

1. Date and Place of Agreement

INTERNATIONAL WRECK REMOVAL AND MARINE SERVICES AGREEMENT (LUMP SUM - STAGE PAYMENTS) CODE NAME: "WRECKSTAGE 99" PART I



2. Contractor/Place of Business

3. Company/Place of Business

4. Vessel Specifications (Cl. 1, 2, 4.1)

5. Condition of Vessel (Cl. 2, 4.1)

Draft Copy

a) Name

b) Flag

c) Place of Registry

d) Length/Beam/Depth

e) Maximum Draft

f) GT/NT/DWT

g) Details and Nature of Cargo

6. Position of Vessel and Condition of Worksite (Cl. 2, 4.1)

h) Any other Vessel's details relevant to this Agreement

Draft Copy

7. Nature of Services (Cl. 2, 4.1, 4.3, 4.4)

8. Place of Delivery/Disposal of Vessel (Cl. 2, 9.1, 9.2)

9. Permits (state Party (Contractor or Company) responsible for obtaining Permits) (Cl. 6)

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(continued)

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| | |
|---|---|
| <p>10. Payments (Cl. 4.2, 8.2, 10.1, 10.2)</p> <hr/> <p>a) Lump Sum Price (in figures and words)</p> <hr/> <p>b) Amount due and payable on signing this Agreement</p> <hr/> <p>c) Amount due and payable on</p> <hr/> <p>d) Amount due and payable on</p> <hr/> <p>e) Amount due and payable on</p> <hr/> <p>f) Amount due and payable on</p> <hr/> <p>g) Amount due and payable on</p> | <p>11. Payment Details (Cl. 10.4)</p> <hr/> <p>a) Currency</p> <hr/> <p>b) Bank</p> <hr/> <p>c) Address</p> <hr/> <p>d) Account Number</p> <hr/> <p>e) Account Name</p> |
| <p>13. Extra Costs (Cl. 4.2, 8.2, 12, 14.2.1)</p> <hr/> <p>a) Contractor shall be responsible for and pay for the following extra costs</p> <hr/> <p>b) Company shall be responsible for and pay for the following extra costs</p> <hr/> <p>c) Handling Charge to be applied, where applicable (state percentage)</p> | <p>12. Time of Payment and Interest (state period within which sums must be received by the Contractor and rate of interest per month) (Cl. 11)</p> <hr/> <p>14. Delay Payment Rate (Cl. 4.2, 7, 8.2, 8.3, 9.1, 9.2)</p> <hr/> <p>15. Cancellation Fee (Cl. 4.2, 8.1)</p> <hr/> <p>16. Number of Unworkable Days due to Adverse Weather or Sea Conditions (Cl. 7)</p> |
| <p>17. Law and Arbitration (state 18.1 or 18.2 of Cl. 18; if 18.2 agreed, also state place of arbitration) (Cl. 18)</p> | <p>18. Number of Additional Clauses covering special provisions, if agreed</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, and Annex II, METHOD OF WORK AND ESTIMATED TIME SCHEDULE 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.

| | |
|---|--|
| Signature (for and on behalf of the Contractor) | Signature (for and on behalf of the Company) |
|---|--|

PART II

"Wreckstage 99" International Wreck Removal and Marine Services Agreement (Lump Sum - Stage Payments)

