



BIMCO



WRECKSTAGE 2010

INTERNATIONAL WRECK REMOVAL
AND MARINE SERVICES AGREEMENT
(LUMP SUM – STAGE PAYMENTS)

PART I

1. Place and Date of Agreement	
2. Contractor/Place of Business (Cl. 1)	3. Company/Place of Business (Cl. 1)
4. Vessel Specifications (Cl. 1, 2, 4)	
(i) Name	(ii) Flag
(iii) IMO Number	(iv) Place of Registry
(v) Length/Beam/Depth	(vi) Maximum Draft
(vii) GT/NT/DWT	(viii) Details and Nature of Cargo
(ix) P&I Club/insurer (Cl. 20(b))	(x) Any other Vessel details relevant to this Agreement
5. Condition of Vessel (Cl. 2, 4)	6. Position of Vessel and Condition of Worksite (Cl. 1, 2, 4)
7. Nature of Services (Cl. 1, 2, 4)	8. Place of Delivery and/or Disposal of Vessel (Cl. 9(a), 9(b), 9(e))
(i) Nature of services:	
(ii) Compliance with orders of competent authorities (state party to obtain confirmation):	
9. Payments (Cl. 4, 8(b), 10(a), 10(b))	
(i) Lump Sum (in figures and words)	(ii) Amount due and payable on signing this Agreement
	(iii) Amount due and payable on
(iv) Amount due and payable on	(v) Amount due and payable on
(vi) Amount due and payable on	(vii) Amount due and payable on
10. Payment Details (Cl. 10(d))	
(i) Currency	
(ii) Bank	(iii) Address
(iv) Account Number	(v) Account Name

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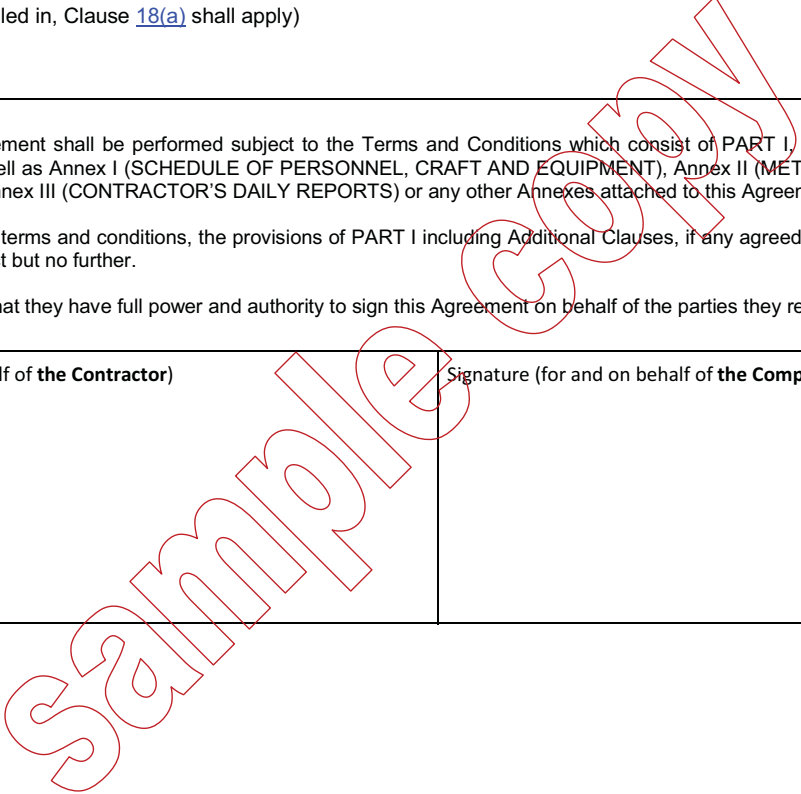
<p>11. Time of Payment and Interest (state period within which sums must be received by the Contractor and rate of interest per month) (Cl. 10(f))</p>	<p>12. Extra Costs (state percentage to be applied) (Cl. 4(a)(iii), 8(b), 11, 13(c))</p> <p>(i) Contractor shall be responsible for and pay for the following extra costs</p> <p>(ii) Company shall be responsible for and pay for the following extra costs</p> <p>(iii) Handling Charge to be applied, where applicable (state percentage)</p>
<p>13. Delay Payment Rate (Cl. 4(a)(iii), 7, 8(b), 8(c), 9(a), 9(b))</p>	<p>14. Cancellation Fee (Cl. 4(a)(iii), 8(a))</p>
<p>15. Number of Unworkable Days due to Adverse Weather or Sea Conditions (Cl. 7(a))</p>	<p>16. Number of Additional Clauses covering special provisions, if agreed</p>
<p>17. Arbitration and Mediation (state Cl. 18(a), 18(b) or 18(c) of Cl. 18 as agreed; if 18(c) agreed, also state place of arbitration) (Cl. 18) (if not appropriately filled in, Clause 18(a) shall apply)</p>	

It is agreed that this Agreement shall be performed subject to the Terms and Conditions which consist of PART I, including Additional Clauses, if any agreed, and PART II, as well as Annex I (SCHEDULE OF PERSONNEL, CRAFT AND EQUIPMENT), Annex II (METHOD OF WORK AND ESTIMATED TIME SCHEDULE), and Annex III (CONTRACTOR'S DAILY REPORTS) or any other Annexes attached to this Agreement.

