



**AGREEMENT**  
**GOVERNING THE DELEGATION OF STATUTORY**  
**CERTIFICATION SERVICES FOR SHIPS REGISTERED IN**  
**SAINT CHRISTOPHER (St. KITTS) AND NEVIS**  
**between**  
**THE GOVERNMENT OF SAINT CHRISTOPHER AND NEVIS**  
**and**  
**NIPPON KAIJI KYOKAI (ClassNK)**

**AGREEMENT GOVERNING THE DELEGATION  
OF  
STATUTORY CERTIFICATION SERVICES  
BETWEEN THE  
GOVERNMENT OF THE FEDERATION OF SAINT CHRISTOPHER AND NEVIS  
REPRESENTED BY  
DEPARTMENT OF MARITIME AFFAIRS, MINISTRY OF PUBLIC WORKS, UTILITIES,  
TRANSPORT AND POSTS  
AND  
CLASSNK**

This agreement made in accordance with the provisions of Section 411(4) of the Merchant Shipping Act No. 24 of 2002, and in compliance with the IMO "Guidelines for the Authorization of Organizations Acting on Behalf of the Administration," IMO Assembly Resolution A.739(18) and the Annex thereto, is between the Government of the Federation of Saint Christopher (St. Kitts) and Nevis, represented by the Department of Maritime Affairs, Ministry of Public Works, Utilities Transport and Posts, hereinafter referred to as the "Administration", and Nippon Kaiji Kyokai, hereinafter referred to as "ClassNK", with respect to the performance of marine statutory surveys and issuance of relevant certificates to vessels registered within the Federation of Saint Christopher and Nevis (hereinafter referred to as "St. Kitts & Nevis International Ship Registry"). Statutory surveys and issuance of relevant certificates, except for Tonnage and ISM and ISPS Code certification, are limited to ships classed with ClassNK.

**1. Purpose**

- 1.1 The purpose of this Agreement is to delegate authority to perform statutory certification surveys and functions and to define the scope, terms, conditions and requirements of that delegation.

**2. General Conditions**

- 2.1 Statutory certification surveys and functions comprise the assessment of St. Kitts and Nevis flagged vessels, and Companies which operate these ships, in order to determine the compliance of such vessels with the applicable requirements of the international conventions, codes and national requirements (hereinafter referred to as "applicable instruments") as set out in Annex I hereto and the issue of relevant certificates.
- 2.2 Insofar as the certification surveys and functions covered by this authorization are concerned, ClassNK agrees to cooperate with any Port State Control officers to facilitate the rectification of reported deficiencies on behalf of the Administration when so requested, and report on same to the Administration.
- 2.3 Statutory services rendered and statutory certificates issued by ClassNK will be accepted as services rendered by or certificates issued by the Administration

provided that ClassNK maintains compliance with the provisions Appendix 1 to Assembly Resolution A.739 (18) and Assembly Resolution A.789 (19).

- 2.4 Authorisations for services outside the scope of Annex 1 and 3 to this Agreement will be dealt with as mutually agreed on a case-by-case basis.
- 2.5 ClassNK shall endeavour to avoid undertaking activities that may result in a conflict of interest.

### **3. Interpretations, Equivalents and Exemptions**

- 3.1 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 Administration, ClassNK will cooperate in their establishment, as necessary.
- 3.2 Exemptions from the requirements of the applicable instruments are the prerogative of the Administration and must be approved by the Administration prior to issuance.
- 3.3 In instances where, temporarily, the requirements of an applicable instrument cannot be met under particular circumstances, the ClassNK surveyor will specify such measures or supplementary equipment as may be available to permit the vessel to proceed to a suitable port where permanent repairs or rectifications can be effected or replacement equipment fitted.

### **4. Information and Liaison**

- 4.1 ClassNK and the Administration agree to report information at such frequency as will be agreed between ClassNK and the Administration as delineated in Annex 2 to this Agreement. For the purposes of such reporting, exchange of information and liaison, the Registrar appointed pursuant to section 446 (5) of the Merchant Shipping Act No. 24 of 2002, is to be the point of contact for the Administration and ClassNK will deal with the Registrar (hereinafter referred to as "International Registrar of Shipping & Seamen") accordingly.
- 4.2 The Administration shall be granted access to all plans and documents including reports on surveys on the basis of which certificates indicated in Annex 1 are issued or endorsed by ClassNK.
- 4.3 The Administration will provide ClassNK with all necessary documentation for the purpose of ClassNK's provisions of statutory certification surveys and functions.
- 4.4 ClassNK and the Administration, recognizing the importance of technical liaison, agree to cooperate toward this end and maintain an effective dialogue.
- 4.5 Regulations, rules, instructions and report forms shall be written in English.