| | | | |
|---|----|---|-----|
| 1. Definition | 1 | equipment, anchors, chains, stores and other appurtenances during and for | 83 |
| The term "Vessel" shall include any vessel, craft, property or part thereof of | 2 | the purposes of these services free of expense but shall not unnecessarily | 84 |
| whatsoever nature, including anything contained therein or thereon, such as | 3 | damage, abandon or sacrifice the same or any property the subject of this | 85 |
| but not limited to cargo and bunkers, as described in Box 4. | 4 | Agreement. | 86 |
| 2. The Services | 5 | 5.3 Subject to approval of the Company, which shall not be unreasonably | 87 |
| The Contractor agrees to exercise due care in rendering the services | 6 | withheld, and subject to it being permitted by the competent authorities, the | 88 |
| indicated in Box 7 and, if applicable, will endeavour to deliver and/or dispose | 7 | Contractor shall be entitled to remove, dispose or jettison cargo, or parts of | 89 |
| of the Vessel at the place indicated in Box 8. Insofar as it is not inconsistent | 8 | the Vessel or equipment from the Vessel if such action is considered by the | 90 |
| with the nature of the services to be rendered under this Agreement, the | 9 | Contractor to be reasonably necessary to perform the services under this | 91 |
| Contractor will also exercise due care to minimise damage to the | 10 | Agreement. | 92 |
| environment. | 11 | 5.4 The Company will provide the Contractor with such plans and drawings | 93 |
| The Contractor shall provide the Personnel, Craft and Equipment set out in | 12 | of the Vessel, cargo manifests, stowage plans, etc. as the Contractor may | 94 |
| Annex I of this Agreement which the Contractor deems necessary for the | 13 | require. | 95 |
| services based upon the Specifications, Condition and Position of the Vessel | 14 | 6. Permits | 96 |
| and Worksite set out in Boxes 4, 5 and 6. | 15 | All necessary licenses, approvals, authorisations or permits required to | 97 |
| The Contractor's Method of Work shall be as described in Annex II, utilising | 16 | undertake and complete the services without let or hindrance shall be | 98 |
| the Personnel, Craft and Equipment described in Annex I. | 17 | obtained, maintained and paid for by the party identified in Box 9 of this | 99 |
| The Contractor shall consult with the Company if there is any need for | 18 | Agreement. The other party shall provide the party identified in Box 9 of this | 100 |
| substantial change in the Method of Work, and/or Personnel, Craft or | 19 | Agreement with all reasonable assistance in connection with the obtaining of | 101 |
| Equipment. In the event that time does not permit such consultation, or | 20 | such licenses, approvals, authorisations or permits. | 102 |
| agreement to the proposed change(s) is unreasonably withheld, then the | 21 | 7. Delays | 103 |
| Contractor may proceed with such change(s). (See Clause 4 hereof). | 22 | If the Contractor is delayed in performing its obligations under this Agreement | 104 |
| 3. Company Representative | 23 | due to adverse weather or sea conditions, in excess of the number of days set | 105 |
| If reasonably required by the Contractor a representative of the Company will | 24 | out in Box 16, or due to any other reason outside the control of the Contractor, | 106 |
| be available during the operations with the full authority to act on behalf of the | 25 | the Contractor shall receive from the Company an additional compensation | 107 |
| Company. The Company will use its best endeavours to provide all | 26 | - per working day or pro rata - at the rate set out in Box 14, for the time the | 108 |
| information required by the Contractor. | 27 | Contractor is delayed in commencing or continuing the services with the | 109 |
| In addition, the Company will provide at its sole risk and expense sufficient | 28 | customary progress. The Company shall be promptly advised by the | 110 |
| officers or their equivalents, who are fully conversant with the cargo system | 29 | Contractor about all delays, which shall be confirmed in writing as soon as | 111 |
| and/or layout of the Vessel, and who should be in attendance when | 30 | possible. | 112 |
| reasonably required during the operations in order to provide advice as and | 31 | 8. Termination | 113 |
| when requested by the Contractor. | 32 | 8.1 The Company may terminate this Agreement at any time prior to | 114 |
| 4. Change of Method of Work and/or Personnel, Craft and Equipment | 33 | commencement of mobilisation of either the Personnel or the Craft or the | 115 |
| 4.1 The lump sum is based upon the Nature of the Services, as set out in | 34 | Equipment identified in Annex I, whichever may be the first, upon payment of | 116 |
| Box 7, and the Personnel, Craft and Equipment, and Method of Work, as set | 35 | the Cancellation Fee set out in Box 15. | 117 |
| out in Annexes I and II, as well as the Description, Specifications, Position, | 36 | 8.2 The Contractor, with the agreement of the Company, which shall not be | 118 |
| Condition of the Vessel and the Worksite, as set out in Boxes 4, 5 and 6. | 37 | unreasonably withheld, may terminate this Agreement without any further | 119 |
| If before or during the operation, and without fault on the part of the | 38 | liability if completion of the services or any agreed change of work under | 120 |
| Contractor, there is a substantial change in the work to be done under this | 39 | Clause 4 hereof, utilising the Personnel, Craft and Equipment set out in | 121 |
| Agreement, or in the Personnel, Craft and Equipment required to undertake | 40 | Annex I, or any amendment thereto, becomes technically or physically | 122 |
| the services due to: | 41 | impossible. In the event of such termination, the Contractor shall be entitled | 123 |