In the event of a conflict of terms and conditions, the provisions of PART I including Additional Clauses, if any agreed, shall prevail over those of PART II to the extent of such conflict but no further.

The undersigned warrant that they have full power and authority to sign this Agreement on behalf of the parties they represent.

<p>Signature (for and on behalf of the Contractor)</p>	<p>Signature (for and on behalf of the Company)</p>
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**WRECKSTAGE 2010 - International Wreck Removal and Marine Services Agreement
(Lump Sum-Stage Payments)
PART II**

1. Definitions	1
“Company” means the party stated in Box 3 .	2
“Contractor” means the party stated in Box 2 .	3
“Services” means the services stated in Box 7 .	4
“Vessel” means any vessel, craft, property, or part thereof, of whatsoever nature, including anything contained therein or thereon, such as but not limited to cargo and bunkers, as described in Box 4 .	5 6
“Worksite” means the position of the Vessel stated in Box 6 .	7
2. The Services	8
The Contractor agrees to exercise due care in rendering the Services which shall include, if applicable, the delivery and/or disposal of the Vessel. Insofar as it is not inconsistent with the nature of the Services to be rendered under this Agreement, the Contractor will also exercise due care to prevent and minimise damage to the environment.	9 10 11 12
The Contractor shall provide the Personnel, Craft and Equipment set out in Annex I of this Agreement which the Contractor deems necessary for the Services based upon the Specifications, Condition and Position of the Vessel and Worksite set out in Boxes 4, 5 and 6 .	13 14 15
The Contractor's Method of Work and Estimated Time Schedule shall be as described in Annex II, utilising the Personnel, Craft and Equipment described in Annex I.	16 17
The Contractor shall consult with the Company if there is any need for substantial change in the Method of Work and/or Personnel, Craft or Equipment. In the event that time does not permit such consultation, or agreement to the proposed change(s) is unreasonably withheld, then the Contractor may proceed with such change(s). (See Clause 4 (Change of Method of Work and/or Personnel, Craft and Equipment) hereof).	18 19 20 21
The Contractor shall provide the Company or the Company Representative, if in attendance, with daily reports in accordance with Annex III.	22 23
The party identified in Box 7(ii) of this Agreement shall be given all reasonable assistance by the other party in connection with obtaining confirmation from the competent authorities that the Company has complied with any orders issued by them.	24 25 26
3. Company Representative	27
If reasonably required by the Contractor a representative of the Company will be available during the performance of the Services with the full authority to act on behalf of the Company.	28 29
In addition, the Company will provide at its sole risk and expense sufficient officers or their equivalents, who are fully conversant with the cargo system and/or layout of the Vessel, and who should be in attendance when reasonably required during the performance of the Services in order to provide advice as and when requested by the Contractor.	30 31 32 33
4. Change of Method of Work and/or Personnel, Craft and Equipment	34
The Lump Sum stated in Box 9 is based upon the Nature of the Services, as set out in Box 7 , Method of Work, and Personnel, Craft and Equipment, as set out in Annexes I and II, and the Description, Specifications, Position, Condition of the Vessel and the Worksite, as set out in Boxes 4, 5 and 6 .	35 36 37
(a) If before or during the performance of the Services, and without fault on the part of the Contractor, there is a substantial change in the Services, and/or in the Personnel, Craft and Equipment required to undertake the Services due to any misdescription by the Company or error in the specification provided by the Company, upon which the Contractor has relied, or a material change in the position and/or condition of the Vessel or the Worksite:	38 39 40 41 42
(i) The Contractor shall forthwith give notice in writing thereof to the Company and of the estimated additional costs to effect the Services;	43 44
(ii) Any and all substantial changes to the nature of such Services which are agreed between the Contractor and the Company shall be drafted into a variation order by the Company, which shall be signed by the parties;	45 46
(iii) The parties shall, without delay, consult each other to reach agreement on the amount of the additional costs to be added to the Lump Sum and any agreement shall be incorporated into the variation order. In the event that the parties are unable to reach agreement on the additional costs within 5 days of the Contractor providing details of the extra costs, either party may terminate the Services under this Agreement, without prejudice to any claim the Contractor may have under this Sub-clause 4(a) , provided always that such termination is permitted by the competent authorities. In such event the Contractor is entitled to be paid all sums due at the time of termination in accordance with the provisions of Boxes 9, 12, 13 and 14 . If permission to terminate is not given by the competent authorities the Contractor shall be paid by the Company at the Delay Payment Rate set out in Box 13 during any standby period, and the Company shall be	47 48 49 50 51 52 53 54 55

