


**BIMCO**


# WRECKFIXED 2010

INTERNATIONAL WRECK REMOVAL  
AND MARINE SERVICES AGREEMENT  
(FIXED PRICE – “NO CURE, NO PAY”)

**PART I**

1. Place and Date of Agreement	
2. Contractor/Place of Business ( <a href="#">Cl. 1</a> )	3. Company/Place of Business ( <a href="#">Cl. 1</a> )
4. Vessel Specifications ( <a href="#">Cl. 1</a> , <a href="#">2</a> , <a href="#">4</a> )	
(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 ( <a href="#">Cl. 19(b)</a> )	(x) Any other Vessel details relevant to this Agreement
5. Condition of Vessel ( <a href="#">Cl. 2</a> , <a href="#">4</a> )	6. Position of Vessel and Condition of Worksite ( <a href="#">Cl. 1</a> , <a href="#">2</a> , <a href="#">4</a> )
7. Nature of Services ( <a href="#">Cl. 1</a> , <a href="#">2</a> , <a href="#">4</a> , <a href="#">9(a)</a> )	8. Place of Delivery and/or Disposal of Vessel ( <a href="#">Cl. 8(a)</a> , <a href="#">8(b)</a> , <a href="#">8(e)</a> )
(i) Nature of services: (ii) Compliance with orders of competent authorities (state, party to obtain confirmation):	
9. Payments ( <a href="#">Cl. 4</a> , <a href="#">9(a)</a> )	10. Payment Details ( <a href="#">Cl. 9(c)</a> )
Fixed Price (in figures and words)	(i) Currency
	(ii) Bank
	(iii) Address
	(iv) Account Number
	(v) Account Name
11. Time of Payment and Interest (state period within which sums must be received by the Contractor and rate of interest per month) ( <a href="#">Cl. 9(e)</a> )	12. Cancellation Fee ( <a href="#">Cl. 7(a)</a> )
13. Arbitration and Mediation (state <a href="#">Cl. 17(a)</a> , <a href="#">17(b)</a> or <a href="#">17(c)</a> of <a href="#">Cl. 17</a> as agreed; if <a href="#">17(c)</a> agreed, also state place of arbitration) ( <a href="#">Cl. 17</a> ) (if not appropriately filled in, Clause <a href="#">17(a)</a> shall apply)	14. Number of Additional Clauses covering special provisions, if agreed

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continued

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(continued)

## PART I

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.

Signature (for and on behalf of <b>the Contractor</b> )	Signature (for and on behalf of <b>the Company</b> )
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continued

**WRECKFIXED 2010 - International Wreck Removal and Marine Services Agreement  
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**PART II**

**1. Definitions**

- “Company” means the party stated in [Box 3](#).  
“Contractor” means the party stated in [Box 2](#).  
“Services” means the services stated in [Box 7](#).  
“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](#).  
“Worksite” means the position of the Vessel stated in [Box 6](#).

**2. The Services**

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.

The Services shall be rendered under the principle of no cure, no pay.

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](#).

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.

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), subject to any necessary approval of the authorities. (See [Clause 4](#) (Change of Method of Work and/or Personnel, Craft and Equipment) hereof).

The Contractor shall provide the Company or the Company Representative, if in attendance, with daily reports in accordance with Annex III.

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.

**3. Company Representative**

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.

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.

**4. Change of Method of Work and/or Personnel, Craft and Equipment**

The Fixed Price 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](#).

(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:

(i) The Contractor shall forthwith give notice in writing thereof to the Company and of the estimated additional costs to effect the Services;

(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;

(iii) The parties shall, without delay, consult each other to reach agreement on the amount of the additional costs to be added to the Fixed Price 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. If permission to terminate is not given by the competent authorities, then the Contractor will continue to provide the Services set out in [Box 7](#), without prejudice to his claim for additional remuneration.

(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:

(i) The Company may, subject to the provisions of [Clause 9\(b\)](#) hereof, seek a reduction in respect of the monies payable pursuant to [Clause 9\(a\)](#) hereof;

(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;

(iii) The parties shall, without delay, consult each other to reach agreement on the amount of the costs to be deducted from the Fixed Price and any agreement shall be incorporated into the variation order.

