

WESTERN CANADA MARINE RESPONSE CORPORATION

- and -

NAME OF SUBSCRIBER

SUBSCRIBER AGREEMENT

Dated this _____ day of _____, 20__

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SUBSCRIBER AGREEMENT

THIS SUBSCRIBER AGREEMENT made as of the _____ day of _____,
20__.

B E T W E E N:

WESTERN CANADA MARINE RESPONSE CORPORATION
P.O. Box 82070, Burnaby, BC V5C 5P2
(Deliveries: 201 Kensington Avenue, Burnaby, BC V5B 4B2)
Emergency No.: (604) 294-9116
Facsimile No.: (604) 294-6003
("Western Canada Marine Response")

- and -

Name, Address, and Facsimile Number of Subscriber
("Subscriber")

WHEREAS:

- A. Western Canada Marine Response is in the business of providing marine spill response services in respect of oil spilled on or into water within its designated geographic area of response;
- B. Subscriber wishes to enter into an agreement to permit it to call on Western Canada Marine Response in the event that Subscriber requires marine spill response services in respect of oil spilled on or into water in the designated geographic area of response within which Western Canada Marine Response offers its services;
- C. The parties wish to set forth the terms on which such marine spill response services will be provided;

NOW THEREFORE in consideration of the mutual agreements and covenants set forth in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which is mutually acknowledged) the parties covenant and agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

For the purposes of this Agreement the following words and phrases will have the following meanings:

“Act” means the *Canada Shipping Act*, as amended;

“Agreement” means this agreement, all amendments and supplements to this agreement and all schedules to this agreement, including the following:

Schedule A	-	Definition of Oil
Schedule B	-	Non-Toxic Substances

“Best Efforts” means all commercially reasonable efforts consistent with marine oil spill response industry practices considering available information and resources under circumstances, conditions (including weather and sea conditions) and factors existing at any relevant time;

“Effective Date” has the meaning ascribed to it in Section 8.1 of this Agreement;

“GAR” means the geographic area of response within which a response organization intends to offer its services;

“Initial Request” has the meaning ascribed to it in Section 4.2 of this Agreement;

“Initial Response” has the meaning ascribed to it in Section 4.2 of this Agreement;

“Lead Agency” means the Canadian Coast Guard or other agency designated by statute, inter-agency agreement, cabinet decision and/or custom and precedent to lead the response to a marine spill on behalf of the Canadian government;

“Marine Spill Response Services” means marine spill response services, including equipment, personnel and operational management, for the containment, recovery and clean-up of oil spilled on or into water or spilled on water in connection with the loading or unloading of oil from ships or any other activity that may result in the release of Oil into water, including preventative measures taken with respect thereto and, for greater certainty, does not include acting as on-scene commander, lightering of distressed vessels, involvement in third party damage claims or adjustments, or natural resource damage assessment;

“Oil” means oil and those oil products described in Schedule “A” to this Agreement and those non-toxic substances described in Schedule “B” to this Agreement;

“Plan of Action” has the meaning ascribed to it in Section 4.5 of this Agreement;

“Subscriber Fee” has the meaning set forth in Section 3.1 of this Agreement;

“Taxes” means the goods and services tax, or any equivalent or replacement thereof, payable by Subscriber and collectable by Western Canada Marine Response under the *Excise Tax Act* (Canada), or any other federal or any provincial legislation imposing a similar value-added or multi-stage tax, and any sales, use, or excise tax, duty, fee or levy, as applicable;

“Waters” has the meaning ascribed to it in Section 166 of the Act, as amended from time to time;

“Western Canada Marine Response Fees” has the meaning ascribed to it in Section 4.8 of this Agreement;

“Western Canada Marine Response’s GAR” means the Waters bordering the Province of British Columbia (including the shorelines associated with such Waters) and excluding Waters north of the 60th parallel of latitude;

“Work Order” has the meaning ascribed to it in Section 4.4 of this Agreement.

1.2 Construction

In this agreement, except as otherwise expressly provided or as the context otherwise requires:

- (a) a reference to a numbered or lettered article, section, paragraph or clause refers to the article, section, paragraph or clause bearing that number or letter in this Agreement;
- (b) the words “hereof”, “herein”, “hereunder” and similar expressions used in any provision of this Agreement will relate to the whole of his Agreement and not to that provision only, unless otherwise expressly provided, and
- (c) all references to money amounts are to Canadian currency.

ARTICLE 2 SUBSCRIBER PRIVILEGES

2.1 Subscriber Privileges

Upon payment of Subscriber Fees in accordance with the terms of this Agreement, Subscriber shall be entitled:

- (a) to identify Western Canada Marine Response as a response organization with which Subscriber has an agreement to receive Marine Spill Response Services in Western Canada Marine Response’s GAR; and

- (b) upon the occurrence of a spill of oil on water within Western Canada Marine Response's GAR, to request Western Canada Marine Response to respond and provide Marine Spill Response Services.

2.2 Agreement not an Arrangement

This agreement does not constitute an arrangement for purposes of the Act.

