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SUT WORKSHOP

RAPID RESPONSE – USING LOF IN OFFSHORE PROJECTS

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INTRODUCTION USING LOF IN THE OFFSHORE INDUSTRY

- Lloyds Open Form – key concepts
 - The use of LOF in the offshore industry
 - Oil field specific issues
 - Other complicating factors
 - Possible amendments to the LOF
 - Opportunities
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- No Cure – No Pay
- Best endeavours contract
- Salvaged values assessed as at date and place of termination
- Salvaged property contributes pro rata to their share of overall fund
- Security on salvors' best reasonably arguable case - 21 days
- "Encouraging" award balanced with fairness

THE LLOYDS OPEN FORM KEY CONCEPTS

LOF 2011



LLOYD'S STANDARD FORM OF SALVAGE AGREEMENT

(Approved and Published by the Council of Lloyd's)

NO CURE - NO PAY

1. Name of the salvage Contractors: (referred to in this agreement as 'the Contractors')	2. Property to be salvaged: The vessel: her cargo freight bunkers stores and any other property thereon but excluding the personal effects or baggage of passengers master or crew (referred to in this agreement as 'the property')
3. Agreed place of safety:	4. Agreed currency of any arbitral award and security (if other than United States dollars)
5. Date of this agreement	6. Place of agreement
7. Is the Scopic Clause incorporated into this agreement? State alternative : Yes/No	
8. Person signing for and on behalf of the Contractors Signature:	9. Captain or other person signing for and on behalf of the property Signature:

A Contractors' basic obligation: The Contractors identified in Box 1 hereby agree to use their best endeavours to save the property specified in Box 2 and to take the property to the place stated in Box 3 or to such other place as may hereafter be agreed. If no place is inserted in Box 3 and in the absence of any subsequent agreement as to the place where the property is to be taken the Contractors shall take the property to a place of safety.

B Environmental protection: While performing the salvage services the Contractors shall also use their best endeavours to prevent or minimise damage to the environment.

C Scopic Clause: Unless the word "No" in Box 7 has been deleted this agreement shall be deemed to have been made on the basis that the Scopic Clause is not incorporated and forms no part of this agreement. If the word "No" is deleted in Box 7 this shall not of itself be construed as a notice invoking the Scopic Clause within the meaning of sub-clause 2 thereof.



WHEN TO USE LOF SITUATION DEPENDENT CONTRACTING

- Imminent danger and/or threat to the environment or where time is of the essence
- Simplicity of the contract speed in which the parties can agree a contract
- Location of the casualty
- Internationally recognised
- Financial exposure – Salvors' and the Owners





LOF IN THE OFFSHORE SECTOR EXAMPLES

- “P36” – Brazil
 - “Cristoforo Colombo” – Sakhalin
 - “Thunderhorse” – GoM
 - “Deepwater Horizon” – GoM
 - “Transocean Marinas” – Ghana
 - “Kulluk” – Alaska
 - “Perro Negro VI” – Angola
 - “Super Puma AS332” – North Sea
 - “Troll Solution” – GoM
 - “Transocean Winner” – Scotland
 - “Nor Solon” – North Sea
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ASSESSING THE AWARD ARTICLE 13 CRITERIA

- **Salved value of the vessel and other property**
 - **Minimising environmental damage**
 - Measure of success
 - Nature and degree of danger
 - Skill and efforts of the salvor
 - Time used and expenses incurred
 - Risk of liability
 - Promptness of services rendered
 - Alternative assistance
 - State of readiness of salvors' equipment
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- Pressure on production
 - Liability insurance vs. self insured
 - Different liability regimes
 - Bringing a claim - operator group vs. contractor group
 - Understanding the regulatory regimes
 - Use of non-oilfield vendors
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OTHER COMPLICATING FACTORS

- Heavily controlled and regulated environment
 - Level of planning detail – c.f. the salvage plan vs. project execution plan
 - Joint experience vs. management of change
 - Reputation is key – oil majors priorities sometimes differ to those engaged in conventional shipping
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AMENDMENTS TO LOF EVOLUTION NOT REVOLUTION

- Use LOF where appropriate and consider it as part of a “suite” of contracts
 - Proposed changes to the LOF form – LOF 2018
 - The “rescue tow clause”
 - Extending Clause 13 to 15 for multi-b/l cargo
 - Automatic incorporation of SCOPIC
 - FCAP amendments to the costs limit
 - Greater recognition for environmental protection services
 - Better education on the use of LOF in the offshore industry
 - Greater transparency with the publication of awards
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AMENDMENTS TO LOF OFFSHORE SPECIFIC

- Compulsory insurance for salvors operating in field or incorporation of K4K regime into the LOF
 - Agreed mechanism to value the asset e.g. insured value or book value (applying International Accounting Standard Rule 36)
 - Simple capped awards
 - Agreed procedure for situations where there is a risk of a significant spill, blow out or loss of containment after a LOF contract has been agreed
 - Pre-agreed documentation to meet with HSE and operators requirements
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THE SHAPE OF THINGS TO COME? CONTRACTOR INVESTMENT



Allseas: "Pioneering Spirit" – circa €1.7 billion



Dockwise: V-Class heavy lift



Heerema: semi-submersible crane vessel – circa €2.4 billion

- Emergency response planning and procedures
- Decommissioning
- Wind farms
- Other “non standard” assets used in field





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