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liable for the Contractor's reasonable and necessary costs of continuing with the Services.	56
(b) If, as a result of a material change in the position and/or condition of the Vessel or the Worksite, subsequent to entering into this Agreement, the Services become easier to perform in terms of the work and/or Personnel, Craft and/or Equipment requirements, then:	57
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(i) The Company may, subject to the provisions of Clause 10(c) hereof, seek a reduction in respect of the monies payable pursuant to Clause 10(a) hereof;	60
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(ii) All such material changes which are agreed by the Contractor and the Company shall be drafted into a variation order by the Company, which shall be signed by the parties;	62
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(iii) The parties shall, without delay, consult each other to reach agreement on the amount of the costs to be deducted from the Lump Sum and any agreement shall be incorporated into the variation order.	64
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(c) Alternatively either party may refer the matter to expert evaluation in accordance with Clause 17 (Expert Evaluation) or to arbitration or mediation pursuant to Clause 18 (Arbitration and Mediation) for a decision on the reasonableness and quantum of such costs, or the claim by the Company for a reduction in remuneration, which shall be incorporated into the variation order.	66
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In the event the matter is referred either to expert evaluation or arbitration or mediation the Contractor will continue to provide the Services, without prejudice to any claim for an adjustment to the remuneration.	70
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5. Miscellaneous	72
(a) The Company shall arrange and pay for any marking of the Vessel and cautioning required. The Contractor shall arrange and pay for any marking or cautioning required in respect of its own equipment during the Services under this Agreement.	73
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(b) The Contractor may make reasonable use of Vessel's machinery, gear, equipment, anchors, chains, stores and other appurtenances during and for the purposes of these Services free of expense but shall not unnecessarily damage, abandon or sacrifice the same or any property which is the subject of this Agreement.	76
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(c) Subject to approval of the Company which shall not be unreasonably withheld, and subject to it being permitted by the competent authorities, the Contractor shall be entitled to remove, dispose of or jettison cargo, or parts of the Vessel, or equipment from the Vessel if such action is considered by the Contractor to be reasonably necessary to perform the Services under this Agreement.	79
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(d) The Company will use its best endeavours to provide the Contractor with such plans and drawings of the Vessel, cargo manifests, stowage plans, etc., and such other information as the Contractor may reasonably require for the performance of the Services.	83
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6. Permits	86
All necessary licences, approvals, authorisations or permits required to undertake and complete the Services without let or hindrance shall be obtained and maintained by the Contractor (see Clause 11(e)).	87
The Company shall provide the Contractor with all reasonable assistance in connection with the obtaining of such licences, approvals, authorisations or permits.	88
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7. Delays	91
(a) Adverse Weather and Other Delays	92
In the event that the Contractor is prevented from progressing the Services due to adverse weather or sea conditions in excess of the number of days set out in Box 15 , or due to any other reason outside the Contractor's control, the Contractor shall receive from the Company additional compensation – per working day or pro rata – at the rate set out in Box 13 , for the time the Contractor is delayed in commencing or continuing the Services with the customary progress.	93
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(b) Contractor's Equipment and/or Personnel	98
If there is a breakdown of any of the Contractor's equipment or non-availability of personnel, the Contractor shall consult the Company, or the Company Representative if applicable, to reach agreement on the amount of time lost as a result, if any. The Delay Payment Rate shall apply for the agreed period.	99
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(c) Hired-in Equipment and/or Personnel	102
The Contractor shall use its best efforts to ensure that an appropriate Delay Payment Rate is agreed in any sub-contract agreement in the event of breakdown of their equipment or non-availability of their personnel. If there is a breakdown of equipment or non-availability of personnel, the Contractor shall consult the Company, or the Company Representative if applicable, to reach agreement on the amount of time lost as a result, if any. The sub-contract Delay Payment Rate shall only apply for the agreed period if such Delay Payment Rate has been agreed with sub-contractors. The Contractor shall pass on to the Company the benefit of any off-hire or reduction	103
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in the rate of hire in respect of equipment or personnel hired-in by the Contractor.	109
<p>(d) The Contractor shall promptly advise the Company, or the Company Representative if applicable, of all periods when they consider that the Delay Payment Rate shall apply and shall at the same time confirm same in writing to the Company, or the Company Representative if applicable.</p>	110 111 112
<p>(e) Sub-clauses 7(b) and 7(c) shall not apply for individual delays unless such delays exceed six (6) consecutive hours when the Delay Payment Rate shall apply to the whole agreed delay period.</p>	113 114
<p>(f) In the event that the parties cannot reach agreement in respect of the applicable reductions in Sub-clauses 7(a), 7(b) or 7(c) above to the Delay Payment Rate or the duration of such reduction, then the issue may be referred to expert evaluation in accordance with Clause 17 (Expert Evaluation) or to arbitration or mediation pursuant to Clause 18 (Arbitration and Mediation).</p>	115 116 117 118
8. Termination	119
<p>(a) The Company may terminate this Agreement at any time prior to commencement of mobilisation of either the Personnel or the Craft or the Equipment identified in Annex I, whichever may be the first, upon payment of the Cancellation Fee set out in Box 14.</p>	120 121 122
<p>(b) The Contractor, with the agreement of the Company, which shall not be unreasonably withheld, may terminate this Agreement without any further liability if completion of the Services or any agreed change of work under Clause 4 (Change of Method of Work and/or Personnel, Craft and Equipment) hereof, utilising the Personnel, Craft and Equipment set out in Annex I, or any amendment thereto, becomes technically or physically impossible. In the event of such termination, the Contractor shall be entitled to payment of all monies due in accordance with the provisions of Boxes 9, 12 and 13.</p>	123 124 125 126 127 128
<p>(c) If permission to terminate is not given by the competent authorities, the Contractor shall be paid by the Company at the Delay Payment Rate set out in Box 13 for Personnel, Craft and Equipment during any standby period, and the Company shall be liable for the Contractor's reasonable and necessary costs of continuing with the Services</p>	129 130 131 132
9. Delivery and/or Disposal	133
<p>(a) If applicable, the Vessel shall be accepted forthwith and taken over by the Company or its duly authorised representative at the Place of Delivery indicated in Box 8. References to delivery or the Place of Delivery shall include disposal or the Place of Disposal, if applicable.</p>	134 135 136
<p>The Place of Delivery and/or Disposal shall always be safe and accessible for the Contractor's own or hired-in craft and the Vessel to enter and operate in and shall be a place where the Contractor is permitted by governmental or other authorities to deliver and/or dispose of the Vessel.</p>	137 138 139
<p>In the event the Vessel is not accepted forthwith by the Company or delivery is prevented or delayed by action of governmental or other authorities outside the control of the Contractor, all costs necessarily incurred by the Contractor from the moment of the tender for delivery shall be for the account of the Company.</p>	140 141 142
<p>These costs shall be in addition to any delay payment as set out in Box 13.</p>	143
<p>(b) If it is considered by the Contractor to be impossible or unsafe for the Vessel to be delivered or disposed of at the place indicated in Box 8 and the Company is unable to nominate an acceptable alternative place, the Contractor is at liberty to deliver or dispose of the Vessel at the nearest place it can reach safely and without unreasonable delay, provided delivery or disposal at such place is permitted by governmental or other authorities, and such delivery or disposal shall be deemed due fulfilment by the Contractor of this Agreement.</p>	144 145 146 147 148
<p>The Company shall reimburse the Contractor for any additional time used pursuant to this Sub-clause 9(b) at the Delay Payment Rate set out in Box 13, and shall be liable to the Contractor for any additional expenses arising under this Sub-clause.</p>	149 150 151
<p>(c) In the event the Vessel is delivered under the control of pumps and/or compressors or other equipment the Company shall with all due dispatch arrange for their own equipment and operators to replace the Contractor's equipment and operators.</p>	152 153 154
<p>Until such replacement the Company shall pay the Contractor for the use of its equipment and operators at reasonable rates as from the day of delivery until and including the day of arrival of the equipment and personnel at the Contractor's base, plus any additional costs relating thereto and incurred by the Contractor.</p>	155 156 157
<p>(d) If the Company fails, on completion of the Services, to take delivery of the Vessel within five (5) days of the Contractor tendering written notice of delivery or, if in the opinion of the Contractor the Vessel is likely to deteriorate, decay, become worthless or incur charges whether for storage or otherwise in excess of its value, the Contractor may, without prejudice to any other claims the Contractor may have against the Company,</p>	158 159 160 161

