

**ANNEXURE D**

**TNPA HULL CLEANING PERMIT**

**Written Authority and Instructions issued jointly by the Ports Authority and Harbour**

**Master: Hull Cleaning Authorisation/Permit Number:**.....

This Hull Cleaning Authorisation/Permit is given by the Harbour Master and the Authority in terms of Port Rule 5 of the Port Rules, promulgated in terms of section 80(2) of the National Ports Act No. 12 of 2005 ("the Act") read with section 74 of the Act.

**THIS AUTHORISATION IS NOT TRANSFERABLE**

**Name of authorised Hull Cleaner:**.....

**Registered or Physical address:**.....

**Registration Number:** .....

**V.A.T. Registration Number:** .....

("hereinafter referred to as the "Authorised Entity")

The Authorised Entity is hereby authorised to undertake hull cleaning in the Port of .....at the following specified locations.....  
using the ..... (Detailed description of means used)  
for a period no longer than three years from date of issue as directed by the Harbour Master and the Authority, with specific permission to be granted by the Harbour Master per vessel and per berth for the duration of the Authorisation.

This Authorisation is issued subject, inter alia, to compliance with the following:

- 1) Compliance with the conditions printed on this Authorisation, which lists some of the main obligations of the Authorised Entity and as well as any other conditions as imposed by the Harbour Master and the Authority
- 2) any instructions given by an official of the national Department of Environmental Affairs, the Harbour Master, the Ports Authority and SAMSA;
- 3) compliance with the provisions of the Ports Act, diving regulations issued in terms of the Occupational, Health & Safety Act 85 of 1993 and all other relevant legislation;
- 4) compliance with any Regulations adopted in terms of section 80(1 and 2) of the Act;
- 5) compliance with the Port Rules for the commercial ports of the Republic of South Africa and with all adopted in terms of Written Instructions issued by the Harbour Master and/or the Ports Authority;
- 6) compliance with the Authority's Tariff Book, published in terms of section 72(1) of the Act;
- 7) compliance with the International Ship and Port Security Code ("the ISPS Code") as it applies to all Ports of South Africa;
- 8) compliance with the Diving Licence and permitting processes relative to Diving Permit System, which requires that prior to any diving operation taking place within port limits, a permit must be obtained from the Harbour Master; and
- 9) Compliance with all other applicable legislation and generally the requirement to conduct hull cleaning activities in accordance with the Law.

**Duration of authorisation – Valid from .....to.....**

.....  
**THE HARBOUR MASTER: PORT OF.....**

**Date:** .....

## CONDITIONS OF HULL CLEANING AUTHORISATION

### DEFINITIONS

1. "Authorised Entity" means the duly authorised person undertaking or co-ordinating underwater cleaning and maintenance of vessels within the port limits and whose services have been engaged by a duly Registered Vessel Agent.
2. "Hull cleaning" means any activity including niche areas, undertaken to maintain and clean an underwater part of a vessel, including a rig, whilst in port's waters ("wet activity").
3. "Niche areas" mean areas on a vessel that may be more susceptible to bio-fouling due to different hydrodynamic forces, susceptibility to coating system wear or damage, or being inadequate, or not painted, for example, sea chests, bow thrusters, propeller shafts, inlet gratings, dry-dock support strips, etc.

