



LLOYD'S STANDARD FORM OF SALVAGE AGREEMENT

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

LLOYD'S STANDARD SALVAGE AND ARBITRATION CLAUSES

1 Introduction

1.1 These clauses ("the LSSA Clauses") or any revision thereof which may be published with the approval of the Council of Lloyd's are incorporated into and form an integral part of every contract for the performance of salvage services undertaken on the terms of Lloyd's Standard Form of Salvage Agreement as published by the Council of Lloyd's and known as LOF 2011 (or its predecessor LOF 2000) ("the Agreement" which expression includes the LSSA clauses and Lloyd's Procedural Rules referred to in Clause 6).

1.2 All notices communications and other documents required to be sent to the Council of Lloyd's should be sent to:

Salvage Arbitration Branch
Lloyd's
One Lime Street
London EC3M 7HA

Tel: +44 (0) 20 7327 5408/5407
Fax: +44 (0) 20 7327 6827
E-mail: lloyds-salvage@lloyds.com

2 Overriding Objective

In construing the Agreement or on the making of any arbitral order or award regard shall be had to the overriding purposes of the Agreement namely:

- a to seek to promote safety of life at sea and the preservation of property at sea and during the salvage operations to prevent or minimise damage to the environment;
- b to ensure that its provisions are operated in good faith and that it is read and understood to operate in a reasonably businesslike manner;
- c to encourage cooperation between the parties and with relevant authorities;
- d to ensure that the reasonable expectations of salvors and owners of salvaged property are met and
- e to ensure that it leads to a fair and efficient disposal of disputes between the parties whether amicably, by mediation or by arbitration within a reasonable time and at a reasonable cost.

3 Definitions

In the Agreement and unless there is an express provision to the contrary:

- 3.1 "Award" includes an interim or provisional Award and "Appeal Award" means any Award including any interim or provisional Award made by the Appeal Arbitrator appointed under clause 10.2.
- 3.2 "personal effects or baggage" as referred to in Box 2 of the Agreement means those which the passenger, Master and crew member have in their cabin or are otherwise in their possession, custody or control and shall include any private motor vehicle accompanying a passenger and any personal effects or baggage in or on such vehicle.
- 3.3 "Convention" means the International Convention on Salvage 1989 as enacted by section 224, Schedule II of the Merchant Shipping Act 1995 (and any amendment of either) and any term or expression in the Convention has the same meaning when used in the Agreement.

- 3.4 "Council" means the Council of Lloyd's
- 3.5 "days" means calendar days
- 3.6 "Owners" means the owners of the property referred to in box 2 of the Agreement
- 3.7 "owners of the vessel" includes the demise or bareboat charterers of that vessel.
- 3.8 "special compensation" refers to the compensation payable to salvors under Article 14 of the Convention.
- 3.9 "Scopic Clause" refers to the agreement made between (1) members of the International Salvage Union (2) the International Group of P&I Clubs and (3) certain property underwriters which first became effective on 1st August 1999 and includes any replacement or revision thereof. All references to the Scopic Clause in the Agreement shall be deemed to refer to the version of the Scopic Clause current at the date the Agreement is made.

