ARTICLE 10: ADMINISTRATION

(a) Upon the unanimous vote of the parties, the Agreement is authorized to enter into a contract(s) with respect to administrative and support services.

(b) The costs of the Agreement shall be borne by the signatories according to such allocation methods as the signatories shall decide from time to time. Invoices for costs shall be rendered by the Agreement office. In the event a signatory terminates its membership, it shall remain liable for its share of costs incurred through the effective date of said termination, as well as its share of costs through the end of the Agreement's fiscal year for Agreement obligations continuing beyond said termination date.

(c) Notwithstanding Article 10(b) above, in the event civil penalties are imposed on the Agreement as a result of:

(i) the failure of one or more parties to prepare and arrange for the filing of minutes of any discussion conducted or agreement reached outside of a regularly scheduled or convened meeting of the Agreement; or

(ii) the failure of one or more parties to submit in a timely manner the data necessary to complete the quarterly monitoring reports of the Agreement;

such penalties and all costs associated therewith (including but not limited to attorneys' fees) shall be the responsibility of the parties that participated in such meeting(s) or failed to provide the monitoring report data, and said parties shall be liable to non-participating parties (with respect to minutes) or compliant parties (with respect to monitoring reports) for any civil penalties and all costs associated therewith (including but not limited to attorneys' fees) such non-participating or compliant parties may be required to pay as a result of the conduct described in this Article 10(c).

(d) ~~Not later than thirty (30) days after the effective date of Amendment No. 40 to this Agreement or the effective date of Agreement membership (whichever is later), a party shall furnish to the Chairman a financial guarantee of its compliance with all of the terms and provisions of this Agreement, including payment of penalties under Article 10(c) above. Unless waived by a vote of the parties under Article 8(b), no party shall be entitled to membership privileges until it has furnished the financial guarantee. Said guarantee shall consist of either:~~

FMC Agreement No.: 011383-041 Effective Date: Monday, March 5, 2007
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

~~(1) the sum of Fifty Thousand ($50,000.00) Dollars United States Currency. Such sum shall be deposited by the Agreement in an interest bearing account or invested in United States Government Securities in the name of the Agreement either of which may be drawn upon by the Chairman or in his absence any other person duly authorized to do so; or~~

~~(2) a surety bond or confirmed irrevocable letter of credit, in such form as shall be acceptable to the Chairman, in the amount of Fifty Thousand ($50,000.00) Dollars United States Currency, established by a bank which is a member of the New York Clearing House. Such surety bond or letter of credit shall provide that it may be drawn upon in full or in part by draft payable to the order of the Agreement, signed in the name of the Agreement by the Chairman or, in his absence, any other person duly authorized to so act and countersigned by another party to this Agreement to which there shall be attached a certificate signed by the Chairman or in his absence any other person duly authorized to so act, to the effect that (1) there has been assessed or adjudged against the party who shall have deposited said surety bond or letter of credit the amount of said draft or (2) that there are expenses or liabilities, actual or contingent, of the Agreement incurred or accrued during said party's membership in the Agreement the party's share of which is unpaid and equal to or exceeded by the amount of said draft.~~

In the event that a party has failed to pay an expense invoice issued by the Agreement within sixty (60) days from the date it is issued, it shall lose all privileges under this Agreement. ~~If said invoice remains unpaid after ninety (90) days then the Chairman shall immediately drawdown the party's security deposit.~~ The party shall not have its privileges reinstated until it has paid all past due expense invoices. ~~its security deposit has been fully restored.~~

~~The security deposit shall be retained by the Agreement until the Member is released from all liabilities by the Agreement or ninety (90) days from the effective date of the party's withdrawal from the Agreement, whichever shall first occur. Provided however, that if on such date the Chairman certifies that there is any undischaraged financial liability of the Agreement, contingent or payable, accruing during the period of the party's membership, such security deposit shall be retained during the pendency of any investigation, arbitration or litigation which might result in a liability to such party, or until the violations or claim has been settled in accordance with the provisions of this Agreement.~~

FMC Agreement No.: 011383-041 Effective Date: Monday, March 5, 2007
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017

~~All interest accruing on funds or securities so deposited shall be for the account of the depositing party and shall be remitted promptly to it.~~

~~In the event a party that was required to provide a security deposit has failed to maintain or replenish its security deposit as required by this Article, the Chairman shall upon the expiration of 30 calendar days after its security deposit has been drawn upon or after 90 calendar days from the date of admission then the party shall automatically be expelled from Membership and the Chairman shall immediately notify in writing the party and the Federal Maritime Commission accordingly.~~

ARTICLE 11: ARBITRATION

Any disputes arising out of or in connection with this Agreement, including the payment of civil penalties and costs under Article 10, shall be resolved by arbitration before a single arbitrator in New York, NY, said arbitrator to be agreed upon by the party or parties on opposing sides of the issue. Failing such agreement, the arbitrator shall be appointed by the President of the Society of Maritime Arbitrators of New York, Inc. The arbitration shall be conducted pursuant to the procedural rules of the said Society of Maritime Arbitrators.

ARTICLE 12: EXECUTION

This Agreement (and amendments hereto) may be executed by separate counterparts, and each such counterpart shall be deemed an original, all of which together shall constitute a single instrument.

FMC Agreement No.: 011383-041 Effective Date: Monday, March 5, 2007
Downloaded from WWW.FMC.GOV on Thursday, April 27, 2017