| 4.1.1 any misdescription by the Company or error in the specification | 42 | to payment of all monies due in accordance with the provisions of Boxes 10, | 124 |
| provided by the Company, upon which the Contractor has relied, or, | 43 | 13 and 14. | 125 |
| 4.1.2 a material change in the position and/or condition of the Vessel or the | 44 | 8.3 If permission to suspend or terminate is not given by the competent | 126 |
| worksite, | 45 | authorities the Contractor shall be paid by the Company at the Delay | 127 |
| the Contractor shall forthwith give notice in writing thereof to the Company | 46 | Payment Rate set out in Box 14 for Personnel, Craft and Equipment during | 128 |
| and of the estimated additional costs to effect the services. | 47 | any standby period, and the Company shall be liable for the Contractor's | 129 |
| 4.2 The parties shall, without delay, consult each other to reach agreement | 48 | reasonable and necessary costs of continuing with the services. | 130 |
| on the amount of the additional costs to be added to the lump sum. In the | 49 | 9. Delivery | 131 |
| event that the parties are unable to reach agreement on the additional costs | 50 | 9.1 The Vessel shall be accepted forthwith and taken over by the Company | 132 |
| within 5 days of the Contractor providing details of the extra costs, either party | 51 | or its duly authorised representative at the place of delivery indicated in Box | 133 |
| may terminate the services under this Agreement, without prejudice to any | 52 | 8. References to delivery or the place of delivery shall include disposal or the | 134 |
| claim the Contractor may have under Clause 4.1.1 above, provided always | 53 | place of disposal, if applicable. | 135 |
| that such termination is permitted by the competent authorities. In such event | 54 | The place of delivery shall always be safe and accessible for the Contractor's | 136 |
| the Contractor is entitled to be paid all sums due at the time of termination in | 55 | own or hired-in craft and the Vessel to enter and operate in and shall be a | 137 |
| accordance with the provisions of Boxes 10, 13, 14 and 15. | 56 | place where the Contractor is permitted by governmental or other authorities | 138 |
| If permission to terminate is not given by the competent authorities the | 57 | to deliver or dispose of the Vessel. | 139 |
| Contractor shall be paid by the Company at the Delay Payment Rate set out | 58 | In the event the Vessel is not accepted forthwith by the Company or delivery | 140 |
| in Box 14 during any standby period, and the Company shall be liable for the | 59 | is prevented or delayed by action of governmental or other authorities outside | 141 |
| Contractor's reasonable and necessary costs of continuing with the services. | 60 | the control of the Contractor, all costs necessarily incurred by the Contractor | 142 |
| 4.3 Alternatively the parties may by agreement refer the matter to | 61 | from the moment of the tender for delivery shall be for account of the | 143 |
| Arbitration in accordance with the provisions of this Agreement for a decision | 62 | Company. | 144 |
| by the Arbitrator on the reasonableness and quantum of such extra costs. | 63 | These costs shall be in addition to any delay payment as set out in Box 14. | 145 |
| In the event the matter is referred to Arbitration the Contractor will continue to | 64 | 9.2 If it is considered by the Contractor to be impossible or unsafe for the | 146 |
| provide the services set out in Box 7 without prejudice to his claim for | 65 | Vessel to be delivered or disposed of at the place indicated in Box 8 and the | 147 |
| additional remuneration. | 66 | Company is unable to nominate an acceptable alternative place, the | 148 |
| 4.4 If, as a result of a material change in the position and/or condition of the | 67 | Contractor is at liberty to deliver or dispose of the Vessel at the nearest place | 149 |
| Vessel, or the worksite, subsequent to entering into this Agreement, the | 68 | it can reach safely and without unreasonable delay, and such delivery or | 150 |
| services set out in Box 7 and Annex I become easier to perform in terms of | 69 | disposal shall be deemed a due fulfilment by the Contractor of this | 151 |
| personnel, craft, and/or equipment requirements, then: | 70 | Agreement. | 152 |
| 4.4.1 the Company may, subject to the provisions of Clause 10.3 hereof, | 71 | The Company shall reimburse the Contractor for any additional time used | 153 |
| seek a reduction in respect of the monies payable pursuant to Clause | 72 | pursuant to this sub-clause at the Delay Payment Rate set out in Box 14, and | 154 |
| 10.1 hereof; | 73 | shall be liable to the Contractor for any additional expenses arising under this | 155 |
| 4.4.2 in the event of a failure to agree the amount of any such reduction, | 74 | sub-clause. | 156 |
| then such dispute shall be dealt with pursuant to the provisions of | 75 | 9.3 In the event the Vessel is delivered under the control of pumps and/or | 157 |
| Clause 18 hereof. | 76 | compressors or other equipment the Company shall with all due dispatch | 158 |
| 5. Miscellaneous | 77 | arrange for their own equipment and operators to replace the Contractor's | 159 |
| 5.1 The Company shall arrange and pay for any marking of the Vessel and | 78 | equipment and their operators. | 160 |
| cautioning required. The Contractor shall arrange and pay for any marking or | 79 | Until such replacement the Company shall pay the Contractor for the use of | 161 |
| cautioning required in respect of its own equipment during the services under | 80 | its equipment and operators at reasonable rates as from the day of delivery, | 162 |
| this Agreement. | 81 | until and including the day of arrival of the equipment and personnel at the | 163 |
| 5.2 The Contractor may make reasonable use of Vessel's machinery, gear, | 82 | Contractor's base, plus any additional costs relating thereto and incurred by | 164 |

