

**AGREEMENT
GOVERNING THE DELEGATION OF
STATUTORY CERTIFICATION AND SERVICES
FOR SHIPS REGISTERED IN SWEDEN
between
THE SWEDISH TRANSPORT AGENCY
and
XXX**

Issued on 4 October 2019, enters into force on 1 November 2019.

1. PURPOSE

This Agreement pursuant to Swedish rules and regulations and in compliance with the Class Directive, the Class Regulation, the ISPS Regulation and the MLC is between XXX, hereinafter referred to as the RO, and THE SWEDISH TRANSPORT AGENCY, hereinafter referred to as the STA, with respect to the performance of marine statutory surveys and issuance of relevant certificates. In this Agreement the term 'RO' shall also be understood as the Recognised Security Organisation (RSO).

The purpose of this Agreement is to delegate authority to the RO to perform statutory certification and services on behalf of the STA on ships registered in Sweden and classed with the RO and to define the scope, terms, conditions and requirements of that delegation.

With regard to ISM, ISPS, MLC, Regulation on ship recycling and IMO Fuel Oil Data Collection System, the RO is also authorised to perform statutory certification and services on ships and companies operating the ships regardless if the ships are classed by the RO, when the ship owner so desires and subject to agreement by the RO.

This Agreement is issued in accordance with Chapter 7, Section 11 of the Ship Safety Act (2003:364), Chapter 6, Section 2 of the Ordinance (1980:789) on Prevention of Pollution from Ships and Section 21 a of the Ship and Port Facility Security Act (2004:487).

2. DEFINITIONS

Applicable instruments: international conventions and codes; EU regulations; Swedish laws, rules and regulations.

Calculation Software: Software that the RO develops to check for rule compliance and that is, upon release, used by the STA solely for the purpose of checking compliance.

Class Certificate: a document issued by a RO, certifying the fitness of a ship for a particular use or service in accordance with the rules and procedures laid down and made public by that RO.

Class Directive: Directive 2009/15/EC of the European Parliament and the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations, in its up-to-date version.

Class Regulation: Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations, in its up-to-date version.

IMO Resolution A.1120(30): Survey guidelines under the harmonized system of survey and certification (HSSC), in their up-to-date version.

ISM Regulation: Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community repealing Council Regulation (EC) No 3051/95, in its up-to-date version.

ISPS Regulation: Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security, in its up-to-date version.

MLC: Maritime Labour Convention, 2006.

Regulation on ship recycling: Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC

RO: Recognised Organisation.

RO Code: Code for Recognized Organizations, as per Resolution MSC.349(92) and MEPC.237(65)).

RSO: Recognised Security Organisation.

Statutory certification and services: certificates issued, and services provided, under the authority of laws, rules and regulations laid down by the Swedish legislator. This includes plan review, survey, and/or audit leading to the issuance of, or in support of the issuance of, a certificate by or on behalf of STA as evidence of compliance with requirements contained in an international convention or national legislation.

Statutory condition: requirements to the effect that specific measures, repairs, surveys are to be carried out within a specific time limit in order to retain statutory certification.

3. GENERAL CONDITIONS

The RO shall at all times remain in compliance with the criteria of authorisation set out in the Class Regulation and the RO Code. When

applicable, the RO shall also at all times remain in compliance with the conditions for recognition issued by the STA regarding MLC and ISPS.

All statutory certification and services under this Agreement, which are covered by the Survey Guidelines under the Harmonized System of Survey and Certification, 2017 (Resolution A.1120(30) as may be amended) and the RO Code, shall be provided in accordance with these same instruments. When carrying out statutory certification and services according to this Agreement the RO must also follow all applicable instruments as well as requirements and instructions as referred to in 5.3 of this Agreement.

Statutory survey services rendered and statutory certificates issued by the RO will be accepted as services rendered by or certificates issued by the STA provided that the RO maintains in compliance with the provisions of this Agreement.

3.1 Scope of authorisation

The RO is authorised to carry out the statutory certification and services listed in Appendix I to this Agreement and to require repairs or corrective actions to ships in accordance with the applicable instruments.

The RO shall also apply this Agreement when performing surveys of new buildings that will be registered in Sweden.

Authorisations for services outside the scope of Appendix I to this Agreement will be dealt with as mutually agreed on a case-by-case basis and shall be stipulated in a written agreement.