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(c) Alternatively either party may refer the matter to expert evaluation in accordance with <a href="#">Clause 16</a> (Expert Evaluation) or to arbitration or mediation pursuant to <a href="#">Clause 17</a> (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.	60 61 62
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.	63 64
<b>5. Miscellaneous</b>	65
(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.	66 67
(b) The Contractor may make reasonable use of the 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.	68 69 70
(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.	71 72 73 74
(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.	75 76 77
<b>6. Permits</b>	78
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 <a href="#">Clause 10(e)</a> ). The Company shall provide the Contractor with all reasonable assistance in connection with the obtaining of such licences, approvals, authorisations or permits	79 80 81
<b>7. Termination</b>	82
(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 <a href="#">Box 12</a> .	83 84 85
(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 <a href="#">Clause 4</a> (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.	86 87 88 89
<b>8. Delivery and/or Disposal</b>	90
(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 <a href="#">Box 8</a> . References to delivery or the Place of Delivery shall include disposal or the Place of Disposal, if applicable.	91 92 93
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.	94 95 96
In the event the Vessel is not accepted forthwith by the Company all costs incurred by the Contractor from the moment of tender for delivery shall be for the account of the Company. However, in the event that delivery is prevented or delayed by action of governmental or other authorities, even if 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 Contractor.	97 98 99 100
(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 <a href="#">Box 8</a> , 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.	101 102 103 104 105
(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.	106 107
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.	108 109 110
(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, 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.	111 112 113 114 115 116
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.	117 118
(e) Reference to delivery and/or disposal of the Vessel shall include parts of the Vessel and/or cargo and/or any other thing	119

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emanating from the Vessel and such delivery may take place at different times and different places (see <a href="#">Box 8</a> ).	120
<b>9. Payment</b>	121
(a) The Company shall pay the Contractor the Fixed Price set out in <a href="#">Box 9</a> , which amount shall be due and payable upon completion of the Services as described in <a href="#">Box 7</a> .	122 123
(b) All monies due and payable to the Contractor under this Agreement shall be paid without any discount, deduction, set-off, lien, claim or counterclaim.	124 125
(c) All payments to the Contractor shall be made in the currency and to the bank account stipulated in <a href="#">Box 10</a> .	126
(d) 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 <a href="#">Clause 11</a> (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.	127 128 129 130 131 132
(e) 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 <a href="#">Box 11</a> , they shall attract interest in accordance with the rate set out in <a href="#">Box 11</a> .	133 134 135
<b>10. Extra Costs</b>	136
The following shall be paid by the Contractor as and when they fall due:	137
(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;	138 139
(b) the costs of the services of any assisting tugs when reasonably deemed necessary by the Contractor or prescribed by port or other authorities;	140 141
(c) all costs in connection with clearance, agency fees, visas, guarantees and all other expenses of such kind;	142
(d) all taxes and social security charges, 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;	143 144
(e) all costs incurred in obtaining and maintaining licences, approvals, authorisations or permits required to undertake and complete the Services in accordance with <a href="#">Clause 6</a> (Permits);	145 146
(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.	147 148
<b>11. Security</b>	149
The Company shall provide on signing this Agreement an irrevocable and unconditional security in a form and amount as agreed between the parties.	150 151
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 reasonably required by the Contractor.	152 153 154 155
<b>12. Liabilities</b>	156
(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:	157 158
(i) any servant, agent or sub-contractor of the Contractor;	159
(ii) any other person at or near the site of the operations for whatever purpose on behalf or at the request of the Contractor.	160 161
(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:	162 163
(i) any servant, agent or sub-contractor of the Company;	164
(ii) any other person at or near the site of the operations for whatever purpose on behalf or at the request of the Company.	165 166
(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), 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.	167 168 169 170 171
(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.	172 173 174



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(e) Neither party shall be liable to the other party for:	175
(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	176 177 178
(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.	179 180
<b>13. Himalaya Clause</b>	181
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.	182 183 184 185 186 187 188 189 190
<b>14. Lien</b>	191
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.	192 193 194 195 196
<b>15. Time for Suit</b>	197
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, 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.	198 199 200 201 202
<b>16. Expert Evaluation</b>	203
(a) If the parties are unable to agree the alteration to costs under <a href="#">Clause 4(a)</a> or <a href="#">Clause 4(b)</a> , then either party may request an expert evaluation in accordance with the following procedure:	204 205
(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").	206 207 208 209 210 211 212
(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.	213 214
(iii) The Expert shall, within seventy-two (72) hours of receipt of written statements, advise the parties in writing of the alteration to costs. The Expert may also provide short reasons explaining the evaluation.	215 216
(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.	217 218 219
(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 <a href="#">Clause 17</a> (Arbitration and Mediation).	220 221 222
<b>17. Arbitration and Mediation</b>	223
This <a href="#">Clause 17</a> applies to any dispute arising under this Agreement.	224
(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.	225 226 227
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.	228 229 230
The Arbitrator on appeal shall be the person currently acting as Lloyd's Appeal Arbitrator.	231
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.	232 233 234
Both the Arbitrator and Appeal Arbitrator shall have the same powers as an Arbitrator and an Appeal Arbitrator under LOF	235