### GENERAL

4. Hull cleaning is governed in terms of this authorisation and is subject to written permission of the Harbour Master granted on a vessel by vessel and per berth basis and in strict compliance and adherence to the permit conditions and any conditions imposed by other relevant authorities. The Authorised Entity may proceed with hull cleaning upon receipt of this authorisation.
5. Hull cleaning operations are only permitted in certain port areas for which permission is granted; these areas specifically exclude ecologically sensitive areas.
6. The terms of the "Hull Cleaning Conditions" is read in conjunction with the "Diving Licence Conditions":-:
  - 6.1 No person may perform any hull cleaning unless he or she has obtained the requisite Diving Authorisation where diving operations are required.
  - 6.2** Hull cleaning related diving activity must be applied for and approved by the Harbour Master no later than 5 working days prior to such activity being undertaken in accordance with Annexure [xx].
  - 6.3 Applications must be lodged in the prescribed Diving Permit Authorisation office during working hours 08:30 – 1600.
  - 6.4 Should Hull Cleaning require diving operations the Diving Licence must form part of Hull Cleaning Application and must be lodged in terms of the prescribed requirements of the Application;
  - 6.5 Late applications for a Diving Permit authorisation for hull cleaning activity will not be considered if the application is lodged less than 5 days before the activity date.
7. Areas used for the activity will be designated by the Harbour Master, in his/her sole and unfettered discretion, in consultation with other relevant Authorities and Terminal Operators. The hull cleaning activity under this Authorisation shall only be carried out at a berth or berths expressly authorised in writing by the Harbour Master in terms of this Authorisation.
8. The Authorised Entity accepts that the Marine Services resource allocation shall follow the Port Berthing Policy for Passenger & Cargo working vessels as these vessels will receive priority. All costs related to the activity and any movement of vessel shall be for the account of the vessel.
9. In performing hull cleaning, the Authorised Entity must ensure that the main engine and any relevant auxiliary engines must be isolated and not be operated for the duration of the hull cleaning activity.
10. The Authorised Entity shall be responsible for any damages of whatsoever nature which result from pollution from its hull cleaning operations.

11. The Authorised Entity is limited to the use of equipment that is:
  - a. the same technology as demonstrated when applying for the hull cleaning authorisation and permit,
  - b. where the equipment efficacy is proven and approved by the Department of Environmental Affairs and is marked with a safe working load and or is capable of being recovered in case of remote failure;
  - c. in good operating and maintenance condition in accordance with statutory standards and duly licenced by the appropriate regulatory body,
  - d. operated by competent and adequately trained and certified staff.
12. The Authorised Entity shall:
  - a. notify immediately all competent authorities on any incidents that result or could result and any environmental impact and any activity that may remotely affect the operations of the port.
  - b. not undertake any modification of the authorised equipment, of whatsoever nature, unless approved in writing by all relevant Authorities and such approvals provided to t Harbour Master.
13. This Authorisation is granted on a non-exclusive basis. For the sake of absolute clarity it is recorded that applications received from other entities hull cleaning will be considered on merit and granted accordingly.
14. The hull cleaning activity under this Authorisation will cease with immediate effect upon receipt of a directive to do so from the Department of Environmental Affairs, the South African Maritime Safety Authority, the Ports Regulator or any other duly authorised entity.
15. The Authorised Entity may not act or purport to act on behalf of the Authority or to represent it in any way. The Authorised Entity is not the mandatory agent or employee of the Authority arising out of the issue of this Authorisation. The Authority shall not be liable, vicariously or otherwise, for the acts or omissions of the Authorised Entity.
16. The Authorised Entity acknowledges and agrees that the Authority may disclose any or all of the information provided by the Authorised Entity to law enforcement, government and regulatory agencies and the Authorised Entity releases and indemnifies the Authority from and against all losses, claims, damages, costs, liabilities, actions and causes of action arising out of or in any way connected with the disclosure or release of any information provided by the Authorised Entity to such bodies and/or the granting of this Authorisation. For the sake of absolute clarity no compensation of whatsoever nature or form will become payable to the Authorised Entity by the Ports Authority, SAMSA and the national Department of Environmental Affairs arising from this Authorisation.