PART II

"Wreckstage 99" International Wreck Removal and Marine Services Agreement (Lump Sum - Stage Payments)

the Contractor. 165

9.4 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, 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. 166-175

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. 176-179

9.5 Reference to delivery 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. 180-182

10. Price and Conditions of Payment 183

10.1 The Company shall pay the Contractor for the services the sum set out in Box 10, (hereinafter called "the lump sum"), which amount shall be due and payable as set out in Box 10. 184-186

10.2 Each instalment of the lump sum shall be fully and irrevocably earned at the moment it is due as set out in Box 10. Any other monies due under this Agreement shall be fully and irrevocably earned on a daily basis or pro rata. 187-189

10.3 All monies due and payable to the Contractor under this Agreement shall be paid without any discount, deduction, set-off, lien, claim or counterclaim. 190-192

10.4 All payments to the Contractor shall be made in the currency and to the bank account stipulated in Box 11. 193-194

10.5 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 13 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 notice of its intention to exercise this right. 195-203

11. Time of Payment and Interest 204

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 12 they shall attract interest in accordance with the rate set out in Box 12. 205-208

12. Extra Costs 209

The following expenses/costs shall be paid as and when they fall due by the respective parties as indicated in Box 13: 210-211

12.1 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 owned or hired-in craft; 212-213

12.2 the costs of the services of any assisting tugs when reasonably deemed necessary by the Contractor or prescribed by port or other authorities; 214-217

12.3 all costs in connection with clearance, agency fees, visas, guarantees and all other expenses of such kind; 218-219

12.4 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 customs or excise duties; 220-223

12.5 all costs incurred due to requirements of governmental or other authorities over and above those costs which would otherwise be reasonably incurred by the Contractor in the execution of the Agreement; 224-226

12.6 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 on the Vessel. 227-229

If any or all of the above expenses/costs identified in Box 13 are payable by the Company, they shall be paid by the Company direct to those entitled to them. If, however, any such expenses/costs are in fact paid by or on behalf of the Contractor, (notwithstanding that the Contractor shall under no circumstances be under any obligation to make such payments on behalf of the Company) the Company shall reimburse the Contractor on the basis of the actual cost to the Contractor plus a handling charge of the percentage amount indicated in Box 13 upon presentation of invoice. 230-237