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without notice and without any responsibility whatsoever attaching to the Contractor, sell or dispose of the Vessel and apply the proceeds of sale in reduction of the sums due to the Contractor from the Company under this Agreement. Any remaining proceeds will be refunded to the Company.	162 163 164
In the event that such sale or other disposal of the Vessel fails to raise sufficient net funds to pay the monies due to the Contractor under the terms of this Agreement then the Company shall remain liable to the Contractor for any such shortfall.	165 166 167
(e) Reference to delivery and/or disposal of the Vessel shall include parts of the Vessel and/or cargo and/or any other thing emanating from the Vessel and such delivery may take place at different times and different places (see Box 8).	168 169 170
10. Payment	171
(a) The Company shall pay the Contractor the Lump Sum set out in Box 9 , which amount shall be due and payable as set out in Box 9 .	172 173
(b) Each instalment of the Lump Sum shall be fully and irrevocably earned at the moment it is due as set out in Box 9 . Any other monies due under this Agreement shall be fully and irrevocably earned on a daily basis or pro rata.	174 175 176
(c) All monies due and payable to the Contractor under this Agreement shall be paid without any discount, deduction, set-off, lien, claim or counterclaim.	177 178
(d) All payments to the Contractor shall be made in the currency and to the bank account stipulated in Box 10 .	179
(e) If any amount payable under this Agreement has not been paid within seven (7) days of the due date, or if the security required in accordance with Clause 12 (Security) is not provided within five (5) banking days following the request by the Contractor, then at any time thereafter the Contractor shall be entitled to terminate this Agreement without prejudice to the sums already due to the Contractor and to any further rights or remedies which the Contractor may have against the Company, provided always that the Contractor shall give the Company at least three (3) working days' written notice of its intention to exercise this right.	180 181 182 183 184 185
(f) The Contractor shall promptly invoice the Company for all sums payable under this Agreement. If any sums which become due and payable are not actually received by the Contractor within the period specified in Box 11 , they shall attract interest in accordance with the rate set out in Box 11 .	186 187 188
11. Extra Costs	189
The following shall be paid as and when they fall due by the respective parties as indicated in Box 12 :	190
(a) all port expenses, pilotage charges, harbour and canal dues and all other expenses of a similar nature levied upon or payable in respect of the Vessel and the Contractor's own or hired-in craft;	191 192
(b) the costs of the services of any assisting tugs when reasonably deemed necessary by the Contractor or prescribed by port or other authorities;	193 194
(c) all costs in connection with clearance, agency fees, visas, guarantees and all other expenses of such kind;	195
(d) all taxes and social security charges (other than those normally payable by the Contractor in the country where it has its principal place of business), stamp duties, or other levies payable in respect of or in connection with this Agreement, any import - export dues and any customs or excise duties;	196 197 198
(e) all costs incurred in obtaining and maintaining licences, approvals, authorisations or permits required to undertake and complete the Services in accordance with Clause 6 (Permits);	199 200
(f) all costs incurred due to requirements of governmental or other authorities or unions over and above those costs which would otherwise be reasonably incurred by the Contractor in the execution of the Agreement;	201 202
(g) all costs incurred by the Contractor in respect of portable salvage equipment, materials, or stores which are reasonably sacrificed during the disposal or other operations of the Vessel;	203 204
If any such costs are in fact paid by or on behalf of one party by the other party, the party on whose behalf the payment has been made shall reimburse the paying party on the basis of the actual cost to the paying party plus a handling charge of the percentage amount indicated in Box 12(iii) upon presentation of invoice.	205 206 207
12. Security	208
The Company shall provide on signing this Agreement an irrevocable and unconditional security in a form and amount as agreed between the parties.	209 210
If required by the Contractor and also in the event that initially no security is requested, the Company shall	211