3.2 Withdrawal and suspension of the authorisation

The authorisation of the RO can be withdrawn if the RO no longer fulfils the criteria for authorisation stipulated in the Class Regulation. The decision of withdrawal is taken by the European Commission. The STA may, however, suspend the authorisation if the STA considers that the RO can no longer carry out the tasks specified in this Agreement. With regard to MLC and ISPS, the authorisation of the RO can also be withdrawn if the RO no longer fulfils the criteria for recognition issued by the STA.

The STA shall give the RO the opportunity to respond to the alleged poor performance and, if needed, to undertake the necessary preventive and remedial action to ensure full compliance. Only non-compliance shall lead to the said suspension.

The STA may decide to withdraw the ISM or ISPS verification and certification of individual ships and/or companies without prior warning to

the RO and without any prejudice to the RO recognitions. The STA will inform the RO about the withdrawal and its reason. Notwithstanding the above, the scope of authorisation may be partially or fully withdrawn by the STA as per 7.2 below.

3.3 Surveyors

The RO statutory certification and services shall be performed exclusively by surveyors and auditors employed solely by the RO. The surveyors and auditors shall be duly qualified, trained and authorised to execute all duties and activities incumbent upon their employer, within their level of work responsibility.

While remaining responsible for the certification on behalf of the STA, the RO may utilize service providers for radio surveys for Cargo Ship Safety Radio Certificate, which are approved by the RO in accordance with the procedures under its Quality Management System.

If the RO, in exceptional and duly justified cases, finds that its own exclusive surveyor, inspector or auditor is not available, the RO shall inform the STA who may then nominate an exclusive surveyor, inspector or auditor of one of the other Recognised Organisations authorised by the STA.

3.4 Port State interventions

When the RO is notified in any way (e.g. by port State control Authorities, the STA, owners, a management company, an agent, a master, a crew member etc.) of an accident or a port State intervention on a Swedish registered ship for which the RO has issued or endorsed the relevant certificate, the matter shall be dealt with without delay and the STA is to be informed.

In so far as the statutory certification and services covered by this Agreement are concerned, the RO agrees to co-operate with port State control Authorities to facilitate the rectification of reported deficiencies and to carry out inspections in this regard on behalf of the STA when so requested, and report to the STA.

3.5 Code of conduct

When performing its duties on behalf of the STA, the RO is to take into account every person's equality before the law and is also to act in an objective and impartial manner.

When performing duties in accordance with this Agreement, RO employees may not give or receive gifts, rewards or other benefits.

RO employees may not be involved in any conflict of interest when performing duties in accordance with this Agreement. A conflict of interest will arise, inter alia, when the person performing the statutory certification or services, his or her next of kin, or another person close to him or her

- a. is a party concerned,
- b. may expect extraordinary benefit or detriment from the result of the statutory certification or services, or
- c. is a representative – either of the person, company or organisation concerned or of someone else who may expect extraordinary benefit or detriment from the result of the statutory certification or services.

A conflict of interest will also arise when there are other special circumstances that may influence the impartiality of the person performing the statutory certification or services.

A person involved in a conflict of interest may not perform duties on behalf of the STA. However, he or she may take such measures as cannot be taken by somebody else without the inopportune delay of the matter. If an RO employee is aware of a fact that may be assumed to entail a conflict of interest involving him or her, the RO employee is to make this known voluntarily. If an employee is believed to be involved in a conflict of interest and no one has taken over his or her role in the matter, the RO must contact the STA at the earliest possible opportunity, so that the conflict of interest may be investigated.

3.6 Limitations of the rights to make certain decisions

When performing its duties on behalf of the STA and in accordance with this Agreement, the RO executes public authority. However, the RO may only make fully favourable decisions, i.e. decisions granting the applicant what he or she has applied for in all terms. If the RO finds that a decision implying the exercise of public authority has to be made and that the decision should not be in full favour of the applicant, the RO must promptly contact the STA and hand the matter over to the STA together with all relevant information. The STA will then make a decision in the matter.

However, this does not affect the ROs possibility to issue statutory conditions according to II.3 in Appendix II.

The RO is not authorised to disclose a ship's security plan upon request by officials in a port state according to article 9.8.1 in appendix II to the ISPS

Regulation. If such request is made, it shall immediately be referred to the STA.

The RO shall inform those affected by the decision in a suitable way, referring to the procedure above.

3.7 Documentation management

Documents received or drawn up by the RO on behalf of the STA within the scope of this Agreement are subject to the terms in Appendix III.