ARTICLE 3 SUBSCRIBER FEE

3.1 Subscriber Fee

Subscriber shall pay to Western Canada Marine Response an annual subscriber fee of _____ Dollars (\$_____.00) (the "Subscriber Fee") together with all applicable Taxes payable in connection with the Subscriber Fee.

3.2 Payment of Subscriber Fee

The initial Subscriber Fee shall be due and payable on or prior to the Effective Date, and each subsequent Subscriber Fee shall be paid on or prior to the anniversary date of the Effective Date.

3.3 Adjustment of Subscriber Fee

Western Canada Marine Response shall on each anniversary date following the Effective Date, be entitled to adjust the Subscriber Fee payable in respect of the following year. In the event Western Canada Marine Response wishes to adjust the Subscriber Fee, Western Canada Marine Response shall provide written notice of the proposed adjustment to Subscriber at least ninety (90) days prior to the end of the applicable one (1) year term and the adjusted Subscriber Fee shall be payable on the first anniversary date of the Effective Date which follows the provision of such notice and thereafter until the Subscriber Fee is adjusted further.

ARTICLE 4 MARINE SPILL RESPONSE SERVICES

4.1 Management and Control of Spill

Upon the occurrence within Western Canada Marine Response's GAR of a spill of Oil on water, Subscriber shall (where it has requested Western Canada Marine Response to respond to such spill) be responsible for the management and control of all response activities.

4.2 Initial Request and Response

If Subscriber requests Western Canada Marine Response to respond to a spill of Oil on water in Western Canada Marine Response's GAR ("Initial Request"), Western Canada Marine Response shall use its Best Efforts to provide a response ("Initial Response"). The Initial Request shall specify the approximate location and size of the spill, that the individual contacting Western Canada Marine Response is the

person authorized to make the Initial Request, the type of Oil involved and the nature and extent of the Marine Spill Response Services required. If the Initial Request is not provided in writing, then it shall be confirmed in writing forthwith. Unless otherwise agreed between the parties, the Initial Response shall consist of the provision of Marine Spill Response Services for up to twenty-four (24) hours.

4.3 Twelve Hour Consultation

- (a) If within twelve (12) hours of the Initial Request Western Canada Marine Response and Subscriber agree that the clean-up can be completed in the course of the Initial Response, then Western Canada Marine Response shall continue providing Marine Spill Response Services until the spill is cleaned up, and the provisions of Section 6.2 shall apply.
- (b) If within twelve (12) hours of the Initial Request Western Canada Marine Response and Subscriber agree that the clean-up cannot be completed within the course of the Initial Response, then Subscriber shall notify Western Canada Marine Response as to whether or not Western Canada Marine Response is to continue providing Marine Spill Response Services beyond the Initial Response.

4.4 No Further Western Canada Marine Response Response

- (a) If Subscriber has notified Western Canada Marine Response that Subscriber does not want Western Canada Marine Response to continue to provide Marine Spill Response Services beyond the Initial Response, then Western Canada Marine Response shall cease providing Marine Spill Response Services at the end of Initial Response and Western Canada Marine Response shall in respect be under no obligation to provide further Marine Spill Response Services to Subscriber.
- (b) If Subscriber has failed to notify Western Canada Marine Response within the twelve (12) hour period, and Western Canada Marine Response has been unable to obtain instructions from Subscriber, then Western Canada Marine Response shall be deemed to have been notified and requested to cease providing Marine Spill Response Services at the end of the Initial Response and Section 4.4 (a) shall apply in all other respects as though Subscriber has notified Western Canada Marine Response to cease providing Marine Spill Response Services at the end of the Initial Response.

4.5 Response Beyond 24 Hours

- (a) If Subscriber has notified Western Canada Marine Response within the initial twelve (12) hours the Subscriber wishes Western Canada Marine Response to continue to provide Marine Spill Response Services beyond the twenty-four (24) hour period of the Initial Response then, by the end of the Initial Response, Western Canada Marine Response shall provide Subscriber with a plan of action (“Plan of Action”) outlining the Marine Spill Response Services which in Western Canada Marine Response’s opinion are required for the remainder of the initial seven (7) day period. Unless the parties otherwise agree, Western Canada Marine Response shall provide Subscriber with a Plan of Action for each subsequent seven (7) day period.

- (b) Upon receipt of each Plan of Action, Subscriber shall determine the extent to which it wishes Western Canada Marine Response to perform the Marine Spill Response Services set forth in the Plan of Action, and the parties shall consult and agree on the Marine Spill Response Services which Western Canada Marine Response is to undertake and complete.
- (c) The parties shall in respect of each Plan of Action evidence their agreement by signing a work order ("Work Order"). Each Work Order shall include a description of the Marine Spill Response Services to be performed by Western Canada Marine Response, an estimate of the Western Canada Marine Response Fees payable in connection with the Marine Spill Response Services, a facsimile number to which invoices may be sent to Subscriber, and any other information required under Section 6.3 of this Agreement.
- (d) Upon being signed by both parties, a Work Order shall become an integral part of this Agreement.
- (e) Plans of Action and Work Orders may be amended by the parties from time to time as circumstances require.

