consequential damages or losses (including but not limited to loss of use, loss of profit, loss of business or business interruption) and without regard to the cause or causes thereof or the negligence or fault of Plan Holder made, brought by or on behalf of any Contractor Indemnitee (as hereinafter defined), arising out of this Agreement on account of personal injury, illness, death, and/or loss of or damage to property.**

b. Plan Holder agrees to protect, defend, indemnify and hold harmless Contractor, its parents, subsidiaries and affiliates, each of their officers, directors, agents and employees, each of Contractor's subcontractors and their employees, each of their vessels employed in connection with the services being carried out under this Agreement, and each of their respective insurers (hereinafter referred to as the "Contractor Indemnitees") from and against all claims, demands, causes of action of any kind and character, **any special, punitive, indirect, exemplary, or consequential damages or losses (including but not limited to loss of use, loss of profit, loss of business or business interruption) and without regard to the cause or causes thereof or the negligence or fault of Contractor or its subcontractors made, brought by or on behalf of any Plan Holder Indemnitee, arising out of this Agreement on account of personal injury, illness, death, and/or loss of or damage to property.**

c. In the event that bodily injury, death or property loss or damage is sustained by a person or entity not referred to above, then the rights and obligations between the parties to this Agreement shall be determined at law, except as otherwise provided in this Agreement.

d. Plan Holder agrees to defend, hold harmless and indemnify the Contractor Indemnitees from and against any and all claims and causes of action that may be brought or come about, directly or indirectly, from any cargo spill or discharge, oil spill or discharge, gas spill or discharge, fuel oil spill or discharge, hazardous material spill or discharge, chemical spill or discharge, solid material spill or discharge, or pollution of any type, from Plan Holder's vessels (hereinafter referred to as "Plan Holder's pollution"), including, but not limited to, cleanup costs, third-party damages, or any other damages of any type that may be caused by said Plan Holder's pollution, **regardless of any sole or contributing fault or negligence of the Contractor Indemnitees or any of them or the unseaworthiness of any vessel.**

e. Contractor agrees to defend, hold harmless and indemnify the Plan Holder Indemnitees from and against any and all claims and causes of action that may be brought or come about, directly or indirectly, from any cargo spill or discharge, oil spill or discharge, gas spill or discharge, fuel oil spill or discharge, hazardous material spill or discharge, chemical spill or discharge, solid material spill or discharge, or pollution of any type, from Contractor's vessels (hereinafter referred to as "Contractor's pollution") which are used in carrying out services under this Agreement, including, but not limited to, cleanup costs, third-party damages, or any other damages of any type that may be caused by said Contractor's pollution, **regardless of any sole or contributing fault or negligence of the Plan Holder Indemnitees or any of them or the unseaworthiness of any vessel.**

f. Plan Holder agrees to release, defend, hold harmless and indemnify the Contractor Indemnitees from and against all claims and causes of action that may be brought or come about, directly or indirectly, from any pollution from pipelines or equipment in the vicinity of Plan Holder 's vessels, including cargo spill or discharge, oil spill or discharge, gas spill or discharge, fuel oil spill or discharge, hazardous material spill or discharge, chemical spill or discharge, solid material spill or discharge, or pollution of any type, except to the extent such claims and causes of action arise from Contractor's negligence or fault.

g. Contractor agrees to release, defend, hold harmless and indemnify the Plan Holder Indemnitees from and against all claims and causes of action that may be brought or come about, directly or indirectly, from any pollution from pipelines or equipment in the vicinity of Plan Holder 's vessels, including cargo spill or discharge, oil spill or discharge, gas spill or discharge, fuel oil spill or discharge, hazardous material spill or discharge, chemical spill or discharge, solid material spill or discharge, or pollution of any type, but only to the extent such claims and causes of action arise from Contractor's negligence or fault.

h. Plan Holder agrees to release, defend, hold harmless and indemnify the Contractor Indemnitees from and against all claims, causes of action, fines and penalties that may be brought or come about, directly or indirectly, from (1) removal of silt, sand and/or mud from in and around any of Plan Holder 's vessels, or (2) any other natural resource or environmental damage of any type or description, including but not limited to reef damage, that may arise from services provided by Contractor and/or its subcontractors hereunder, except to the extent such claims, causes of action, fines and penalties arise from Contractor's negligence or fault.