#### **SAFETY, HEALTH, ENVIRONMENT AND EFFICIENCY**

17. The Authorised Entity shall ensure that the hull cleaning is performed diligently, safely and without deliberate or undue delay and that such hull cleaning is undertaken, planned, managed and conducted in a manner that it protects the environment, biodiversity including the water in the port and protects the health and safety of all persons.
18. The Authorised Entity shall ensure that any hull cleaning activity is undertaken in such a manner, and under such conditions, that it does not result in an 'adverse effect' to the coastal environment as defined in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008).
19. The Authorised Entity shall conduct its activities in accordance with this Authorisation, the Diving Licence and all relevant directives and instructions of the Harbour Master and the Authority including relevant TNPA policies for the duration of this Authorisation, which includes, but not limited to: Transnet Safety, Health, Environment policy; Port Waste Management Plan; Port Ballast Water Waste Management Plan or any applicable SAMSA and DEA approved management plan and any other directives, and as amended from time to time.

20. The Authorised Entity will submit an Environmental Management Plan which has been duly approved by the National Department of Environmental Affairs covering all hull cleaning control measures, and must before the commencement of any hull cleaning activity, be submitted to the Authority upon request. Further, should any NEMA listed activity be triggered the Authorised Entity shall be required to undertake the NEMA authorisation processes, at its own cost, prior to or during its hull cleaning operation.
21. The Authorised Entity shall at its own cost appoint a competent, accredited, independent Environmental Practitioner, nominated by the Authority to have oversight of the hull cleaning activities. The independent Environmental Practitioner has the mandate to stop activities at any time should a statutory contravention occur, to undertake monitoring of activities performed under this Authorisation and report on such directly to the Authority, for the duration of this Authorisation, including but not limited to taking baseline readings of water quality in the vicinity of where the activities are being carried out and the ongoing monitoring of water quality conditions and sediment quality and *consider the long term impacts related to the loss of debris (organic loading) during the cleaning process, consider the potential contamination resulting from the anti-fouling paints and the continuous monitoring of alien species invasion arising out and any other parameters that DEA may specify from time to time* during the undertaking of activities in terms of the Authorisation. The results of the monitoring must be submitted to the Harbour Master by the 7<sup>th</sup> day of every quarter from the commencement date of the authorisation. The Authorised Entity must ensure that the National Department of Environmental Affairs must further review all monitoring outcomes once completed.
22. The Authorised Entity shall submit the Vessel Biofouling Management Plan (as per IMO Resolution MEPC. 207(62)) and Risk Assessment to the Harbour Master for approval before the commencement of the hull cleaning activity. Risk assessment factors should include but not be limited to the following:
- *biological risk of the biofouling organisms being removed from the ship (including viability of the biofouling organisms or the ability to capture biofouling material);*
  - *factors that may influence biofouling accumulation, such as changes to the operating profile of the ship;*
  - *geographical area that was the source of the biofouling on the ship, if known; and*
  - *Toxic effects related to substances within the anti-fouling coating system that could be released during the cleaning activity, and any subsequent damage to the anti-fouling coating system.*
23. The Authorised Entity must ensure that the Department of Environmental Affairs reviews and approves the above monitoring plan design prior to commencement date and such approval must be submitted to the Harbour Master. The DEA should be notified upon commencement of the monitoring program.
24. The Authorised Entity shall only carry out hull cleaning on anti-fouling coatings that are suitable for in-water cleaning. Information on the suitability and ability of a coating to withstand in-water cleaning without damage and effects on service life, and on appropriate cleaning methods, should be obtained from the coating manufacturer.
25. The Authorised Entity shall not perform any hull cleaning activity on vessels or movable structures that have reached or exceeded their planned in-service period. When the anti-fouling coating has reached the end of its service life the vessel or movable structure should be removed from the water and a new antifouling coating applied. Should the vessel require new anti-fouling coating, the activity should be carried out in a dry or floating dock facility.
26. The Authorised Entity must ensure that when in-water cleaning involves removal of macro-fouling of domestic or international origin, methods to ensure no release of biological material into the water must be used. In-water cleaning technologies should aim to, at least, capture debris greater than 50 micrometres (µm) in diameter, which will minimise release of viable adult, juvenile and larval stages of macro-fouling organisms. Design

specification shall meet the above mentioned requirement as a minimum. Independent confirmation of technology is required via relevant certification body