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provide security or further security in a form and amount as agreed between the parties for all or part of any amount which may be or become due under this Agreement. Such security shall be given on one or more occasions as and when reasonably required by the Contractor.	212 213 214
13. Liabilities	215
(a) The Contractor will indemnify and hold the Company harmless in respect of any liability adjudged due or claim reasonably compromised arising out of injury or death occurring during the Services hereunder to any of the following persons:	216 217 218
(i) any servant, agent or sub-contractor of the Contractor;	219
(ii) any other person at or near the site of the operations for whatever purpose on behalf or at the request of the Contractor.	220 221
(b) The Company will indemnify and hold the Contractor harmless in respect of any liability adjudged due or claim reasonably compromised arising from injury or death occurring during the Services hereunder to any of the following persons:	222 223 224
(i) any servant, agent or sub-contractor of the Company;	225
(ii) any other person at or near the site of the operations for whatever purpose on behalf or at the request of the Company.	226 227
(c) Neither the Company nor its servants, agents or sub-contractors shall have any liability to the Contractor for loss or damage of whatsoever nature sustained by the Contractor's owned or hired-in craft or equipment (excluding portable salvage equipment, materials or stores which are reasonably sacrificed during the disposal or other operations on the Vessel, unless the Contractor is the party responsible for such costs as indicated in Box 12 (i)), whether or not the same is due to breach of contract, negligence or any other fault on the part of the Company, its servants, agents or sub-contractors.	228 229 230 231 232 233
(d) Neither the Contractor nor its servants, agents or sub-contractors shall have any liability to the Company for loss or damage of whatsoever nature sustained by the Vessel, whether or not the same is due to breach of contract, negligence or any other fault on the part of the Contractor, its servants, agents or sub-contractors.	234 235 236
(e) Neither party shall be liable to the other party for:	237
(i) any loss of profit, loss of use or loss of production whatsoever and whether arising directly or indirectly from the performance or non-performance of this Agreement, and whether or not the same is due to negligence or any other fault on the part of either party, their servants, agents or sub-contractors, or	238 239 240
(ii) any consequential loss or damage for any reason whatsoever, whether or not the same is due to any breach of contract, negligence or any other fault on the part of either party, their servants, agents or sub-contractors.	241 242
14. Himalaya Clause	243
All exceptions, exemptions, defences, immunities, limitations of liability, indemnities, privileges and conditions granted or provided by this Agreement for the benefit of the Contractor or the Company shall also apply to and be for the benefit of their respective sub-contractors, operators, the Vessel's owners (if the Company is the demise/bareboat charterer), masters, officers and crews and to and be for the benefit of all bodies corporate parent of, subsidiary to, affiliated with or under the same management as either of them, as well as all directors, officers, servants and agents of the same and to and be for the benefit of all parties performing Services within the scope of this Agreement for or on behalf of the Contractor or the Company as servants, agents and sub-contractors of such parties. The Contractor or the Company shall be deemed to be acting as agent or trustee of and for the benefit of all such persons, entities and Vessels set forth above but only for the limited purpose of contracting for the extension of such benefits to such persons, bodies and Vessels.	244 245 246 247 248 249 250 251 252 253
15. Lien	254
Without prejudice to any other rights which the Contractor may have, whether <i>in rem</i> or <i>in personam</i> , the Contractor shall be entitled to exercise a possessory lien upon the Vessel in respect of any amount howsoever or whatsoever due to the Contractor under this Agreement and shall for the purpose of exercising such possessory lien be entitled to take and/or keep possession of the Vessel, provided always that the Company shall pay to the Contractor all reasonable costs and expenses howsoever or whatsoever incurred by or on behalf of the Contractor in exercising or attempting or preparing to exercise such lien.	255 256 257 258 259 260
16. Time for Suit	261
Any claim which may arise out of or in connection with this Agreement or any of the Services performed hereunder shall be notified to the party against whom such claim is made, within twelve (12) months of completion or termination of the Services hereunder, or within twelve (12) months of any claim by a third party,	261 263 264

