

Federal Maritime Commission

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when taken together shall constitute one and the same instrument.

27. This Agreement is made and delivered in, and shall be construed in accordance with the laws of the State _____ of without regard to the choice of law rules.

IN WITNESS WHEREOF, the undersigned have each caused this Agreement to be executed on their behalf as of the date first above written.

By: _____
Title: _____
By: _____
Title: _____

EXHIBIT A

ESCROW AGREEMENT, dated _____ by and between (Customer) and _____ (Escrow Agent).

Passenger Vessels Owned or Chartered

ANNEX 1

RECOMPUTATION CERTIFICATE

To: Federal Maritime Commission
And To: ("Bank")

The undersigned, the Controller of _____ hereby furnishes this Re-computation Certificate pursuant to the terms of the Escrow Agreement dated _____, between the Customer and ("Bank"). Terms herein shall have the same definitions as those in such Escrow Agreement and Federal Maritime Commission regulations.

I. Unearned Passenger Revenue as of ("Date") was: \$ _____

a. Additions to unearned Passenger Revenue since such date were:

- 1. Passenger Receipts: \$ _____
- 2. Other (Specify) \$ _____
- 3. Total Additions: \$ _____

b. Reductions in Unearned Passenger Revenue since such date were:

- 1. Completed Cruises: \$ _____
- 2. Refunds and Cancellations: \$ _____
- 3. Other (Specify) \$ _____
- 4. Total Reductions: \$ _____

II. Unearned Passenger Revenue as of the date of this Re-computation Certificate is: \$ _____

a. Excess Escrow Amount \$ _____

III. Plus the Required Fixed Amount: \$ _____

IV. Total Required in Escrow: \$ _____

V. Current Balance in Escrow Account: \$ _____

VI. Amount to be Deposited in Escrow Account: \$ _____

VII. Amount of Escrow Account available to Operator: \$ _____

VIII. I declare under penalty of perjury that the above information is true and correct.

Dated: _____

(Signature)
Name: _____ Title: _____

(Signature)
Name: _____ Title: _____

[78 FR 13281, Feb. 27, 2013]

Subpart B—Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

§ 540.20 Scope.

The regulations contained in this subpart set forth the procedures whereby owners or charterers of vessels having berth or stateroom accommodations for 50 or more passengers and embarking passengers at U.S. ports shall establish their financial responsibility to meet any liability which may be incurred for death or injury to passengers or other persons on voyages to or from U.S. ports. Included also are the qualifications required by the Commission for issuance of a Certificate (Casualty) and the basis for the denial, revocation, suspension, or modification of such Certificates.

§ 540.21 Definitions.

As used in this subpart, the following terms shall have the following meanings:

(a) *Person* includes individuals, corporations, partnerships, associations, and other legal entities existing under or authorized by the laws of the United States or any state thereof or the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any territory or possession of the United States, or the laws of any foreign country.

(b) *Vessel* means any commercial vessel having berth or stateroom accommodations for 50 or more passengers and embarking passengers at U.S. ports.

(c) *Commission* means the Federal Maritime Commission.

(d) *United States* includes the Commonwealth of Puerto Rico, the Virgin Islands or any territory or possession of the United States.

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(e) *Berth or stateroom accommodations* or *passenger accommodations* includes all temporary and all permanent passenger sleeping facilities.

(f) *Certificate (Casualty)* means a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages issued pursuant to this subpart.

(g) *Voyage* means voyage of a vessel to or from U.S. ports.

(h) *Insurer* means any insurance company, underwriter, corporation or association of underwriters, ship owners' protection and indemnity association, or other insurer acceptable to the Commission.

(i) *Evidence of insurance* means a policy, certificate of insurance, cover note, or other evidence of coverage acceptable to the Commission.

(j) For the purpose of determining compliance with § 540.22, *passengers embarking at United States ports* means any persons, not necessary to the business, operation, or navigation of a vessel, whether holding a ticket or not, who board a vessel at a port or place in the United States and are carried by the vessel on a voyage from that port or place.

§ 540.22 Proof of financial responsibility, when required.

No vessel shall embark passengers at U.S. ports unless a Certificate (Casualty) has been issued to or covers the owner or charterer of such vessel.

§ 540.23 Procedure for establishing financial responsibility.

(a) In order to comply with section 2 of Pub. L. 89-777 (46 U.S.C. 44101, 44103-44106) enacted November 6, 1966, there must be filed an Application on Form FMC-131 for a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages. Copies of Form FMC-131 may be obtained from the Secretary, Federal Maritime Commission, Washington, DC 20573.

(b) An application for a Certificate (Casualty) shall be filed in duplicate with the Secretary, Federal Maritime Commission, by the vessel owner or charterer at least 60 days in advance of

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the sailing. Late filing of the application will be permitted only for good cause shown. All applications and evidence required to be filed with the Commission shall be in English, and any monetary terms shall be expressed in terms of U.S. currency. The Commission shall have the privilege of verifying any statements made or any evidence submitted under the rules of this subpart. An application for a Certificate (Casualty), excluding an application for the addition or substitution of a vessel to the applicant's fleet, shall be accompanied by a filing fee remittance of \$1,206. An application for a Certificate (Casualty) for the addition or substitution of a vessel to the applicant's fleet shall be accompanied by a filing fee remittance of \$605.

(c) The application shall be signed by a duly authorized officer or representative of the applicant with a copy of evidence of his authority. In the event of any material change in the facts as reflected in the application, an amendment to the application shall be filed no later than five (5) days following such change. For the purpose of this subpart, a material change shall be one which: (1) Results in a decrease in the amount submitted to establish financial responsibility to a level below that required to be maintained under the rules of this subpart, or (2) requires that the amount to be maintained be increased above the amount submitted to establish financial responsibility. Notice of the application for, issuance, denial, revocation, suspension, or modification of any such Certificate shall be published in the FEDERAL REGISTER.

[49 FR 36313, Sept. 14, 1984, as amended at 59 FR 59172, Nov. 16, 1994; 63 FR 50537, Sept. 22, 1998; 67 FR 39861, June 11, 2002; 70 FR 10331, Mar. 3, 2005; 74 FR 50731, Oct. 1, 2009]

§ 540.24 Insurance, surety bonds, self-insurance, guaranties, and escrow accounts.

Evidence of adequate financial responsibility for the purposes of this subpart may be established by one of the following methods:

(a) Filing with the Commission evidence of insurance issued by an insurer providing coverage for liability which may be incurred for death or injury to