27. The Authorised entity shall demonstrate on the field that the equipment used meets the requirements as set out in Clause 26 above.
28. The Authorised Entity shall produce evidence of calibration and servicing of the equipment being used, and such records shall be submitted to the Authority post calibration or when requested by the Authority.
29. The Authorised Entity shall ensure that all plant and equipment used during the performance of hull cleaning activities, is removed from wharfs, quays, jetties and other work places in the Port without delay immediately after the hull cleaning activities are completed on a particular vessel, or within such extended time as the Authority may allow, on good cause shown.
30. The Authorised Entity shall have written safety, health and environmental management plans in place at all times and shall make these available to the Authority for inspection upon request.
31. The Authorised Entity shall facilitate inspections by the Harbour Master and the Authority of the equipment for the cleaning activities as well as the cleaning activity itself.
32. All records pertaining to the hull cleaning activity shall be submitted to the Harbour Master for record keeping.
33. Any injury on duty (IOD), or fatality to employees or third party, shall be reported to the Authority without delay and to any applicable statutory body within the required time-frame.
34. Any incidents or accidents arising out of the hull cleaning that may impact in any way on the environment, health or safety in the port shall be reported immediately to the Authority by the Authorised Entity.

#### **POLLUTION OF THE SEA**

35. In undertaking hull cleaning activities, the Authorised Entity must take all reasonable measures to ensure against the risk of released material or marine fouling debris into the marine environment.
36. The Authorised Entity must ensure that when in-water cleaning involves removal of macro-fouling of domestic or international origin, methods to ensure no release of biological material into the water must be used. The in-water cleaning technologies used by the Entity must capture all biological debris up to 50 micrometres ( $\mu\text{m}$ ) in diameter (size). No debris larger than 50 micrometres ( $\mu\text{m}$ ) in size may escape to the marine environment. This will minimise potential release of viable adult, juvenile and larval stages of macro-fouling organisms.
37. No sanding, stripping and chipping of antifouling paint may be carried out in and or during hull cleaning operations in the port's waters. All reasonable measures must be taken to ensure that anti-fouling paint chips which may accidentally be removed during hull cleaning or maintenance activities are not released into the marine environment and that no marine fouling removed during the underwater hull cleaning activity shall be released into the marine environment. If the activities are required by a vessel, then such activity must be carried out in a dry dock.
38. No chemicals or detergents shall be released into the water, port, air and sea during the hull cleaning operations. This includes the release of Tributyltin (TBT), which is a common constituent of ship paints. Only vessels which are certificated of TBT-free paint will be allowed to undergo under-water hull cleaning in ports. Where TBT-free certification cannot be provided to the Harbour Master, that vessel's hull cleaning may only be undertaken in a dry dock facility.
39. Underwater cleaning of soft marine growth on hulls which are coated with ablative paints (self-polishing) shall

only be allowed if non-abrasive appliances are used for the removal of the fouling in question. In cases when

hard encrusted growths are found on a hull which are coated with ablative paints (self-polishing), no cleaning shall be allowed in-water and cleaning must be carried out in a dry dock.

40. The Authorised entity shall pay for any environmental monitoring undertaken by any regulatory authorities. The costs may vary depending on equipment used and type of monitoring undertaken.

### **EMISSIONS TO AIR AND WATER**

41. Grit blasting in port with metal particles such as, aluminum oxide, steel grit, cast iron shot, garnet and slag, is prohibited.
42. Blasting at sea using glass beads or other inert material shall be subject to the submission by the Authorised Entity of a method statement to the Harbour Master. Such method statement shall specify methods of operation, type of medium and environmental protection measures
43. The Authorised Entity shall not undertake any blasting or blasting-related activity prior to the approval by the Harbour Master of the method statement.