13. Security 238

The Company shall provide on signing of this Agreement an irrevocable and unconditional security in a form and amount as agreed between the parties. 239-240

If required by the Contractor and also in the event that initially no security is requested, the Company shall 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 required by the Contractor. 241-245

14. Liabilities 246

14.1.1 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: 247-251

- any servant or agent of the Contractor 250-251
- any other person at or near the site of the operations for whatever purpose on behalf or at the request of the Contractor. 252-253

14.1.2 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: 254-257

- any servant or agent of the Company 258-259
- any other person at or near the site of the operations for whatever purpose on behalf or at the request of the Company. 260-261

14.2.1 Neither the Company nor its servants or agents 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 13 (a)), whether or not the same is due to breach of contract, negligence or any other fault on the part of the Company, its servants or agents. 262-269

14.2.2 Neither the Contractor nor its servants or agents 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 or agents. 270-274

14.3 Save as otherwise expressly stipulated in this Agreement neither the Contractor nor the Company shall be liable to the other party for loss of profit, loss of use, loss of production or any other indirect or consequential damage for any reason whatsoever. 275-278

15. Himalaya Clause 279

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. 280-294

16. Lien 295

Without prejudice to any other rights which the Contractor may have, whether *in rem* or *in personam*, 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 costs and expenses howsoever or whatsoever incurred by or on behalf of the Contractor in exercising or attempting or preparing to exercise such lien. 296-304

17. Time for Suit 305

Any claim which may arise out of or in connection with this Agreement or any of the services performed hereunder shall be notified by telex, facsimile, cable or otherwise in writing to the party against whom such claim is made, within 12 months of completion or termination of the services hereunder, or within 12 months of any claim by a third party, whichever is later. Any suit shall be brought within one year 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. 306-314

18. Governing Law and Arbitration 315

18.1 This Agreement shall be governed by and construed in accordance with English law and any dispute arising out of this Agreement shall be referred to Arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force. 316-319

Any dispute arising hereunder shall be referred to the arbitration of a sole 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 28 days of the date of publication of the original Arbitrator's Award. 320-325

The Arbitrator on appeal shall be the person currently acting as Lloyd's Appeal Arbitrator. 326-327

PART II

"Wreckstage 99" International Wreck Removal and Marine Services Agreement (Lump Sum - Stage Payments)

No suit shall be brought before another Tribunal, or in another jurisdiction, 328
except that either party shall have the option to bring proceedings to obtain 329
conservative seizure or other similar remedy against any assets owned by 330
the other party in any state or jurisdiction where such assets may be found. 331
Both the Arbitrator and Appeal Arbitrator shall have the same powers as an 332
Arbitrator and Appeal Arbitrator under LOF 1995 or any standard revision 333
thereof, including a power to order a payment on account of any monies due 334
to the Contractor pending final determination of any dispute between the 335
parties hereto. 336
18.2 Any dispute arising out of this Agreement shall be referred to Arbitration 337
at the place indicated in Box 17 subject to the procedures applicable there. 338
The laws of the place indicated in Box 17 shall govern this Agreement. 339
18.3 If Box 17 is not filled in, Clause 18.1 shall apply. 340

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**ANNEX I TO
INTERNATIONAL WRECK REMOVAL AND MARINE SERVICES AGREEMENT
(LUMP SUM - STAGE PAYMENTS)
CODE NAME: "WRECKSTAGE 99"**

Dated:

Draft Copy

Vessel:

Schedule of Personnel, Craft and Equipment (Cl. 2, 4.1, 4.4, 8.1 and 8.2)

Draft Copy

ANNEX II TO
INTERNATIONAL WRECK REMOVAL AND MARINE SERVICES AGREEMENT
(LUMP SUM - STAGE PAYMENTS)
CODE NAME: "WRECKSTAGE 99"

Dated:

Draft Copy

Vessel:

Method of Work and Estimated Time Schedule (Cl. 2 and 4.1)

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