4. INTERPRETATIONS, EQUIVALENTS AND EXCEPTIONS

While interpretations of the applicable instruments, as well as the determination of equivalents or the acceptance of substitutes to the requirements of the applicable instruments are the prerogative of the STA, the RO will co-operate in their establishment as necessary.

Exemptions from the requirements of the applicable instruments are the prerogative of the STA and exemption certificates must be approved by the STA prior to issuance. Requests for equivalents and exceptions from the statutory documents will be handled as following:

- a. The owner or the operator of the ship in question shall sign the request and send it to the RO or the STA.
- b. If the RO receives such a request; the RO shall make any necessary plan approvals and promptly send their well founded recommendation, including all relevant documentation, calculations and suggested conditions or similar to the STA. If the request is made directly to the STA, the RO shall, at the request of the STA, promptly deliver relevant documents to the STA.
- c. The STA decide whether or not to approve the request and inform the RO of the decision.

IMO Resolutions and Circulars, and IACS Unified Requirements, Unified Interpretations and procedural requirements will be accepted by the STA only if they are not in conflict with the STA's written requirements.

The STA reserves the right to suspend, cancel or revoke any document or approval issued by the RO pursuant to this Agreement. The STA will inform the RO accordingly.

5. INFORMATION AND LIAISON

The RO and the STA, recognising the importance of technical liaison, agree to proceed as follows in the maintenance of an effective dialogue.

5.1 Way of Communication

The primary line of communication between the STA and the RO shall be through the RO main representation in Sweden, unless otherwise agreed between the STA and the RO.

The preferred way of communication is by e-mail. To facilitate timely answers, all questions and comments should be forwarded in a common electronic format.

The STA's RO relations team will attend questions such as:

- a. Day to day liaison between the STA and the RO.
- b. Interpretations of applicable instruments.
- c. Any questions about interpretations and/or ambiguities of this Agreement.
- d. Requests concerning transfer of certification from the STA to the RO.
- e. Requests concerning specific ships, for example during new building, conversion or flagging in to Swedish flag (If the responsible STA surveyor is known to the RO, he or she may be copied in the e-mail).
- f. Handling information on Transfer of Class (TOC) and declassing (i.e. class suspension and withdrawal).

The STA and the RO shall provide an official e-mail address and phone number for the purpose of this communication.

For use in case of accidents and other incidents involving ships under Swedish flag, a point of contact (contact by phone and e-mail) with direct access 24 hours a day, 365 days a year shall be provided by the RO. A surveyor from the RO in Sweden shall always be available to liaise with the STA and other RO surveyors in all matters relating to ships flying the Swedish flag.

To make sure that the above on-duty system is reliable at all times, the STA and the RO shall notify each other immediately of any changes in the contact details.

5.2 Cooperation in connection with development of rules or regulations – Liaison

The RO shall invite the STA to participate in relevant technical committees etc., in order to permit the STA to participate in the development of rules and procedures.

The STA and the RO shall hold regular liaison meetings, including technical meetings when necessary, in order to discuss questions of mutual interest and to evaluate the effectiveness of this Agreement.

5.3 Exchange of rules, regulations and information

The STA will provide the RO with the STA's relevant interpretations of international conventions and national regulations, and other necessary instructions, for the RO to be able to perform statutory certification and services. The STA shall notify the RO of any additions, deletions or revisions thereto in advance of their effective date and specify whether the flag State's standards go beyond convention requirements in any respect.

When a foreign ship is to be transferred to the Swedish register, or a new ship is to be built to the Swedish flag, the RO will, upon request, attend to a meeting held by the STA and attended by the ship owner. The purpose of this meeting is to agree on which provisions will be applicable to the ship.

The RO shall provide the STA with electronic access to all rules, interpretations and calculation software relevant to the STA in respect of work carried out by the RO in accordance with this Agreement. Access to calculation software may be provided remotely or at the RO's premises.

Regulations, rules, instructions, report forms and correspondence shall be written in English.

With regard to ships covered by this Agreement, the STA shall have direct electronic access to the RO's register, and to data banks containing the status of all statutory certificates and class certificates including conditions of class and recommendations. The STA shall on request be granted access to all plans and documents, including reports on surveys, on the basis of which statutory or class certificates have been issued or endorsed, and to information on the results of bottom surveys and surveys of hull, machinery and electrical installations.

5.4 Reporting

The RO must produce a report on each inspection and maintain a record of the inspection reports.

In the following situations the RO shall report to the STA, without undue delay, information pertaining to services performed pursuant to this Agreement.