i. Contractor agrees to release, defend, hold harmless and indemnify the Plan Holder Indemnitees from and against all claims, causes of action, fines and penalties that may be brought or come about, directly or indirectly, from (1) removal of silt, sand and/or mud from in and around any of Plan Holder 's vessels, or (2) any other natural resource or environmental damage of any type or

description, including but not limited to reef damage, that may arise from services provided by Contractor and/or its subcontractors hereunder, but only to the extent such claims, causes of action, fines and penalties arise from Contractor's negligence or fault.

j. Notwithstanding anything contained in this Agreement to the contrary, liability for special, punitive, indirect, exemplary, or consequential damages or losses (including but not limited to loss of use, loss of profit, loss of business or business interruption) shall be determined pursuant to applicable law.

## **7.0 INSURANCE**

Contractor agrees to carry or will cause to be carried, with an insurance company or companies satisfactory to Plan Holder and authorized to do business in the State wherein work is to be performed for Plan Holder by Contractor, insurance coverage with limits of not less than those set forth in Attachment 2, such coverage to include Contractor's liability assumed under the indemnity provisions in Section 6.0. A certificate of such coverage shall be furnished to Plan Holder by Contractor.

## **8.0 ACCIDENT REPORTS TO BE FURNISHED BY CONTRACTOR**

Contractor shall furnish Plan Holder a copy of Contractor's accident report covering each accident occurring on the vessels or premises covered by this Agreement during the performance of this Agreement.

## **9.0 RETENTION OF RECORDS**

Contractor Agrees to retain all pertinent books, payrolls, and records relating to work performed hereunder for a period of not less than three years after completion thereof. Plan Holder and its duly authorized representatives shall have access at all reasonable times, and upon giving reasonable advance notice, to the books, payrolls and records maintained by Contractor relating to any of the Work performed hereunder, and shall have the right to audit books, payrolls and records at any reasonable time or times upon giving reasonable advance notice.

## **10.0 CONFLICT WITH OTHER AGREEMENTS OR UNDERTAKINGS**

In the event there should be any conflict between the provisions of this Agreement and any field work order, Contractor's work ticket, invoice, statement, purchase order, or any other type of written memoranda, or with any other agreements, whether written or oral between Plan Holder and Contractor pertaining to the subject matter hereof, the provisions of this Agreement shall control.

## **11.0 NON EXCLUSIVITY**

Plan Holder will use Contractor's services as Plan Holder elects, and nothing in this Agreement should be construed as a commitment to purchase services on the part of the Plan Holder. However, should Plan Holder request, orally or in writing, Contractor's services, and acting on this request Contractor mobilizes its equipment and personnel, and Plan Holder subsequently terminates the request before services are actually performed, Plan Holder is obligated to pay for all such mobilized equipment and personnel fees, on a portal-to-portal basis, at the rates set forth in Attachment 1. It is expressly agreed and acknowledged that Contractor shall have no liability whatsoever for failing to respond to any Plan Holder casualty or event if Plan Holder fails to notify Contractor and request Contractor's services in connection with same.

## **12.0 TERMINATION**

### **12.a Termination of salvage operations**

Plan Holder shall be entitled to terminate the salvage operations by giving 5 clear days' written notice of such termination, provided the Contractor and/or its subcontractors is not restrained from demobilizing his equipment and/or personnel by any Federal, State, Local or Municipal authorities and in accordance with clause 11 above.

### **12.b Termination of Agreement**

This agreement shall remain in force and effect until terminated in accordance herewith. Either party may terminate this Agreement by giving the other party thirty (30) days written notice of termination. If any party hereto (i) becomes insolvent or admits in writing its inability to pay its debts as they mature, (ii) is adjudicated as bankrupt or insolvent, (iii) applies for, consents to, or acquiesces in the appointment of, a trustee or receiver for such party or any property thereof, (iv) makes a general assignment for the benefit of creditors, (v) has a trustee or receiver appointed for such party, for all or any part of its property, which is not discharged within sixty (60) days, (vi) materially breaches the terms of this Agreement, or (vii) has any bankruptcy, reorganization, debt arrangement, or other proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding instituted by or against such party which is consented to or acquiesced in by any such party (hereinafter "insolvent party") or remains for sixty (60) days undismissed, this Agreement shall, at the election of the party not so insolvent or in material breach, terminate as to such insolvent or materially breaching party. The foregoing notwithstanding, neither party hereto shall, by the termination of this Agreement, be relieved of its liabilities arising from, growing out of or incident to work performed hereunder prior to the time such Agreement is terminated.