### **WASTE MANAGEMENT**

44. All waste produced during the cleaning and maintenance of underwater vessel parts shall be treated as hazardous waste and disposed by licensed Waste Disposal Service Providers in accordance with the applicable legislation, including the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and associated regulations, unless proved otherwise by the Authorised Entity (e.g. marine fouling removed from unpainted parts namely the propeller).
45. All wastes shall be properly contained in sealed drums and stored in a designated area prior to collection for disposal. The transport of waste off-site shall be by means of a licensed Waste Disposal carrier lawfully authorised for that waste. Off-site disposal or recycling of wastes shall only take place at a facility licensed for that purpose (e.g. only inert waste may be disposed of at a landfill licensed for inert waste).
46. The Authorised Entity shall ensure that Waste Manifests, Weigh Bridge Slips and Safe Disposal Certificates are made available to the Authority for inspection upon request or available at the annual audits by the Authority.

### **EMPLOYEES**

47. The Authorised Entity shall ensure that persons, who are not employed by the Authorised Entity but who are part of the Authorised Entity's hull cleaning team, shall be competent and duly qualified for the nature of the work that they are going to perform during hull cleaning activities. The Authorised Entity shall ensure that such persons are familiar with the Authorised Entity's procedures and rules, the conditions of this Authorisation, as well as the hull cleaning plant and equipment that is to be used. The Authorised Entity shall inform the working staff of the importance of environmental protection and safety during operations, and provide them with appropriate training.
48. The Authorised Entity must ensure that all employees and third parties relevant in the performance of the hull cleaning activity must at all times wear the appropriate personal protective Equipment and any additional safety gear as required by the activity and or by the Harbour Master.
49. Only competent employees duly qualified and with the applicable training as required by relevant legislation may be utilised by the Authorised Entity. Qualification and training records shall be made available to the Authority upon request.
50. All employees of the Authorised Entity must be in possession of a valid access permit issued in terms of the Port Rules.

## **MOTOR VEHICLES**

51. Each motor vehicle used by the Authorised Entity in the Port in excess of one and a half tonne carrying capacity shall bear the name of the Authorised Entity in a conspicuous place on such motor vehicle, or in such manner as the Authority may from time to time stipulate.
52. All motor vehicles used for the transport of employees within the precincts of the Ports shall be closed top motor vehicles.

## **INSURANCE**

53. Public liability insurance shall be effected and maintained at all times. The extent of public liability insurance may be adjusted by the Authority on an annual basis, or after consultation with the Authorised Entity.
54. Upon request, the Authorised Entity shall furnish proof to the Authority of the continued existence and validity of such insurance and the regular payment of all premiums due under the policy.
55. The Authority shall not be liable should it at any stage be established that the insurance obtained is inadequate or insufficient for any reason whatsoever, or should the relevant insurer for any reason refuse or be unable to meet its liabilities in terms of the said policy.

## **AMENDMENT, SUSPENSION, WITHDRAWAL OR CANCELLATION**

56. The Authority may on good cause shown, including the breach of any one or more of these conditions, at any time suspend, withdraw or cancel this Authorisation provided that it will follow a fair procedure before such a decision is taken.
57. The Authority may also amend the conditions contained in this Authorisation provided that, prior to making a decision to amend, the Authority will indicate the reasons why it considers it necessary to amend the conditions and afford the Authorised Entity a reasonable opportunity to make representations as to why the conditions should not be amended.
58. The Authorised Entity shall have no claim against the Authority arising out of the suspension, withdrawal or cancellation of the Authorisation or the amendment of the conditions, but shall be entitled to receive written reasons from the Authority in terms of the law.
59. Any and all extraneous documentation made reference to in the foregoing conditions shall be deemed to be incorporated herein and form an integral part of this Authorisation.
- 60. This Hull Cleaning Authorisation is subject to continuous approval from DEA because hull cleaning is an environmentally sensitive activity and as such, all commercial and financial commitment including labour and employment aspects of the applicant must be dealt with and managed in a temporal manner and in this regard, the Harbour Master, the Authority, SAMSA and the National Department of Environmental Affairs are hereby indemnified from all liability and loss from whatsoever nature and cause if this Authorisation is withdrawn.**

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