### **5. Supervision**

- 5.1 The Administration will be given the opportunity to satisfy itself that ClassNK's quality system continues to comply with the requirements of Appendix 1 of the Annex to the Assembly Resolutions A.739 (18) and A.789 (19).

- 5.2. The Administration may choose to recognize audits performed on ClassNK by another flag Administration or by an independent audit group that effectively represents the interests of the Administration, and IMO, such as the IACS Quality Committee.
- 5.3. Should the Administration choose to conduct direct auditing of ClassNK, the frequency and extent of audit will be subject to mutual agreement between the Administration and ClassNK.

## **6. Other Conditions**

### **6.1 Remuneration**

- .1 Remuneration for statutory certification carried out by ClassNK on behalf of the Administration will be charged by ClassNK directly to the party requesting such services.

### **6.2 Confidentiality**

- .1 ClassNK, its officers, employees and agents agree to maintain as confidential and not to disclose to any third party any information derived from the Administration in connection with the services provided, without the consent of the Administration, except to the extent that it is reasonably necessary to enable ClassNK to carry out the services in accordance with the terms of this Agreement.
- .2 Such obligation shall continue in full force and effect during the term of and after the termination of this Agreement, provided that the following shall not be subject to such restrictions:
  - i) any information which was in the possession of ClassNK prior to its disclosure to ClassNK by the Administration, or
  - ii) any information which is or lawfully become part of the public domain, or
  - iii) any information that shall otherwise become available to ClassNK from a source independent of the Administration.
- .3 Insofar as activities related to this Administration are concerned, both ClassNK and the Administration shall be bound by confidentiality provisions to be agreed between them.
- .4 ClassNK can release the status of statutory certificates, surveys and any deficiencies for certificates it issues on behalf of the Administration under this agreement.

### **6.3 Surveyors**

- .1 Normally, surveys shall be carried out by Surveyors working exclusively for ClassNK. ClassNK may use exclusive Surveyors of another organization with which ClassNK has a bilateral agreement provided that the other organization is recognized by the Administration. However, ClassNK may use non-exclusive surveyors provided such surveyors and services and functions performed by such personnel relevant to this agreement are

subject to the quality assurance system of ClassNK. These provisions apply to ClassNK subcontractors and to all other suppliers of support services being relevant to statutory survey and certification.

#### 6.4 *Amendments*

- .1 Amendments to this Agreement and the Annexes contained herein will become effective only after consultation and written agreement between the Administration and ClassNK.

#### 6.5 *Governing Law and Settlement of Disputes*

- .1 The Agreement shall be governed by and construed in accordance with English 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 in the English language in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce in London, England. The place of such Arbitration shall be London, UK.
- .2 In the performance of statutory certification surveys and functions hereunder, ClassNK, its officers, employees and others acting on its behalf are entitled to all the protections of law and the same defences and/or counterclaims as would be available to the Administration and its own staff surveyors or employees if the latter had conducted the statutory certification surveys and functions in question.

#### 6.6 *Liability*

- .1 In the context of this Agreement, if a liability arising out of any incident is finally and definitively imposed by a court of law on the State of the Administration for loss or damage to property or personal injury or death, which is proved in that court of law to have been caused by wilful misconduct, or omission by ClassNK, its officers, employees or others who act on behalf of ClassNK, under this Agreement, the Administration shall be entitled to seek compensation from ClassNK as defined in the Standard Terms & Conditions of ClassNK or up to but not exceeding the amount of US\$ 1 million (United States Dollars one million), whichever is the greater for the case in point.
- .2 While acting for the Administration under this Agreement, ClassNK shall be free to create contracts directly with its clients and such contracts may contain ClassNK's normal contractual conditions for limiting its legal liability. The Administration further permits ClassNK to include its standard terms and conditions on all certificates, reports or other documents issued by ClassNK pursuant to this Agreement.

#### 6.7 *Termination*

- .1 If this Agreement is breached by one of the parties, the other party will notify the violating party of its breach in writing to allow the notified party the opportunity to remedy the breach within 90 days, failing which the notifying party has the right to terminate the Agreement immediately.

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

7. This Agreement commences on the later date of the signatures indicated below.

IN WITNESS WHEREOF, the undersigned, duly authorised by the parties, have signed this Agreement on the dates indicated below:

For Ministry of Public Works, Utilities,  
Transport & Posts

For ClassNK



Mr. McClean Hobson  
Director of Maritime Affairs, Ministry of Public  
Works, Utilities, Transport & Posts

Mr. Noboru Ueda  
Executive Vice President

Date: 2/18/06

Date: 18th Oct. 2006