- a. After carrying out activities for which the RO is authorised, the status must be reported to the system of the RO upon completion of the survey reports, and an e-mail shall be sent to the STA containing the main details of the performed activity (name and IMO number of the ship, date and place of the survey).
- b. The RO shall after completing the initial survey and inspection functions, submit to the STA a confirmation to the effect that the ship complies with the relevant requirements and that all reports on initial surveys of the same requirements have been received, checked and filed. In addition, a copy of general arrangement drawings shall be submitted for ships that have not previously been registered in the Swedish Register of Ships.
- c. When the RO approve a ship security plan (SSP), a copy of the SSP together with the associated ship security assessment (SSA) shall be sent to the STA by registered mail. The same applies to all formally approved amendments made to previously approved security plans. The registered mail shall be sent to the ship relevant inspectorate office.
- d. When the RO postpones a statutory condition together with the reason(s) for the postponement.
- e. When a final decision with regard to the assignment of class has been made by the RO. The information shall include any restrictions and essential conditions relating to the class or statutory certificates regarding the operation and trading area of the ship and any significant deviations from the RO's rules regarding class certificate or deviations from the applicable instruments regarding statutory certificate. The same procedures shall apply when a non-classed ship is being classed with the RO.
- f. When the RO suspends, withholds or withdraws, cancels, or seriously alters the operational limitations of its classification for a ship registered in the Swedish Register together with the reason(s) why such action was taken.
- g. Whenever a request for classification of a ship that will be or has been registered in the Swedish register is received.

h. Situations set out in Appendix II.

At the request of the STA, the RO shall provide the STA with statistics, copies of statutory certificates and any other information relevant to this Agreement. The STA may provide special forms to be completed by the RO for the purpose of assisting the STA in fulfilling its reporting obligations to the European Commission and other international organisations.

6. SUPERVISION

The STA will be given the opportunity to check that the RO continues to comply with the requirements of Annex I to the Class Regulation and that the functions delegated to the RO are effectively carried out in accordance with this Agreement, the Class Directive, the Class Regulation, the MLC and the ISPS Regulation. The STA may monitor the work of the RO at any time. When the monitoring requires the participation of RO personnel the STA and the RO shall agree on a suitable time.

The STA shall, according to article 9.2 of the Class Directive, report to the European Commission and the member states of the European Union the result of the assessment of the RO and submit to them the performance record of the RO and other relevant information.

6.1 Documentation of quality assurance system

The RO undertakes to submit to the STA, upon request, documentation concerning the quality assurance system practiced by the RO.

The STA may choose to cooperate with other administrations or to recognise audits performed on the RO by an independent audit group which effectively is representing the interests of the Administrations or IMO, such as the European Commission or other member states or the RO's independent Accredited Certification Body (ACB) with respect to the IACS Quality System Certification Scheme (QSCS). The RO should inform the STA when the local office of the RO in Sweden will be audited and offer the STA the opportunity to participate in the audit as an observer.

Should the STA choose to conduct direct auditing of the RO, the frequency and extent of the audits should be the subject of an agreement between the STA and the RO.

6.2 Access to internal instructions, circulars and guidelines

The RO undertakes to submit, upon request, internal instructions, circulars and guidelines as well as other information showing that the delegated functions are being carried out in accordance with the rules and regulations in force.

The RO shall allow the STA access to forms, reports, checklists and instructions that RO surveyors use when conducting statutory certification and services on Swedish ships in accordance with this Agreement.

Employees of the STA shall have access to all internal training programs and courses related to classification and statutory services arranged by the RO, at no cost, except for travel and accommodation which shall be borne by the STA.

6.3 Cooperation with the STA's inspection and verification work

The STA shall be able to check that the functions delegated to the RO are effectively carried out. The RO agrees to assist the audit team from the STA in carrying out random inspections and verifications at the RO's offices, on ships and at shipyards, including joined inspections on Swedish ships.

6.4 The STA's access to the RO's documentation relevant to the STA's fleet

The RO undertakes to give the STA's audit team access to the documentation system, including "XXX" computer system, employed by the RO to follow up the surveys carried out and the recommendations issued, and access to other information concerning the ships covered by the authorisation.

7. OTHER CONDITIONS

7.1 Remuneration

Remuneration for statutory certification and services carried out by the RO on behalf of the STA will be charged by the RO directly to the party requesting such services.

The STA and the RO shall not invoice each other for any costs or financial burden caused by this Agreement.

7.2 Amendments

Amendments to this Agreement or its Appendix will become effective only after consultation and written agreement between the STA and the RO.

