臺灣港務股份有限公司處理船舶撞損商港設施 作業程序

101 年 11 月 23 日港總企字第 1016052121 號函修正公布

111 年 1 月 3 日港總安字第 1100152762 號函修訂

- 一、為辦理本公司管理之商港設施發生遭船舶撞損之處理,特訂定本作業程序。
- 二、本公司管理之商港設施供他人使用者,如契約就本作業程序所規定事項另有特別約定,則依該契約約定處理之。
- 三、適用範圍:本公司經營管理之商港區域。
- 四、船舶撞損商港設施,本公司各分公司(以下簡稱各分公司)應辦理事項:
 - (一)保持現場安全警戒並蒐集事證
 - 1. 設施經管、使用單位、承租人或其他使用單位等派員先行拍攝撞損現場照片存證,並保持現場及做好安全警戒措施。
 - 2. 必要時建議交通部航港局管制肇事船出港。
 - (二)會勘及採取災害控制措施
 - 通知設施經管使用單位、承租人、各分公司工程單位及船方代表 (理)人等派員至現場,辦理損害勘查(得含水下檢查)。
 - 評估災害現場危安狀況,採取適當警戒及因應措施,以避免災害擴大。
 - (三)估算損害金額及船方簽證、提供擔保
 - 依會勘結果由工程單位估算修復工程費及修復工期,業務單估算營運 損失及其他相關行政處理費用。
 營運損失指該商港設施自撞損當日起,迄修復完工啟用前一日止,因 受損致無法或縮減營業之損失金額。
 - 前目費用加總後,併同「○○港船舶撞損商港設施之損害調查表」(如 附件一)及「撞損○○港商港設施損害賠償責任切結書」(如附件二) 提請船方簽認,必要時得要求肇事船方提供擔保。
 - 提供擔保方式:由各分公司秉持確保權益原則,依個案協議處理。 檢附保證書中英文樣稿(如附件三)。
 - 肇事船方拒絕簽證、提供擔保或有任何不同意見時,依下列程序處理:
 - (1) 通報權責單位依據商港法,限制肇事船舶出港,已出港者得請海 巡署協助強制其返港,俟船方提供擔保後,始通知權責單位解除 管制。
 - (2) 視需要委任律師協助蒐集相關事證或委任公證人查勘該設施損壞 情形,向管轄地方法院聲請假扣押及後續損害賠償訴訟程序。
 - (3) 船舶撞損商港設施行為,涉有第三人原因者,仍應由直接行為人

- (船長或船東)簽具簽證單,惟得於簽證單備註欄陳述事發原由。
- 5. 肇事船完成損害調查表與損害賠償責任切結書之簽證,必要時須提供 船東互保協會或責任保險公司擔保書、銀行保證書。屆期未依約履行 時,即委任律師依法求償。
- 五、受損設施修復以回復原狀或使用功能為原則,得經協議以下列方式處理:
 - (一)由行為人或肇事船方自行招商修復,應遵守下列事項:
 - 須在各分公司工程單位估算工期內,且依照該設施原設計圖說辦理修 復工程。
 - 須依限期提交修復工程計畫,經各分公司依規定審核函覆同意後方得 開工。
 - 3. 工程如涉及結構修復者,肇事船方應委請專業技師辦理設計、監造及 簽證,完工後並須另請相關技師詳實核驗及簽證,惟監造技師與核驗 技師不得為同一人。
 - 4. 修復工程完工後,應檢送完整竣工資料,經各分公司工程單位(或視需要會同管理、業務、使用單位)依港工作業相關規定辦理查驗合格後,該設施恢復啟用,船方繳清本公司營運損失及行政費用,且查無其他待辦事項後,無息退還擔保金(書)。

(二)由各分公司辦理修復工程

- 經協議肇事船方一次付清賠償總額,由各分公司收訖賠償金,且查無 其他待辦事項後,始得解除賠償責任
- 2. 賠償總額包含損壞設施修復費、工程代辦費、營業損失及處理撞損事 故所有行政支出等費用,以上費用均含稅。
- 六、受損設施因安全顧慮須緊急處理,或港埠業務營運需要須先行修復時,經要求 肇事船方限期處理或修復,逾時未履行,各分公司應委任律師提起訴訟求償及 保全證據後,得先行墊款處理或修復,俟船方賠償款項繳交後歸墊。
- 七、肇事船方已回復原狀、償還修復費用或依法賠償後,雙方得簽立和解書及免責 函,檢附中英文樣稿如附件四。
- 八、為處理船舶撞損商港設施事務,本作業程序未盡事項,各分公司得自行訂定。