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whichever is later. Any suit shall be brought within twelve (12) months of the notification to the party against whom the claim is made. If either of these conditions is not complied with, the claim and all rights whatsoever and howsoever shall be absolutely barred and extinguished.	265 266 267
17. Expert Evaluation	268
(a) If the parties are unable to agree the alteration to costs under Clause 4(a) or Clause 4(b) or the adjustment to the Delay Payment Rate or the time lost under Clauses 7(a) , 7(b) or 7(c) , then either party may request an expert evaluation in accordance with the following procedure:	269 270 271
(i) The party seeking the evaluation shall propose three (3) experts from the persons currently on the Panel of Special Casualty Representatives maintained by the Salvage Arbitration Branch of the Corporation of Lloyd's to the other party in writing having checked that the proposed experts are available and willing to be appointed. The other party may select one of the proposed experts by responding in writing within twenty-four (24) hours. The party seeking the evaluation will then, as soon as possible (and in any event in less than twelve (12) hours) appoint the expert selected by the other party or, if none has been selected, one of the three (3) experts proposed (hereinafter "the Expert").	272 273 274 275 276 277 278
(ii) Both parties shall provide short written statements to the Expert setting out their arguments within forty-eight (48) hours of their acceptance of instructions and shall provide copies of their statement to the other party.	279 280
(iii) The Expert shall, within seventy-two (72) hours of receipt of written statements, advise the parties in writing of the alteration to costs or of the adjustment to the Delay Payment Rate or time lost. The Expert may also provide short reasons explaining the evaluation.	281 282 283
(iv) The Expert's rate of remuneration shall be the applicable rate plus bonus as set from time to time by the SCOPIC Committee for a Salvage Master. The costs of the Expert shall be paid by the party seeking the expert evaluation, but such party shall then be entitled to recover fifty per cent (50%) of the Expert's fees from the other party.	284 285 286 287
(b) If the Expert's evaluation is not agreed by both parties, the Company shall in any event make payments to the Contractor calculated in accordance with the evaluation. Such payments shall be on a provisional basis and without prejudice to the parties' rights to seek a determination in accordance with Clause 18 (Arbitration and Mediation).	288 289 290 291
18. Arbitration and Mediation	292
This Clause 18 applies to any dispute arising under this Agreement.	293
(a) *This Agreement shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Agreement shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause.	294 295 296 297
The reference shall be to a sole arbitrator ("Arbitrator"), to be selected by the first party claiming arbitration from the persons currently on the Panel of Lloyd's Salvage Arbitrators with a right of appeal from an award made by the Arbitrator to either party by notice in writing to the other within twenty-eight (28) days of the date of publication of the original Arbitrator's Award.	298 299 300 301
The Arbitrator on appeal shall be the person currently acting as Lloyd's Appeal Arbitrator.	302
No suit shall be brought before another Tribunal, or in another jurisdiction, except that either party shall have the option to bring proceedings to obtain conservative seizure or other similar remedy against any assets owned by the other party in any state or jurisdiction where such assets may be found.	303 304 305
Both the Arbitrator and Appeal Arbitrator shall have the same powers as an Arbitrator and an Appeal Arbitrator under LOF 2000 or any standard revision thereof, including a power to order a payment on account of any monies due to the Contractor pending final determination of any dispute between the parties hereto.	306 307 308
In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.	309 310 311
In cases where the claim or any counterclaim exceeds the sum agreed for the LMAA Small Claims Procedure and neither the claim nor any counterclaim exceeds the sum of US\$400,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA Intermediate Claims Procedure current at the time when the arbitration proceedings are commenced.	312 313 314 315
(b) *This Agreement shall be governed by and construed in accordance with Title 9 of the United States Code and the Maritime Law of the United States and any dispute arising out of or in connection with this Agreement shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final, and for the purposes of enforcing	316 317 318 319