4.6 Competing Requests for Services

- (a) Notwithstanding any other provision of this Agreement, unless otherwise directed by the appropriate governmental Lead Agency, Western Canada Marine Response shall have no obligation to make Marine Spill Response Services available to Subscriber if the resources associated with the provision of such Marine Spill Response Services are already being provided to another part.
- (b) In the event of contemporaneous or overlapping requests for Marine Spill Response Services, Subscriber acknowledges that Western Canada Marine Response shall respond to the competing requests by competing requests as directed by the appropriate governmental Lead Agency.
- (c) Where for any reason Western Canada Marine Response is unable to make available to Subscriber the resources associated with the provision of Marine Spill Response Services required by Subscriber, Western Canada Marine Response agrees that it will make reasonable efforts to assist Subscriber in establishing arrangements with regard to the provision of such required resources.

4.7 Territory

Western Canada Marine Response agrees to provide Marine Spill Response Services in Western Canada Marine Response's GAR only.

4.8 Termination of Work

Notwithstanding any other term of this Agreement, each of the parties shall be entitled at any time to terminate the Marine Spill Response Services, or any portion thereof, being provided under this Agreement in any given case by giving notice to the other. Upon such notice being provided, Western Canada Marine Response shall cease to provide the Marine Spill Response Services or any portion thereof, and shall carry out any required demobilization activities, and Subscriber shall pay all outstanding Western Canada Marine Response Fees and Taxes.

4.9 Right to Subcontract

Western Canada Marine Response shall have the right without obtaining the consent of Subscriber to subcontract all or any portion of the Marine Spill Response Services to be provided under this Agreement.

4.10 Recovered Oil and Waste

The parties acknowledge that, notwithstanding any assistance which Western Canada Marine Response provides to Subscriber, Western Canada Marine Response shall not be responsible for the disposal of waste products.

ARTICLE 5 PERFORMANCE OF SERVICES

5.1 Standard of Western Canada Marine Response Performance

Subject to the other terms and conditions of this Agreement, Western Canada Marine Response will use its Best Efforts to provide any Marine Spill Response Services required by Subscriber pursuant to this Agreement in a manner which attempts to mitigate, remove or clean-up the applicable spill as effectively as practicable under the existing circumstances.

5.2 Western Canada Marine Response Safety Obligations

- (i) Western Canada Marine Response shall observe, and shall require, to the extent of its authority, its employees, agents, contractors, and subcontractors to observe, applicable safety laws and regulations and applicable Western Canada Marine Response safety policies and procedures (a copy of which policies and procedures Western Canada Marine Response shall make available to Subscriber upon request). However, Western Canada Marine Response and Subscriber understand that:
- (ii) actions carried out in a response in an Oil spill environment may be inherently dangerous and difficult; and
- (iii) rules and requirements that may be appropriate and applicable under normal circumstances may not be appropriate or applicable in a particular response situation.

Therefore, the provisions of this Section will not be interpreted in a manner that would hold Western Canada Marine Response to a standard that would be unreasonable under the actual conditions of a particular spill, and all Western Canada Marine Response actions carried out consistently with the directions of Subscriber or with approval of applicable safety officials will be deemed to be in compliance with this Section.

- (a) Western Canada Marine Response shall, upon Subscriber's request, report to Subscriber as promptly as practicable under the circumstances any accidents associated with the performance of the Marine Spill Response Services resulting in or in Western Canada Marine Response's reasonable judgment possibly causing personal injury or death or property damage or loss. Western Canada Marine Response shall, at Subscriber's expense, furnish Subscriber with copies of any final written reports and other factual information related to such accidents prepared by or for Western Canada Marine Response.

5.3 Subscriber Safety Obligations

- (a) Subscriber shall observe, and shall require, to the extent of its authority, its employees, agents, contractors and subcontractors to observe, applicable safety laws and regulations and (except in the case of Western Canada Marine Response which shall follow its own safety policies and procedures) applicable Subscriber safety policies and procedures (a copy of which policies and procedures Subscriber shall make available to Western Canada Marine Response upon request).
- (b) Subscriber will report to Western Canada Marine Response as promptly as practicable under the circumstances any accidents associated with or caused as the result of the performance of the Marine Spill Response Services resulting in or in Subscriber's reasonable judgment possibly causing any personal injury or death or property damage or loss. Subscriber will, at Western Canada Marine Response's expense, furnish Western Canada Marine Response with copies of any final written reports and other factual information related to such accidents prepared by or for Subscriber.

5.4 Illegal, Unsafe or Improper Instructions

If Subscriber instructs Western Canada Marine Response to take any action under this Agreement in a manner which would, based on the reasonable judgment of Western Canada Marine Response:

- (a) be illegal (including an action that is illegal because it is fraudulent or deceptive);
- (b) endanger the safety of any employee, agent, contractor or subcontractor of Western Canada Marine Response, or any third party or jeopardize the safety of any Western Canada Marine Response equipment in a manner not reasonable given the nature of the oil spill response industry; or
- (c) be in violation of or breach this Agreement in any material respect;

then Western Canada Marine Response may refuse to follow such specific instruction by giving Subscriber oral (promptly confirmed in writing) or written notice of such refusal (specifying in reasonable detail the specific reason for such refusal). Any refusal under this Section of any obligation of Western Canada Marine Response to take any instructed action shall not affect any obligation of Western Canada Marine Response to take instructed actions under circumstances that would not result in the happening of the events specified in the preceding Subsections (a)-(c).