附件1

○○港船舶撞損商港設施之損害調查表		
Investigation Report of Damage to Facilities and Equipment of Port of		
本輪於年月日時分離(靠)第		
施撞損或造成損害屬實,此證。		
It is acknowledged and confirmed by	us that our vessel. " $\emph{"}$, has collided	
with and/or cause damage to the followith	owing facilities/equipment when	
departing/ going alongside wharf/ bud	oy No, athours, on	
(day),(month),(year).	
撞損商港設施清單如下:		
List of the damaged Facilities and Ed	quipment:	
一、第	1. Warf No:meters.	
二、碼頭車檔公尺	2. Warf buffer:meters.	
三、護舷公尺	3. Rubber Fender:meters.	
四、陸上起重機台,編號	4. Mobile Crane:set, No	
五、水上起重機台,編號	5. Floating Crane:set, No	
六、吸榖機台	6. Pneumatic Unloader:set.	
七、第號浮筒	7. Buoy No:set.	
八、內防波堤公尺	8. Inner Breakwaters :meters.	
九、外防波堤公尺	9. Outside Breakwaters:meters.	
十、旅客橋台,編號	10.Boarding bridge:set, No	
十一、 橋式起重機台,編號	11. Gantry Crane:set, No	
十二、 繫船柱座	12. Bollardset.	
一、發生事故原因及損壞程度/Cause of	the accidentand range of damage:	
二、調查時間/Time of Investigation:		
三、協同調查之人員/Joint surveyors of	r attendants:	
四、船舶所有人名稱/Title of Owners,	Disponent Owners:	
五、傭船人名稱/Title of Charterers:		

六、營運管理人名稱/Title of Managing Company or Operators:

七、船東互保協會名稱及在國內聯絡人(請一併提出船東互保協會之入會證明)/Full style of P&I Club and the local correspondents (please provide with a copy of Certificate of Entry of P&I Club):
八、船體保險人名稱(請一併提出船體保險之保單證明書)/Full style of H&M Underwriter (Please provide a copy of Hull and Machinery Policy):
九、請提出船舶明細/Please provide the ship's particulars:
十、代理船舶所有人之船長/大副/船公司(代理行)簽章/Signed by Master / Chief Officer / Port Agent on behalf of the responsible owners:
十二、臺灣港務股份有限公司承辦人/Person-in-charge of Taiwan International Ports Co., Ltd.:
中華民國

Signed by

船長/大副/船公司(代理行)簽章:

owner:

Master/Chief Officer/Port Agent on behalf of the

中華民國	_年月	日	
Dated this on _	(day)	(month)	(Year)

擔保函

Letter of Undertaking

致:臺灣港務股份有限公司

To: Taiwan International Ports Co., Ltd.

主旨:	關於船舶『_	』(下稱	∮本船)於_	年	月	_日	_時
	分,於灣靠立	戊離泊○○)港第	號碼頭/浮筒	時,撞損○	○港碼頭部	b施及設
備乙事	。(下稱本事	件)					
Re: Da	mages To Fa	cilities	And Equipm	ent Of Taiw	an Interna	tional Po	rts
Co., L	td. By M.V.	" "	(hereafte	er referred	to as "Th	e Vessel") When
The Ve	ssel Depart	ing / Go	ing Alongsi	de Wharf /	Buoy No.	, At _	
Hours,	On(Da	te)	_(Month), _	(Yea	r). (hereaf	ter refer	red to
as "T	he Subject	Incident'	')				

In consideration of your <u>consenting to release</u> and/or refraining from arresting or otherwise detaining The <u>Vessel</u> or any other vessels or properties in the same or associated ownership, management, possession or control, in respect of your claim against the owners, managers and/or operators of <u>The Vessel</u>, arising out of The Subject Incident, we, the (Name of <u>Owner/</u> P&I Club), hereby