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any award, judgement may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.	320 321
In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc. current at the time when the arbitration proceedings are commenced.	322 323 324
(c) *This Agreement shall be governed by and construed in accordance with the laws of the place mutually agreed by the parties and any dispute arising out of or in connection with this Agreement shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable there.	325 326 327
(d) Notwithstanding 18(a), 18(b) or 18(c) above, the parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this Agreement. In the case of a dispute in respect of which arbitration has been commenced under 18(a), 18(b) or 18(c) above, the following shall apply:	328 329 330
(i) Either party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other party of a written notice (the "Mediation Notice") calling on the other party to agree to mediation.	331 332 333
(ii) The other party shall thereupon within fourteen (14) calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the parties shall thereafter agree a mediator within a further fourteen (14) calendar days, failing which on the application of either party a mediator will be appointed promptly by the Arbitrator or such person as the Arbitrator may designate for that purpose. The mediation shall be conducted in such place and in accordance with such procedure and on such terms as the parties may agree or, in the event of disagreement, as may be set by the mediator.	334 335 336 337 338 339
(iii) If the other party does not agree to mediate, that fact may be brought to the attention of the Tribunal and may be taken into account by the Tribunal when allocating the costs of the arbitration as between the parties.	340 341
(iv) The mediation shall not affect the right of either party to seek such relief or take such steps as it considers necessary to protect its interest.	342 343
(v) Either party may advise the Arbitrator that they have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation but the Arbitrator may take the mediation timetable into account when setting the timetable for steps in the arbitration.	344 345 346
(vi) Unless otherwise agreed or specified in the mediation terms, each party shall bear its own costs incurred in the mediation and the parties shall share equally the mediator's costs and expenses.	347 348
(vii) The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to the Arbitrator except to the extent that they are disclosable under the law and procedure governing the arbitration.	349 350 351
<i>(Note: The parties should be aware that the mediation process may not necessarily interrupt time limits.)</i>	352
(e) If Box 17 in PART I is not appropriately filled in, Sub-clause 18(a) of this Clause shall apply. Sub-clause 18(d) shall apply in all cases.	353 354 355
<i>*Sub-clauses 18(a), 18(b) and 18(c) are alternatives; indicate alternative agreed in Box 17.</i>	356
19. Notices Clause	357
(a) All notices given by either party or their agents to the other party or their agents in accordance with the provisions of this Agreement shall be in writing and shall, unless specifically provided in this Agreement to the contrary, be sent to the address for that other party as set out in Boxes 2 and 3 or as appropriate or to such other address as the other party may designate in writing.	358 359 360 361
A notice may be sent by registered or recorded mail, facsimile, electronically or delivered by hand in accordance with this Sub-clause 19(a) .	362 363
(b) Any notice given under this Agreement shall take effect on receipt by the other party and shall be deemed to have been received:	364 365
(i) if posted, on the seventh (7 th) day after posting;	366
(ii) if sent by facsimile or electronically, on the day of transmission; or	367
(iii) if delivered by hand, on the day of delivery.	368
And in each case proof of posting, handing in or transmission shall be proof that notice has been given, unless	369