ARTICLE 6

WESTERN CANADA MARINE RESPONSE FEES AND PAYMENT

6.1 Western Canada Marine Response Fees

- (a) Western Canada Marine Response Fees means all reasonable fees charged by Western Canada Marine Response for carrying out Marine Spill Response Services including, but not limited to, equipment (owned, non-owned or leased) costs, overhead costs, salaries, wages and benefits paid to personnel, food, lodging and travel costs for personnel, fees paid to contractors, fees paid to mutual aid partners or any other parties, and the costs of demobilization.
- (b) Without limiting the foregoing, where Western Canada Marine Response has published a schedule of fees in respect of any of the items referred to in Section 6.1 (a), the costs associated with those items will be in accordance with the most currently published schedule.
- (c) Schedules of Western Canada Marine Response Fees are available upon request.

6.2 Payment of Western Canada Marine Response Fees

- (a) Subscriber shall pay all reasonable Western Canada Marine Response Fees which are due and payable. Subscriber shall also be liable for and shall pay to Western Canada Marine Response an amount equal to any Taxes.
- (b) Western Canada Marine Response shall submit an invoice to Subscriber for the Western Canada Marine Response Fees and Taxes incurred. Except as otherwise provided under Section 6.3 of this Agreement, any invoice submitted by Western Canada Marine Response pursuant to this Section shall be due and payable by Subscriber by the end of the fifth (5th) business day following receipt of the invoice by Subscriber and, subject to the terms of Section 6.5 of this Agreement, any invoice not paid in full by the end of the fifth (5th) business day following receipt of the invoice by Subscriber will be charged interest on the outstanding amount at the rate of one per cent (1%) per month, or 12.6825% per year, commencing on the sixth (6th) business day after the date of the invoice.
- (c) Invoices may be submitted by facsimile and a facsimile copy of an invoice shall be deemed to be received by Subscriber at such time as is indicated on the receipt of confirmation notice received by Western Canada Marine Response for such facsimile.

6.3 Funding for Response Beyond 24 Hours

- (a) In those cases where the provisions of Section 4.5 (Response Beyond 24 Hours) apply, Western Canada Marine Response shall submit an invoice to Subscriber for the Marine Spill Response Services provided during the first twenty-four (24) hours following the Initial Request. Unless the parties otherwise agree, such invoice shall be paid by Subscriber by the end of the fifth (5th) business day following Subscriber's receipt of the Invoice.

- (b) After Western Canada Marine Response has submitted the initial invoice, Subscriber and Western Canada Marine Response shall agree on how Subscriber will fund the remainder of the initial seven (7) day period and, if applicable, each seven (7) day period thereafter during which it is anticipated that Marine Spill Response Services will be provided by Western Canada Marine Response. In reaching such agreement, Subscriber shall be required to satisfy Western Canada Marine Response that any method of funding will, when implemented, permit all invoices rendered by Western Canada Marine Response during the relevant period to be paid in full on such terms as are acceptable to Western Canada Marine Response under the circumstances. Any decision to accept any particular method of funding shall be solely within the discretion of Western Canada Marine Response. If the parties are unable to agree on a method of funding acceptable to Western Canada Marine Response, Western Canada Marine Response will require cash.
- (c) The parties shall set forth in each Work Order, or any amendment of a Work Order, their agreement as to funding and, in the event of any inconsistency between the provisions of a Work Order or any amendment thereof and this Agreement, the provisions of the Work Order or any amendment thereof shall govern.
- (d) In the event that the parties are unable to agree on an acceptable means by which Marine Spill Response Services are to be funded in any seven (7) day period or portion thereof, Western Canada Marine Response shall cease to provide Marine Spill Response Services and shall carry out any required demobilization activities, and Subscriber shall pay all outstanding Western Canada Marine Response Fees and Taxes, including all Western Canada Marine Response Fees and Taxes set forth on any final invoice submitted by Western Canada Marine Response.

6.4 Payments in Good Standing

Marine Spill Response Services shall only be provided by Western Canada Marine Response if Subscriber has paid all outstanding Subscriber Fees, Western Canada Marine Response Fees and Taxes.