Notwithstanding the above, the STA may revoke parts of Appendix I to this Agreement at three months' written notice to the RO, for policy reasons and without any relation to the quality of or other performance of the RO. Such measures shall apply equally to all ROs authorised by the STA.

7.3 Governing Law and settlement of Disputes

The Agreement and its amendments shall be governed by and construed in accordance with Swedish law. Any dispute arising in connection with this Agreement which cannot be settled by private negotiations between the parties shall be settled finally by arbitration of three arbitrators in Stockholm, Sweden, according to Swedish Law. The language of the arbitration shall be English.

The RO shall have a local representation of a legal nature on the territory of Sweden to ensure legal personality under Swedish Law and the competence of the Swedish national courts. The RO representation in Sweden shall be a legal party capable of representing the RO in a Swedish Court of Law.

7.4 Liability

If liability arising out of any marine casualty is finally and definitely imposed on the STA by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for loss of or damage to property or personal injury or death which is proved in that court of law to have been caused by a wilful act or omission or gross negligence of the RO, its bodies, employees, agents or others who act on behalf of the RO, the STA shall be entitled to financial compensation from the RO to the extent that the loss, damage, injury or death was, as decided by that court, caused by the RO.

If liability arising out of any marine casualty is finally and definitely imposed on the STA by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for personal injury or death which is proved in that court of law to have been caused by any negligent or reckless act or omission of the RO, its employees, agents or others who act on behalf of the RO, the STA shall be entitled to financial compensation from the RO to the extent that the personal injury or death was, as decided by that court, caused by the RO. The financial compensation may be up to but not exceeding an amount of 5.000.000 EURO (five million Euros).

If liability arising out of any marine casualty is finally and definitely imposed on the STA by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for loss of or damage to property which is proved in that court of law to have been caused by any negligent or reckless act or omission of the RO, its employees, agents or others who act on behalf of the RO, the STA shall be entitled to financial compensation from the RO, to the extent that the loss or damage was, as decided by that court, caused by the RO. The compensation

may be up to but not exceeding an amount of 2.500.000 EURO (two and a half million Euros).

The RO and its employees who are involved in or responsible for statutory certification and services are required by the STA to be covered by professional indemnity or professional liability insurance in the event that liability is finally and definitely imposed on the flag state for liabilities specified in the second and third paragraphs of this article.

The STA shall not enter into a conciliation, which involves acceptance of such liability mentioned in the first, second or third paragraph of this article, without the consent of the RO.

If the STA is summoned, or is expected to be summoned to answer for such liability as is mentioned above in this article, the RO shall be informed without undue delay. The STA shall, for information purposes, send all claims, documents and other relevant material to the RO.

Neither party shall be liable to the other for any special, indirect or consequential losses or damages resulting from or arising out of services performed under this Agreement, including, without limitation, loss of profit, loss of production, loss of contract, loss of use, business interruption or any other special, indirect or consequential losses suffered or incurred by any party, howsoever caused.

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

In the performance of statutory certification and services hereunder, the RO, its officers and employees are entitled to all the protection of law and the same defenses and/or counterclaims as would be available to the STA and its own staff surveyors or employees if the latter had conducted the statutory certification and services in question.

7.5 Confidentiality

In so far as activities related to this Agreement are concerned, both the RO and the STA agree to hold information in confidence, and shall use such information only to assist in performing its obligations related to this Agreement. The information shall not be disclosed except:

- a. to those of its representatives who need such information for the purpose of performing the obligations under this Agreement, and authorised audit teams performing audits in connection with certification of the RO, or

- b. to those having been given the right to receive such information either by Swedish law, international or EU legislation, court decision, or by written permission from the owner of the information.

The obligation to observe confidentiality shall apply even if a person no longer works for the RO.

7.6 Termination

If this Agreement is breached by one of the parties, the other party shall notify the violating party of its breach in writing. The violating party shall, within 30 days, inform the other party about the steps it intends to take, and remedy the breach without undue delay, but within 90 days at most. If the violating party fails to do so, the other party has the right to terminate the Agreement immediately.

This Agreement may be terminated by either party by giving the other party 12 months' written notice.

8. SIGNATURE

This Agreement enters into force on 1 November 2019 and supersedes all previous Agreements.

This Agreement together with Appendices I, II and III has been executed in two originals.

On behalf of
The Swedish Transport Agency

On behalf of
XXX

Anita Johansson
Deputy Director General

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Title