agree on behalf of the owners, managers, operators, their agent,
servant and/or any other <u>liable</u> person that any claims and/or
actions arising under The Subject Incident shall be governed by the
law of the Republic of China and submitted to the jurisdiction of
the Taiwan $\bigcirc\bigcirc$ District Court. In addition, we further undertake
to pay to you on demand, the sum including but not limited to the
restoring costs, the loss of earnings, and expenses as well as the
interest and other expenses which may be agreed to by amicable
settlement between parties, or which may be adjudged by the final
judgment of Taiwanese competent courts, or which may be awarded by
arbitrators in respect of the above claims or actions provided
always that our liability hereunder shall not exceed the sum of
NTD inclusive of interest and costs.
本擔保函以中華民國法律為準據法,據此引起的任何爭議應提交臺灣○○地
本 <u>擔保函以中華民國</u> 法律 <u>為準據法</u> ,據此引起的任何爭議應提交臺灣〇〇地方法院專屬管轄。
方法院專屬管轄。
方法院專屬管轄。 日期(日)(月),(年)
方法院專屬管轄。 日期(日)(月),(年) This Letter of Undertaking shall be <u>subject to the law of the</u>
方法院專屬管轄。 日期(日)(月),(年) This Letter of Undertaking shall be <u>subject to the law of the</u> Republic of China and any disputes arising hereunder shall be
方法院專屬管轄。 日期(月),(年) This Letter of Undertaking shall be <u>subject to the law of the</u> Republic of China and any disputes arising hereunder shall be submitted to the exclusive jurisdiction of
方法院專屬管轄。 日期(月),(年) This Letter of Undertaking shall be <u>subject to the law of the</u> Republic of China and any disputes arising hereunder shall be submitted to the exclusive jurisdiction of Taiwan ○○ District Court Dated this on(Date)(Month),(Year)
方法院專屬管轄。 日期(月),(年) This Letter of Undertaking shall be <u>subject to the law of the</u> Republic of China and any disputes arising hereunder shall be submitted to the exclusive jurisdiction of Taiwan ○○ District Court Dated this on(Date)(Month),(Year)
方法院專屬管轄。 日期(月),(年) This Letter of Undertaking shall be <u>subject to the law of the</u> Republic of China and any disputes arising hereunder shall be submitted to the exclusive jurisdiction of Taiwan ○○ District Court Dated this on(Date)(Month),(Year)

附件 3.2 台灣銀行國外部 (或其他銀行) 保證書
致:臺灣港務股份有限公司 主旨:關於船舶『』於年月日 時分,於灣靠或離泊○○港第號碼頭/浮筒時,撞損 ○○港碼頭設施及設備乙事。
本保證書之條件及條款如下: 一、 就主旨所示事件所引起由臺灣港務股份有限公司對船舶 『
院。 具保證書人:臺灣銀行國外部(或其他銀行) 代表人: 簽署日期:年月日 (註:其他銀行必須是本公司認可同意之銀行。)

<u>和解書</u> <u>SETTLEMENT AGREEMENT</u>

本和解書係由下列當事人於〇年〇月〇日在臺灣"所訂立: This A consequent is made in Verbeigner Trivian this
This Agreement is made in Kaohsiung, Taiwan thisby and between:
1. 乃""之所有人(下稱甲方);及 Spar Shipping AS, owners of the M.V. "" (hereinafter referred to as "Part A"); and Spar Shipping AS
2. 臺灣港務股份有限公司港務分公司(下稱乙方);及 The Port of, Taiwan International Ports Corporation, Ltd. (hereinafter referred to as "Party B"); and
3(下稱丙方)。 (hereinafter referred to as "Party C").
兹因"○○輪"於○年○月○日撞損__港__號碼頭,造成該碼頭受損及無法營運;暨 Whereas the M.V. "○○" contacted with Wharf No ofPort on, which caused damage to and loss of use of said wharf; and
因丙方受甲方之委託修理受損之
因甲方及乙方擬就系爭請求於法院外為最終的解決; Whereas Party A and Party B desire to ultimately settle the Claim out of court;
全部當事人爰合意遵守下述條款: Now Therefore, the parties hereto agree to observe the following provisions:
1. <u>和解</u> Settlement
甲方及乙方同意上開事件所生系爭請求之最終全部和解金額為新臺幣元整。 Party A and Party B agree that the full and final settlement amount for the Claim

arising from the above-captioned matter is NTD $__$ (New Taiwan Dollars Ten

Million Only).

丙方應至遲於○年○月○日,以臺灣金融機構簽發之本票或支票支付新臺幣____元整予乙方, 為甲方付清全部和解款項。

Party C shall effect the settlement payment in full for Party A no later than _____ by providing a promissory note or check issued by a Taiwanese financial institution to Party B.

2. 解除船方責任

Discharge of the Ship Interests' Liability

乙方於收到丙方為甲方依本和解書給付之全部和解款項後,應簽發如附件之收據暨免責函予甲方,以確認收到全部和解款項,並永遠解除 "____輪"之所有利害關係人,包括但不限於其所有人、經理人、營運人、傭船人、保險人、船東責任互保協會、使用人、受僱人、船長、船員及代理人,對於上述事件之一切賠償及訴訟之責任。

Party B, upon receipt of the full settlement payment effected by Party C for Party A under this Agreement, shall issue the attached Receipt & Release to Party A confirming the receipt of full settlement payment and forever releasing all the interests of M.V. "OO", including, but not limited to, her owners, managers, operators, charterers, insurers, P&I Clubs, servants, employees, master, crewmembers and agents, from any and all claims, demands, liabilities, actions or suits of whatsoever nature with regard to the subject matter.