6.5 Disputed Invoices

If Subscriber objects to any item or statement shown on an invoice, Subscriber shall promptly notify Western Canada Marine Response of the dispute, specifying in reasonable detail the factual basis for the dispute and Subscriber shall pay to Western Canada Marine Response in accordance with the terms of this Agreement eighty per cent (80%) of the disputed invoiced amounts. The payment of eighty per cent (80%) of any invoiced amounts shall not prejudice Subscriber's right to object to or question such invoice, and such invoice shall be subject to adjustment for amounts included in the invoice which are ultimately determined not to be amounts for which Subscriber was obligated to pay Western Canada Marine Response under the terms of this Agreement. Subscriber shall be entitled to object to or question all invoices or matters related to it within thirty (30) days following the date of the invoice, or the date on which the last invoice under a Work Order is rendered, whichever is later. In the event of a dispute regarding an invoiced amount the parties shall use reasonable efforts to resolve such dispute but if the parties fail to resolve such dispute within a thirty (30) day period following receipt by Western Canada Marine Response of notice of a dispute in respect of any particular invoice, the dispute shall be referred to arbitration at Vancouver, Canada for final determination in accordance with the Rules of the Vancouver Maritime Arbitrators Association. The parties agree that any decision of an arbitrator appointed under the Rules of the Vancouver Maritime Arbitrators Association shall be final and binding.

6.6 Audits

Subscriber shall have the right at all reasonable times and intervals to make such reasonable inspection or audit of such portion of the books and records maintained by Western Canada Marine Response as relate to the invoices submitted in respect of Marine Spill Response Services performed under the terms of this Agreement. Western Canada Marine Response shall make available to Subscriber such information and materials (including time sheets for personnel and equipment) as Subscriber may reasonably require to verify and substantiate the invoices provided by Western Canada Marine Response under this Agreement provided that Western Canada Marine Response shall be reimbursed by Subscriber for any costs incurred by Western Canada Marine Response in assisting Subscriber and Western Canada Marine Response Fees shall themselves not be subject to audit under the terms of this Agreement. In the event an audit indicates an error in the prior calculation of Western Canada Marine Response Fees or any portion of the Western Canada Marine Response Fees payable by Subscriber, Western Canada Marine Response shall promptly make the appropriate corrections and adjustments.

6.7 Fees Remain Payable

Subscriber's obligation to pay the fees payable under this Agreement is absolute and not subject to set-off, deduction or other reduction or counterclaim by reason of the non-availability of Marine Spill Response Services, force majeure described in Section 10.1, or any other event or circumstance which would otherwise effect a suspension or termination of the obligations of Western Canada Marine Response.

6.8 Currency

All fees payable under this Agreement shall be paid in Canadian currency.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES

7.1 Financial Capability

Subscriber represents and warrants to Western Canada Marine Response that Subscriber has the financial capability to pay the Subscriber Fees, as well as any Western Canada Marine Response Fees and Taxes which may accrue in the course of carrying out Marine Spill Response Services under the terms of this Agreement.

ARTICLE 8 ALLOCATION OF RISK

8.1 Nature of Relationship

Western Canada Marine Response and Subscriber recognize and agree that, in connection with providing the Marine Spill Response Services under this Agreement:

- (a) any Marine Spill Response Services provided under this Agreement are for the sole benefit of the Subscriber;
- (b) the extraordinary and emergency nature of the Marine Spill Response Services may require actions by Western Canada Marine Response that may give rise to a variety of claims;
- (c) Western Canada Marine Response has based the charges for and availability of the Marine Spill Response Services to be provided under this Agreement on the premise that Subscriber, or anyone asserting rights on its behalf, will not challenge Western Canada Marine Response's right to be indemnified as provided in this Article VIII.

Accordingly, Western Canada Marine Response and Subscriber fully understand and recognize and agree that the nature of the Marine Spill Response Services to be provided under the terms set forth in this Agreement make it appropriate, equitable and essential to provide for the allocation of the risks and liabilities, limitation of remedies, and the indemnification of Western Canada Marine Response and Subscriber as set forth in this Article VIII.

8.2 Liability Between Western Canada Marine Response and Subscriber

- (a) Western Canada Marine Response and its directors, officers, agents, contractors, and employees shall have no liability to Subscriber, for:
 - (i) any loss or damage caused to any person, property or the environment, of any nature or kind;
 - (ii) any liability arising as the result of the breach of any statute, regulation, rule, court order or other governmental or administrative decree having the force of law,

caused by any act or omission of Subscriber or any of Subscriber's directors, officers, contractors, agents or employees.

- (b) Western Canada Marine Response and its directors, officers, agents, contractors, and employees shall have no liability to Subscriber, for:
 - (i) any loss or damage caused to any persons, property or the environment, of any nature or kind;
 - (ii) any liability arising as the result of the breach of any statute, regulation, rule, court order or other governmental or administrative decree having the force of law,

caused by the act or omission of Western Canada Marine Response or any of its directors, officers, agents, contractors or employees or equipment unless such act or omission is a result of the gross negligence or the willful misconduct of Western Canada Marine Response or any of its directors, officers, agents, contractors or employees.

- (c) Subscriber shall indemnify, defend and hold harmless Western Canada Marine Response, its directors, officers, employees, contractors and agents from and against all claims, losses, damages, costs, expenses and other liabilities incurred by Western Canada Marine Response, its directors, officers, employees, contractors or agents as a result of Western Canada Marine Response's entering into of, or carrying out any obligations under, this Agreement, except where such claims, losses, damages, costs, expenses and other liabilities are incurred by Western Canada Marine Response, its directors, officers, employees, contractors or agents as a result of Western Canada Marine Response's own gross negligence or willful misconduct, or the gross negligence or willful misconduct of Western Canada Marine Response's directors, officers, agents, contractors or employees. Subscriber acknowledges that Western Canada Marine Response shall not be required to exhaust its recourses against any third party as a condition precedent to claiming indemnification under this Section.
- (d) Western Canada Marine Response shall indemnify, defend and hold harmless Subscriber and its directors, officers, employees and agents from and against all claims, losses, damages, costs, expenses and other liabilities incurred by Subscriber and its directors, officers, employees and agents as a result of the gross negligence or willful misconduct of Western Canada Marine Response, its directors, officers, agents, contractors or employees.