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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. 236  
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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. 238  
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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. 241  
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(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 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. 245  
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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. 251  
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(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. 254  
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(d) Notwithstanding [17\(a\)](#), [17\(b\)](#) or [17\(c\)](#) 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 [17\(a\)](#), [17\(b\)](#) or [17\(c\)](#) above, the following shall apply: 257  
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(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. 260  
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(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. 262  
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(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. 268  
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(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. 270  
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(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. 272  
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(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. 274  
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(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. 276  
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(Note: The parties should be aware that the mediation process may not necessarily interrupt time limits.) 279

(e) If [Box 13](#) in PART I is not appropriately filled in, [Sub-clause 17\(a\)](#) of this Clause shall apply [Sub-clause 17\(d\)](#) shall apply in all cases. 280  
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\*Sub-clauses [17\(a\)](#), [17\(b\)](#) and [17\(c\)](#) are alternatives; indicate alternative agreed in [Box 13](#). 282

**18. Notices Clause** 283

(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. 284  
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A notice may be sent by registered or recorded mail, facsimile, electronically or delivered by hand in accordance with this [Sub-clause 18\(a\)](#). 288  
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(b) Any notice given under this Agreement shall take effect on receipt by the other party and shall be deemed to have been received: 290  
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(i) if posted, on the seventh (7 <sup>th</sup> ) day after posting;	292
(ii) if sent by facsimile or electronically, on the day of transmission; or	293
(iii) if delivered by hand, on the day of delivery.	294
And in each case proof of posting, handing in or transmission shall be proof that notice has been given, unless proven to the contrary.	295 296
<b>19. Insurance</b>	297
(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.	298 299 300
(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 <a href="#">Box 4(ix)</a> and shall comply with all the requirements of the policy.	301 302 303
<b>20. Pollution</b>	304
(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.	305 306 307 308
(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.	309 310 311
(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.	312 313
<b>21. Rotation and Replacement of Craft, Equipment and Personnel</b>	314
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.	315 316 317
<b>22. General Provisions</b>	318
(a) Severability	319
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.	320 321 322 323
(b) Third Party Beneficiaries	324
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.	325 326 327
(c) Waiver	328
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.	329 330 331 332 333
(d) Warranty of Authority	334
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.	335 336
(e) Singular/Plural	337
The singular includes the plural and vice versa as the context admits or requires.	338
(f) Headings	339
The headings to the clauses and appendices to this Agreement are for convenience only and shall not affect its construction or interpretation.	340 341



**ANNEX I (SCHEDULE OF PERSONNEL, CRAFT AND EQUIPMENT)  
INTERNATIONAL WRECK REMOVAL AND MARINE SERVICES AGREEMENT (FIXED PRICE – “NO CURE, NO PAY”)  
CODE NAME: WRECKFIXED 2010**

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Dated:

Vessel:

Schedule of Personnel, Craft and Equipment ([Cl. 2](#), [4](#) and [7](#))

Sample copy

continued

**ANNEX II (METHOD OF WORK AND ESTIMATED TIME SCHEDULE)**  
**INTERNATIONAL WRECK REMOVAL AND MARINE SERVICES AGREEMENT (FIXED PRICE – “NO CURE, NO PAY”)**  
**CODE NAME: WRECKFIXED 2010**

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Dated:

Vessel:

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

Sample copy

continued

**ANNEX III (CONTRACTOR'S DAILY REPORTS)****INTERNATIONAL WRECK REMOVAL AND MARINE SERVICES AGREEMENT (FIXED PRICE – “NO CURE, NO PAY”)****CODE NAME: WRECKFIXED 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			
Comments:			
Contractor's Representative			
Company's Representative			

continued

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

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

Sample copy

continued