4 Provisions as to Security, Maritime Lien and Right to Arrest

- 4.1 The Contractors shall immediately after the termination of the services or sooner notify the Council and where practicable the Owners of the amount for which they demand salvage security (inclusive of costs expenses and interest) from each of the respective Owners.
- 4.2 Where a claim is made or may be made for special compensation the owners of the vessel shall on the demand of the Contractors whenever made provide security for the Contractors' claim for special compensation provided always that such demand is made within 2 years of the date of termination of the services.
- 4.3 The security referred to in clauses 4.1. and 4.2. above shall be demanded and provided in the currency specified in Box 4 or in United States Dollars if no such alternative currency has been agreed.
- 4.4 The amount of any such security shall be reasonable in the light of the knowledge available to the Contractors at the time when the demand is made and any further facts which come to the Contractors' attention before security is provided. The arbitrator appointed under clause 5 hereof may, at any stage of the proceedings, order that the amount of security be reduced or increased as the case may be.
- 4.5 Unless otherwise agreed such security shall be provided (i) to the Council (ii) in a form approved by the Council and (iii) by persons firms or corporations either acceptable to the Contractors or resident in the United Kingdom and acceptable to the Council. The Council shall not be responsible for the sufficiency (whether in amount or otherwise) of any security which shall be provided nor the default or insolvency of any person firm or corporation providing the same.
- 4.6 The owners of the vessel including their servants and agents shall use their best endeavours to ensure that none of the property salvaged is released until security has been provided in respect of that property in accordance with clause 4.5.
- 4.7 Until security has been provided as aforesaid the Contractors shall have a maritime lien on the property salvaged for their remuneration.
- 4.8 Until security has been provided the property salvaged shall not without the consent in writing of the Contractors (which shall not be unreasonably withheld) be removed from the place to which it has been taken by the Contractors under clause A. Where such consent is given by the Contractors on condition that they are provided with temporary security pending completion of the voyage the Contractors' maritime lien on the property salvaged shall remain in force to the extent necessary to enable the Contractors to compel the provision of security in accordance with clause 4.5.
- 4.9 The Contractors shall not arrest or detain the property salvaged unless:
 - (i) security is not provided within 21 days after the date of the termination of the services or
 - (ii) they have reason to believe that the removal of the property salvaged is contemplated contrary to clause 4.8. or
 - (iii) any attempt is made to remove the property salvaged contrary to clause 4.8.

5 Appointment of Arbitrators

- 5.1 Whether or not security has been provided (and always subject to Clause 6.6 and 10.8 below) the Council shall appoint an arbitrator ("the Arbitrator") upon receipt of a written request provided that any party requesting such appointment shall if required by the Council undertake to the Council's reasonable satisfaction to pay the reasonable fees and expenses of the Council and those of the Arbitrator and the Appeal Arbitrator.
- 5.2 The Arbitrator, the Appeal Arbitrator and the Council may charge reasonable fees and expenses for their services whether the arbitration proceeds to a hearing or not and all such fees and expenses shall be treated as part of the costs of the arbitration.

6 Arbitration Procedure and Arbitrators Powers

- 6.1 The arbitration shall be conducted in accordance with the Procedural Rules approved by the Council ("Lloyd's Procedural Rules") in force at the date of the LOF agreement.
- 6.2 The arbitration shall take place in London unless (i) all represented parties agree to some other place for the whole or part of the arbitration and (ii) any such agreement is approved by the Arbitrator on such terms as to the payment of the Arbitrator's travel and accommodation expenses as he may see fit to impose.

- 6.3 The Arbitrator shall have power in his absolute discretion to include in the amount awarded to the Contractors the whole or part of any expenses reasonably incurred by the Contractors in:
- (i) ascertaining demanding and obtaining the amount of security reasonably required in accordance with clause 4.5
 - (ii) enforcing and/or protecting by insurance or otherwise or taking reasonable steps to enforce and/or protect their lien
- 6.4 The Arbitrator shall have power to make but shall not be bound to make a consent award between such parties as so consent with or without full arbitral reasons
- 6.5 The Arbitrator shall have power to make a provisional or interim award or awards including payments on account on such terms as may be fair and just
- 6.6 The Arbitrator shall be entitled to satisfactory security for his reasonable fees and expenses, whether such fees and expenses have been incurred already or are reasonably anticipated. The Arbitrator shall have the power to order one or more of the parties to provide such security in a sum or sums and in a form to be determined by the Arbitrator. The said power may be exercised from time to time as the Arbitrator considers appropriate.
- 6.7 Awards in respect of salvage remuneration or special compensation (including payments on account) shall be made in the currency specified in Box 4 or in United States dollars if no such alternative currency has been agreed.
- 6.8 The Arbitrator's Award shall (subject to appeal as provided in clause 10) be final and binding on all the parties concerned whether they were represented at the arbitration or not and shall be published by the Council in London.