8.3 Insurance

Subscriber shall carry and maintain in force during the term of this Agreement such insurance as is necessary to enable Subscriber to carry out its obligations under this Agreement. Upon Western Canada Marine Response's request, Subscriber shall furnish Western Canada Marine Response either with copies, certified by Subscriber's insurers, of such insurance policies or a certificate of insurance with respect to such insurance policies. Subscriber shall provide notice to Western Canada Marine Response forthwith in the event that Subscriber's insurance coverage is amended, or any portion thereof terminated or cancelled.

ARTICLE 9 TERM

9.1 Term

This Agreement shall come into force and effect as of the date indicated on the first page of this Agreement (the "Effective Date") and shall continue for a period of one (1) year beyond the Effective Date.

9.2 Renewal

This Agreement shall be automatically renewed for successive one (1) year terms unless one party gives notice to the other at least sixty (60) days prior to the date on which either the initial one year term is due to expire or any subsequent one (1) year term is due to expire that such party does not wish to renew the Agreement.

ARTICLE 10 TERMINATION

10.1 Termination by Either Party

This Agreement may be terminated by either party upon the provision of at least sixty (60) days prior written notice to the other party in accordance with the terms of Section 9.2 of this Agreement.

10.2 Termination by Western Canada Marine Response

This Agreement may be terminated by Western Canada Marine Response effective immediately upon notice to Subscriber:

- (a) if Subscriber has failed to pay any Subscriber Fees or any Western Canada Marine Response Fees or Taxes in accordance with the terms of this Agreement;
- (b) if Subscriber has become insolvent, commenced an act of bankruptcy, suspended business operations or has bankruptcy, dissolution, liquidation or winding-up proceedings commenced against it (unless such proceedings are actively and diligently contested in good faith on a timely basis); or
- (c) if Subscriber has breached any other term of this Agreement and failed to cure such breach within five (5) days after Subscriber received written notice from Western Canada Marine Response advising of such breach.

This right of termination is in addition to any of Western Canada Marine Response's rights and remedies under this Agreement and at law or in equity.

10.3 Consequences of Termination

Upon the termination of this Agreement:

- (a) all obligations of Western Canada Marine Response under this Agreement shall cease;
- (b) Western Canada Marine Response shall cease to perform any Marine Spill Response Services; and
- (c) Subscriber shall pay to Western Canada Marine Response any outstanding Subscriber Fees and Western Canada Marine Response Fees and Taxes.

10.4 No Reimbursement of Subscriber Fees

Subscriber shall not be entitled to receive a full refund of all or any portion of the Subscriber Fees paid by Subscriber.

10.5 Survival

Notwithstanding the termination of this Agreement pursuant to this Article, the provisions of this Section, Section 10.3 and Articles VI and VIII shall survive any such termination.

ARTICLE 11 FORCE MAJEURE

11.1 Force Majeure

If during the term of this Agreement there should arise or occur any event or circumstance beyond the reasonable control of Western Canada Marine Response or Subscriber, including without limiting the generality of the foregoing, the action of government, flood, fire, strike, lock-out or other labour unrest, riot, civil unrest, terrorism, war (whether declared or undeclared), or an act of God, (but for greater certainty not including a shortage or lack of financing) which prevents, restricts or delays Western Canada Marine Response or Subscriber from duly performing any of its obligations under this Agreement, then during the period that such event or circumstance, or the effect thereof continues, performance by such party of such obligation will be suspended and excused to the extent that such party is so prevented, restricted or delayed.

11.2 Exception for Failure by Either Party

Neither party will be entitled to the benefits of the provisions of Section 11.1 if and to the extent that its inability to duly perform any obligation hereunder was caused or contributed to by its failure to act in a reasonable and prudent manner under the circumstances.

11.3 Other Aspects of Force Majeure

The obligations of the party relying on Section 11.1 shall be suspended during any period of force majeure. The performance of this Agreement shall be resumed as soon as practicable after force majeure has ceased.

ARTICLE 12 GENERAL PROVISIONS

12.1 Time

Time is of the essence of this Agreement.

12.2 Notices

All notices required or permitted to be given to a party under this Agreement shall be in writing and delivered by hand, mailed by registered first-class airmail postage prepaid, or sent by facsimile to the party's address shown on page one (1) of this Agreement.

Any such notice shall be deemed to have been given and received:

- (a) if delivered, on the date on which it was delivered;
- (b) if mailed, on the fifth (5th) business day following the day it was posted; or
- (c) if given by facsimile, on the date and at the time indicated on the receipt of confirmation form received for such facsimile.