**WRECKSTAGE 2010 - International Wreck Removal and Marine Services Agreement
(Lump Sum-Stage Payments)
PART II**

proven to the contrary.	370
20. Insurance	371
(a) The Contractor warrants that throughout the period of this Agreement it will maintain full cover against normal P&I risks including salvors' liabilities as evidenced by a Certificate of Entry issued by a P&I Club or insurer acceptable to the Company and shall comply with all the requirements of the policy.	372 373 374
(b) The Company warrants that throughout the period of this Agreement it will maintain full cover against normal P&I risks for the Vessel as evidenced by a Certificate of Entry issued by a P&I Club or insurer stated in Box 4(ix) and shall comply with all the requirements of the policy.	375 376 377
21. Pollution	378
(a) The Contractor shall exercise due care throughout the performance of the Services to prevent and minimise damage to the environment and shall also put in place, maintain and implement throughout the Services a pollution response plan which meets the requirements of the competent authorities and the Company, or the Company Representative if applicable. The Contractor shall provide the Company with a copy of the pollution response plan on request by the Company.	379 380 381 382 383
(b) The Company shall indemnify and hold the Contractor harmless in respect of any and all consequences of any pollution which results from any discharge or escape of any pollutant from the Vessel except where such pollution arises as a consequence of the negligence of the Contractor, its sub-contractors, its agents and/or servants.	384 385 386 387
(c) The Contractor shall indemnify and hold the Company harmless in respect of any and all consequences of any pollution which results from any discharge or escape of any pollutant from its own or from hired-in craft.	388 389
22. Rotation and Replacement of Craft, Equipment and Personnel	390
The Contractor shall have the right to rotate and replace any craft, equipment and personnel with other suitable replacement craft, equipment and personnel subject to the approval of the Company, or the Company Representative if applicable, which shall not be unreasonably withheld.	391 392 393
23. General Provisions	394
(a) Severability	395
If, in any legal proceedings, it is determined that any provision of this Agreement is unenforceable under applicable law, then the unenforceable provision shall automatically be amended to conform to that which is enforceable under the law. In any event, the validity or enforceability of any provision shall not affect any other provision of this Agreement, and this Agreement shall be construed and enforced as if such provision had not been included.	396 397 398 399 400
(b) Third Party Beneficiaries	401
Except as specifically provided for elsewhere in this Agreement, this Agreement shall not be construed to confer any benefit on any third party not a party to this Agreement nor shall this Agreement provide any rights to such third party to enforce any provision of this Agreement.	402 403 404
(c) Waiver	405
No benefit or right accruing to either party under this Agreement shall be waived unless the waiver is reduced to writing and signed by both the Contractor and the Company. The failure of either party to exercise any of its rights under this Agreement, including but not limited to either party's failure to comply with any time limit set out in this Agreement, shall in no way constitute a waiver of those rights, nor shall such failure excuse the other party from any of its obligations under this Agreement.	406 407 408 409 410
(d) Warranty of Authority	411
The Contractor and the Company each warrant and represent that the person whose signature appears in Part I above is its representative and is duly authorized to execute this Agreement as a binding commitment of such party.	412 413 414
(e) Singular/Plural	415
The singular includes the plural and vice versa as the context admits or requires.	416
(f) Headings	417
The headings to the clauses and appendices to this Agreement are for convenience only and shall not affect its construction or interpretation.	418 419

(continued)

PART I

**ANNEX I (SCHEDULE OF PERSONNEL, CRAFT AND EQUIPMENT)
INTERNATIONAL WRECK REMOVAL AND MARINE SERVICES AGREEMENT (LUMP SUM – STAGE PAYMENTS)
CODE NAME: WRECKSTAGE 2010**

Dated:

Vessel:

Schedule of Personnel, Craft and Equipment ([Cl. 2](#), [4](#) and [8](#))

Sample copy

continued

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**ANNEX II (METHOD OF WORK AND ESTIMATED TIME SCHEDULE)
INTERNATIONAL WRECK REMOVAL AND MARINE SERVICES AGREEMENT (LUMP SUM – STAGE PAYMENTS)
CODE NAME: WRECKSTAGE 2010**

Dated:

Vessel:

Method of Work and Estimated Time Schedule ([Cl. 2](#) and [4](#))

Sample copy

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**ANNEX III (CONTRACTOR'S DAILY REPORTS)
 INTERNATIONAL WRECK REMOVAL AND MARINE SERVICES AGREEMENT (LUMP SUM – STAGE PAYMENTS)
 CODE NAME: WRECKSTAGE 2010**

Date	Report no
Status of wreck:	
Vessel	
Cargo	
Bunkers	
Status of wreck site:	

Weather on location:			
	1200	2400	Forecast next 24 hours
Wind direction & speed (Bft)			
Swell direction & height (m)			
Wave Height & max wave height (m)			
Long range forecast (5 days):			

Services:
- performed in last 24 hours:
- planned for next 24 hours:

Areas of concern:
Health & safety
Environmental
Other

continued

Comments:
Contractor's Representative
Company's Representative

Signed:			
Company's Representative			
Contractor's Representative			
	Name	Position	Signature

Contractor's Daily Reports [\(Cl. 2\)](#)

Sample copy

continued