7 Representation of Parties

- 7.1 Any party to the Agreement who wishes to be heard or to adduce evidence shall appoint an agent or representative ordinarily resident in the United Kingdom to receive correspondence and notices for and on behalf of that party and shall give written notice of such appointment to the Council.
- 7.2 Service on such agent or representative by letter, e-mail or facsimile shall be deemed to be good service on the party which has appointed that agent or representative.
- 7.3 Any party who fails to appoint an agent or representative as aforesaid shall be deemed to have renounced his right to be heard or adduce evidence.

8 Interest

- 8.1 Unless the Arbitrator in his discretion otherwise decides the Contractors shall be entitled to interest on any sums awarded in respect of salvage remuneration or special compensation (after taking into consideration any sums already paid to the Contractors on account) from the date of termination of the services until the date on which the Award is published by the Council and at a rate to be determined by the Arbitrator.
- 8.2 In ordinary circumstances the Contractors' interest entitlement shall be limited to simple interest but the Arbitrator may exercise his statutory power to make an award of compound interest if the Contractors have been deprived of their salvage remuneration or special compensation for an excessive period as a result of the Owners' gross misconduct or in other exceptional circumstances.
- 8.3 If the sum(s) awarded to the Contractors (including the fees and expenses referred to in clause 5.2) are not paid to the Contractors or to the Council by the payment date specified in clause 11.1 the Contractors shall be entitled to additional interest on such outstanding sums from the payment date until the date payment is received by the Contractors or the Council both dates inclusive and at a rate which the Arbitrator shall in his absolute discretion determine in his Award.

9 Currency Correction

In considering what sums of money have been expended by the Contractors in rendering the services and/or in fixing the amount of the Award and/or Appeal Award the Arbitrator or Appeal Arbitrator shall to such an extent and insofar as it may be fair and just in all the circumstances give effect to the consequences of any change or changes in the relevant rates of exchange which may have occurred between the date of termination of the services and the date on which the Award or Appeal Award is made.

10 Appeals and Cross Appeals

- 10.1 Any party may appeal from an Award by giving written Notice of Appeal to the Council provided such notice is received by the Council no later than 21 days after the date on which the Award was published by the Council.
- 10.2 On receipt of a Notice of Appeal the Council shall refer the appeal to the hearing and determination of an appeal arbitrator of its choice ("the Appeal Arbitrator").
- 10.3 Any party who has not already given Notice of Appeal under clause 10.1 may give a Notice of Cross Appeal to the Council within 21 days of that party having been notified that the Council has received Notice of Appeal from another party.
- 10.4 Notice of Appeal or Cross Appeal shall be given to the Council by letter, e-mail or facsimile.

- 10.5 If any Notice of Appeal or Notice of Cross Appeal is withdrawn prior to the hearing of the appeal arbitration, that appeal arbitration shall nevertheless proceed for the purpose of determining any matters which remain outstanding.
- 10.6 The Appeal Arbitrator shall conduct the appeal arbitration in accordance with Lloyd's Procedural Rules so far as applicable to an appeal.
- 10.7 In addition to the powers conferred on the Arbitrator by English law and the Agreement, the Appeal Arbitrator shall have power to:
- (i) admit the evidence or information which was before the Arbitrator together with the Arbitrator's Notes and Reasons for his Award, any transcript of evidence and such additional evidence or information as he may think fit;
 - (ii) confirm increase or reduce the sum(s) awarded by the Arbitrator and to make such order as to the payment of interest on such sum(s) as he may think fit;
 - (iii) confirm revoke or vary any order and/or declaratory award made by the Arbitrator;
 - (iv) award interest on any fees and expenses charged under clause 10.8 from the expiration of 28 days after the date of publication by the Council of the Appeal Arbitrator's Award until the date payment is received by the Council both dates inclusive.
- 10.8 The Appeal Arbitrator shall be entitled to satisfactory security for his reasonable fees and expenses, whether such fees and expenses have been incurred already or are reasonably anticipated. The Appeal Arbitrator shall have the power to order one or more of the parties to provide such security in a sum or sums and in a form to be determined by the Appeal Arbitrator. The said power may be exercised from time to time as the Appeal Arbitrator considers appropriate.
- 10.9 The Appeal Arbitrator's Award shall be published by the Council in London.