No party shall mail any notice during any period when postal workers are on strike or if a strike is imminent. Either party may change its address by giving notice of the change to the other party.

12.3 Amendments to Agreement

Subject to Section 12.4, this Agreement may not be amended except in writing executed by all parties.

12.4 Amendments to Schedules

The Schedules to this Agreement form an integral part of this Agreement. The Schedules may be amended or replaced from time to time by the parties who will evidence their approval thereof by initialing a new Schedule dated as of the effective date of such amendment or replacements.

12.5 Independent Contractor

Western Canada Marine Response is an independent contractor in the performance of its obligations under this Agreement and neither Western Canada Marine Response nor Western Canada Marine Response's employees, agents, contractors or subcontractors shall be considered employees of Subscriber.

12.6 Further Assurances

Each party will, at its own expense and without expense to any other party, execute and deliver such further agreements, deeds, instruments and documents, and do such further acts as the other party reasonably requests for the purpose of evidencing, carrying out and giving full force and effect to the intent of this Agreement.

12.7 Benefit of Agreement

This Agreement will enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

12.8 Entire Agreement

The provisions of this Agreement, including the schedules to this Agreement, constitute the entire agreement between the parties respecting the subject matter of this Agreement and supersede all previous understandings and agreements, whether verbal or written, between the parties with respect thereto.

12.9 Governing Law

This Agreement shall be interpreted in accordance with and governed by the laws of the Province of British Columbia and the laws of Canada applicable therein.

12.10 Assignment

This Agreement shall not be assigned by Subscriber without the prior written consent of Western Canada Marine Response, and any attempt to so assign it shall be null and void.

12.11 Execution in Counterparts

This Agreement may be executed in one or more counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same Agreement and notwithstanding their date of execution shall be deemed to be executed on the day first above written.

12.12 Severability

Each provision of this Agreement is intended to be severable and accordingly the invalidity or unenforceability of any particular provision will not affect the validity or enforceability of any other provision except that if, on the reasonable construction of this Agreement as a whole, the applicability of the other provision is expressly stated, or by reasonable implication intended by the parties, to be dependant on the validity and enforceability of the particular provision, the other provision will be deemed also to be invalid or unenforceable.

**WESTERN CANADA MARINE
RESPONSE CORPORATION**

(Name of Subscriber)

(Authorized Signature)

(Authorized Signature)

SCHEDULE A DEFINITION OF OIL

FOR THE PURPOSE OF THIS AGREEMENT THE DEFINITION OF OIL WILL BE THAT AS DEFINED BY THE MARPOL 73/78 ANNEX 1:

“OIL” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than petrochemicals which are subject to the provisions of Annex II of the present Convention) and, without limiting the generality of the foregoing includes the substances listed:

LIST OF OILS

Asphalt solutions

Blending stocks
Roofers flux
Straight run residue

Oils

Clarified
Kerosene
Crude Oil
Mixtures containing crude oil
Diesel Oil
Fuel oil no. 4
Fuel oil no. 5
Fuel oil no.6
Residual fuel oil
Road oil
Transformer oil
Aromatic Oil (excluding vegetable oil)
Lubricating oils and blending stock
Mineral oil
Motor oil
Penetrating oil
Spindle oil
Turbine oil

Distillates

Straight run
Flashed feed stocks

Gas Oil

Mineral Spirit

Gasoline Blending Stocks

Alkylates – fuel
Automotive
Aviation
Straight run
Fuel oil no. 1 (Kerosene)
Fuel oil no. 1-D
Fuel oil no. 2
Fuel oil no. 2-D

Jet Fuels

JP-1 (Kerosene)
JP-3
JP-4
JP-5 (Kerosene, Heavy)
Turbo fuel
Cracked

Naphtha

Solvent
Petroleum
Heartcut distillate oil

**SCHEDULE B
NON-TOXIC SUBSTANCES**

Animal and Fish oils, n.o.s.	Oil, edible: Soya bean
Animal and fish acids oil and distillates, n.o.s.	Oil, edible: Sunflower seed
Fatty acids (saturated, C13+)	Oil, edible: Tucum
Fatty acids amides	Oil, edible: Vegetable
Oil, edible: Beechnut	Oil, edible: Walnut
Oil, edible: Castor	Oil, misc: Animal
Oil, edible: Cocoa butter	Oil, misc: Coconut, fatty acid methyl ester
Oil, edible: Coconut	Oil, misc: Coconut oil, fatty acid
Oil, edible: Cod liver	Oil, misc: Cottonseed oil, fatty acid
Oil, edible: Corn (maize)	Oil, misc: Croton
Oil, edible: Cottonseed	Oil, misc: Lanolin
Oil, edible: Fish	Oil, misc: Neatsfoot
Oil, edible: Groundnut	Oil, misc: Oiticica
Oil, edible: Hazelnut	Oil, misc: Palm oil, fatty acid methyl ester
Oil, edible: Lard	Oil, misc: Perilla
Oil, edible: Nutmeg butter	Oil, misc: Pilchard
Oil, edible: Olive	Oil, misc: Soapetock
Oil, edible: Palm	Oil, misc: Soybean (epoxidized)
Oil, edible: Palm kernel	Oil, misc: Sperm
Oil, edible: Peanut	Oil, misc: Tallow
Oil, edible: Peel	Oil, misc: Whale
Oil, edible: Poppy	Palm kernel acid oil
Oil, edible: Poppy seed	Palm kernel acid oil, methyl ester
Oil, edible: Raisin seed	Tallow fatty acid
Oil, edible: Rapeseed	Tallow nitrite
Oil, edible: Rice brain	Vegetable acid oils and distillates, n.o.s.
Oil, edible: Safflower	Vegetable oils, n.o.s.
Oil, edible: Salad	
Oil, edible: Sesame	