3. 棄權

Release

乙方依本和解書收到全部和解款項暨保固函及保固金後,同意就系爭事件,不於任何地方或管轄區域,對甲方及/或其受僱人、代理人、代表人及/或其他任何人,提起民事訴訟。乙方並同意不就系爭事件所生索賠,對 "____輪"或屬於相同所有人、關係企業或經理人之其他船舶或財產,為扣押或留置。

After receipt of the full settlement payment, warranty letter and warranty bond under this Agreement, Party B agrees not to initiate in any place or jurisdiction any civil actions against Party A and/or its employees, agents, representatives and/or any other persons in connection with the captioned matter. Party B also agrees to refrain from arresting or otherwise detaining the M.V. "OO" or any other vessel or property in the same ownership, associated ownership or management thereof in connection with any claim arising from the subject matter.

4. 保固函及保固金

Warranty Letter & Warranty Bond

丙方應於簽訂本和解書時,提供自○年○月○日起至○年○月○日止為期 年之保固函及

元之保固金予乙方,以確保於保固期中發現之任何瑕疵,丙方會以自己之費用及風險完成
修補。保固期滿,無任何爭議及待解決事項後,乙方無息退還保固金予丙方。
Party C shall provide Party B with a warranty letter valid for five years
commencing fromtill and a warranty bond in the amount of USD upon the
execution of this Agreement to ensure that any defects found within the aforesaid
warranty period will be made good by Party C at its own cost and risks. When the
warranty period expires without any disputes and outstanding matters, Party B shall
return the warranty bond to Party C without any interest.

5. 擔保函及現金擔保

Letter of Undertaking & Cash Bond

乙方應於收到本和解書之全部和解款項暨保固函及保固金後個工作天內,將於
年月日所簽發之擔保函,及甲方所提供之現金擔保(新臺幣萬元)扣除乙方
為系爭事件所支付之水下檢查費(新臺幣元)及加班費(新臺幣元)後之餘額即新臺
幣元,返還予甲方。
Party B shall, within 15 working days after receipt of the full settlement payment
as well as the warranty letter and warranty bond under this Agreement, return to
Party A the Letter of Undertaking issued by Norwegian Hull Club on 8 March 2018 and
the balance of the cash bond (NTD) provided by Party A after deducting the
underwater survey fee (NTD $_$ and overtime payment (NTD $_$ incurred by Party B
with regard to the subject matter, i.e., NTD

6. 聲明

Representation

乙方保證有簽署本和解書之權限。

Party B warrants its authority and entitlement to execute this Agreement.

7. 準據法及管轄法院

Governing Law & and Jurisdiction

本和解書以中華民國法律為準據法,甲乙雙方就本和解書內容所生爭議,合意以臺灣高雄地方法院為第一審管轄法院。

This Agreement is made subject to the law of the Republic of China as the governing law. Whatever disputes the Parties may have in this Agreement shall be submitted to the exclusive jurisdiction of the court of Kaohsiung District Court of Taiwan for settlement.

為證明上述,全部當事人茲由其合法授權之代表人於前揭日期簽訂本和解書。

In Witness Whereof, the parties hereto have executed this Agreement by their duly authorized representatives as of the day first above written.

立和解書人:
Signed by:
甲方:乃""之所有人
Party A: Spar Shipping AS
乙方:臺灣港務股份有限公司港務分公司
Party B: The Port of, Taiwan International Ports Corporation, Ltd.
丙方:
Party C:

收據暨免責函 RECEIPT & RELEASE

致: AS 即「輪」之所有人 TO: Spar Shipping AS i.e., the Owners of the M.V. ""
日期:年月日 DATE: (Wanth) (Wanth)
DATE: (day) (month) (Year)
關於:「輪」於年月日撞損港號碼頭
RE: "" c/w Wharf No of Port on
本分公司,即臺灣港務股份有限公司港務分公司,茲確認收到本分公司因上述事件向貴公司索
赔營運損失之最終全部和解金額新臺幣元整,為此,本分公司茲永遠解除「輪」及其當時
或嗣後之船長、船員、所有人、受益人、傭船人、營運人、經理人、代理人、管理人、保險人及船
東責任互保協會等,對於上述事件之一切賠償及訴訟之責任。
We, the Port of, Taiwan International Ports Corporation, Ltd., hereby acknowledge receipt of the sum
of NT\$ for the full and final settlement of our loss of use claim against you arising from the above-
captioned matter and in consideration of which we hereby release and forever discharge the M.V. "",
her master, crewmembers, owners, beneficial owners, charterers, operators, managers, agents, managing
agents, underwriters and P&I Clubs at the material time or subsequent thereto from any and all claims,
demands, liabilities, actions and suits of whatsoever nature with regard to the above-captioned matter.
本分公司保證有簽署本文件之權限。
We warrant our authority and entitlement to make, enter into and execute this document.
臺灣港務股份有限公司港務分公司
The Port of, Taiwan International Ports Corporation, Ltd.

臺灣港務股份有限公司處理船舶撞損商港設施作業流程圖