## **13.0 CHOICE OF LAW AND ARBITRATION**

This Agreement shall be governed by the General Maritime Law of the United States and, to the extent of matters not provided for therein, the laws of the State of Texas, excluding the conflicts of law principles of such State. Any and all differences and disputes of whatsoever nature arising out of this



contract shall be put to arbitration in the City of Houston, Texas, pursuant to the Maritime Laws of the United States, The Federal Arbitration Act, and the Rules of the Houston Maritime Arbitrators Association, before a panel of three persons, consisting of one Arbitrator to be appointed by each of the parties hereto and a third by the two so chosen. Their decision or that of any two of the three on any point or points shall be final. Until such time as the Arbitrators formally close the hearings, either party shall have the right by written notice served on the Arbitrators and on the other party to specify further disputes or differences under this contract for hearing and determination. The Arbitrators may grant any relief which they, or a majority of them, deem just and equitable and within the scope of the agreement of the parties, including, but not limited to, specific performance. Awards made in pursuance to this Clause may include costs, including a reasonable allowance for attorney's fees, and judgment may be entered upon any Award made hereunder in any Court having jurisdiction in the premises."

#### **14.0 SALVAGE RENUMERATION**

Neither Contractor, Sub Contractor nor his employees shall claim any salvage remuneration or reward over and above the sums payable under this contract or any alternate payment arrangements as per Section 3.2, and if such shall be held to be payable by Plan Holder , Contractor will immediately reimburse Plan Holder for such sums claimed together with any reasonable legal and other costs incurred by Plan Holder in this regard.

**15.0 NOTICE**

Notice may be given to Plan Holder as follows:

Company: (Company Name)

Address: (Street Address)

(City, State, Zip)

(Country)

Telephone: (Phone Number)

Email: (Email Address)

Fax: (Fax Number)

Notice may be given to Contractor as follows:

Address: 8717 Humble Westfield Road  
Houston, TX 77338

Attention: Mr. Mauricio M. Garrido

Telephone: +1 281-446-4010

Email: info@ttsalvage.com

Plan Holder : (Company Name)

T&T SALVAGE, LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

## Attachment 2

### Insurance Requirements

#### Comprehensive General Liability

Limit: \$10,000,000 any one accident or occurrence  
Conditions: Including comprehensive form, premises/operations, products and completed operations (minimum 180 day discovery period), broad form contractual liability, independent contractors, broad form property damage, personal injury and sudden and accidental pollution. Care, custody and control and watercraft exclusions must be deleted.

#### Workers' Compensation Insurance/Employer's Liability Insurance

Limit: \$1,000,000 Employer's Liability each accident/each person or equivalent  
Conditions: Fully complying with the laws of the state or states in which work is performed. Including Longshore and Harbor Workers' Compensation Act Endorsement and Maritime Employer's Liability Endorsement and endorsement naming Plan Holder, its subsidiaries and affiliates as alternate employer.

#### Excess Maritime Employers Liability Insurance

Limit: \$1,000,000 each accident/each person or equivalent

#### Automobile Liability/Property Damage Insurance

Limit: \$1,000,000 any one accident or occurrence  
Conditions: Applicable to each and every unit of automotive equipment operated or used by Contractor, including hired and non-owned

**Vessel Insurance** – With respect to all vessels employed by Contractor in performance of the Agreement:

#### Hull:

Limit: Fair market value of vessel  
Conditions: American Institute Tug Form (towing vessels), American Institute Hull Clauses (non-towing vessels), or equivalent.

#### Liability:

Limit: \$10,000,000 any one accident or occurrence  
Conditions: Including protection and indemnity per SP-23 Form or equivalent, collision liability/tower's liability (unless covered by hull and excess coverages up to P&I limit), marine contractual liability, and crew liability.

#### Pollution:

Limit: \$10,000,000 any one accident or occurrence  
Conditions: WQIS or equivalent for clean-up and third party liabilities