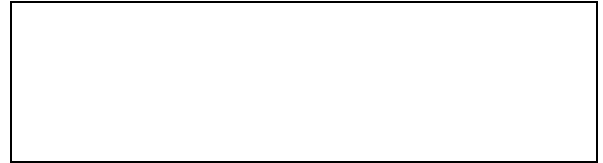
*This is the list of non-petroleum oils prepared for purposes of the United States *Federal Water Pollution Control Act*

WESTERN CANADA MARINE RESPONSE CORPORATION

P.O. Box 82070, Burnaby, BC V5C 5P2

(Deliveries: 201 Kensington Avenue, Burnaby, BC V5B 4B2)

Emergency Contact No.: (604) 294-9116



Contract No.

**SUBSCRIBER AGREEMENT
REMITTANCE AND RENEWAL CONFIRMATION**

(Name of Subscriber)

(Subscriber Mailing Address)

(Authorized Subscriber Representative)

(E-mail Address of Authorized Representative)

(Telephone No. of Authorized Representative)

(Facsimile No. of Authorized Representative)

Effective Date: _____

End Date: _____

Term of Coverage: 1 year

Subscriber Fee (annual): \$ _____

Taxes (as applicable): \$ _____

Total Payable (\$CDN): \$ _____

In accordance with Article III of the Agreement, the annual subscriber fee, together with all applicable Taxes shall be due and payable on or prior to the Effective Date of the Agreement.

This Remittance and Renewal Confirmation dated _____ confirms that, Subscriber is entitled to:

- a) identify Western Canada Marine Response Corporation as the response organization with which Subscriber has an agreement to receive Marine Spill Response Services in Western Canada Marine Response Corporation’s geographic area of response (“GAR”). For purposes of this Agreement, Western Canada Marine Response Corporation’s GAR means the Waters bordering the Province of British Columbia (including the shorelines associated with such Waters), the inland Waters of British Columbia, and excluding Waters north of the 60th parallel of latitude. GAR means the geographic area of response within which a response organization intends to offer its services.
- b) in the event of an oil spill on water within Western Canada Marine Response Corporation’s GAR, request Western Canada Marine Response Corporation to respond and provide marine spill response services.

Unless otherwise terminated for the reasons set forth in the terms and conditions in the Agreement:

- a) the agreement commences as of the Effective Date of the Agreement and continues in effect for one (1) year;
- b) there is no automatic renewal of this Agreement at the end of the one (1) year term.

WESTERN CANADA MARINE RESPONSE CORPORATION

By: _____
(Authorized Signature)

(Print Name)

(Date)

(Ship Owner/Operator/Authorized Agent)

By: _____
(Authorized Signature)

(Print Name)

(Date)

SUBSCRIBER MEMBERSHIP AGREEMENT
ADDITIONAL ARRANGEMENT FORM

This document is Schedule A to the (Subscriber) Membership Agreement (the "Agreement") between _____ ("Owner") and Western Canada Marine Response Corporation (WCMRC) Contract No. _____.

This Schedule is incorporated into and forms an integral part of the Agreement. The parties agree that an arrangement shall be granted by WCMRC in respect of the following, and that in all other respects, the terms of the Agreement shall apply to such Subscribers.

Name(s)	Person(s) Authorized to Implement Arrangement
1. _____	1. _____
2. _____	2. _____
3. _____	3. _____
4. _____	4. _____
5. _____	5. _____
6. _____	6. _____
7. _____	7. _____
8. _____	8. _____
9. _____	9. _____
10. _____	10. _____

Applicable Fees

Registration Fee: \$ x _____ = \$ _____
 Applicable Taxes: \$ _____
 Total Amount Payable: \$ _____

Term of Coverage

Effective Date of Arrangement(s): _____
 End Date: _____

Notwithstanding any of the terms of the Agreement and the provisions of this Schedule, the arrangements to be provided by WCMRC to Owner shall be subject to:

- a) receipt by WCMRC of the above-mentioned Registration Fees and Taxes within five (5) business days of the effective date of the arrangement; and
- b) payment of all outstanding Fees owed under the Agreement, WCMRC Fees and Taxes (as such terms defined in the Agreement).

WESTERN CANADA MARINE RESPONSE CORPORATION

By: _____
 (Authorized Signature)

 (Print Name)

 (Date)

 (Ship Owner/Operator/Authorized Agent)
 By: _____
 (Authorized Signature)

 (Print Name)

 (Date)