11 Provisions as to Payment

- 11.1 When publishing the Award the Council shall call upon the party or parties concerned to pay all sums due from them which are quantified in the Award (including the fees and expenses referred to in clause 5.2) not later than 28 days after the date of publication of the Award ("the payment date")
- 11.2 If the sums referred to in clause 11.1 (or any part thereof) are not paid within 56 days after the date of publication of the Award (or such longer period as the Contractors may allow) and provided the Council has not received Notice of Appeal or Notice of Cross Appeal the Council shall realise or enforce the security given to the Council under clause 4.5 by or on behalf of the defaulting party or parties subject to the Contractors' providing the Council with any indemnity the Council may require in respect of the costs the Council may incur in that regard.
- 11.3 In the event of an appeal and upon publication by the Council of the Appeal Award the Council shall call upon the party or parties concerned to pay the sum(s) awarded. In the event of non-payment and subject to the Contractors providing the Council with any costs indemnity required as referred to in clause 11.2 the Council shall realise or enforce the security given to the Council under clause 4.5 by or on behalf of the defaulting party.
- 11.4 If any sum(s) shall become payable to the Contractors in respect of salvage remuneration or special compensation (including interest and/or costs) as the result of an agreement made between the Contractors and the Owners or any of them, the Council shall, if called upon to do so and subject to the Contractors providing to the Council any costs indemnity required as referred to in clause 11.2 realise or enforce the security given to the Council under clause 4.5 by or on behalf of that party.
- 11.5 Where (i) no security has been provided to the Council in accordance with clause 4.5 or (ii) no Award is made by the Arbitrator or the Appeal Arbitrator (as the case may be) because the parties have been able to settle all matters in issue between them by agreement the Contractors shall be responsible for payment of the fees and expenses referred to in clause 5.2. Payment of such fees and expenses shall be made to the Council within 28 days of the Contractors or their representatives receiving the Council's invoice failing which the Council shall be entitled to interest on any sum outstanding at UK Base Rate prevailing on the date of the invoice plus 2% per annum until payment is received by the Council.
- 11.6 If an Award or Appeal Award directs the Contractors to pay any sum to any other party or parties including the whole or any part of the costs of the arbitration and/or appeal arbitration the Council may deduct from sums received by the Council on behalf of the Contractors the amount(s) so payable by the Contractors unless the Contractors provide the Council with satisfactory security to meet their liability.
- 11.7 Save as aforesaid every sum received by the Council pursuant to this clause shall be paid by the Council to the Contractors or their representatives whose receipt shall be a good discharge for it.
- 11.8 Without prejudice to the provisions of clause 4.5 the liability of the Council shall be limited to the amount of security provided to it.

12 Awards

- 12.1 The Council will ordinarily make available the Award or Appeal Award and Reasons on www.lloydsagency.com (the website) except where the Arbitrator or Appeal Arbitrator has ordered, in response to representations by any party to the Award or Appeal Award, that there is a good reason for deferring or withholding them. Any party may make such representations to the Arbitrator provided a written notice of its intention to do so is received by the Council no later than 21 days after the date on which the Award or Appeal Award was published by the Council and the representations themselves are submitted in writing to the Arbitrator or Appeal Arbitrator within 21 days of the date of the notice of intention.

- 12.2 Subject to any order of the Arbitrator or Appeal Arbitrator, the Award, or Appeal Award, and Reasons will be made available on the website as soon as practicable after expiry of the 21 day period referred to in clause 12.1.
- 12.3 In the event of an appeal being entered against an Award, the Award and Reasons shall not be made available on the website until either the Appeal Arbitrator has issued his Appeal Award or the Notice of Appeal is withdrawn subject always to any order being made in accordance with clause 12.1.

Special Provisions

These Special Provisions shall apply to salvaged cargo insofar as it consists of laden containers.

- 13 The parties agree that any correspondence or notices in respect of salvaged cargo which is not the subject of representation in accordance with Clause 7 of these Rules may be sent to the party or parties who have provided salvage security in respect of that property and that this shall be deemed to constitute proper notification to the owners of such property.
- 14 Subject to the express approval of the Arbitrator, where an agreement is reached between the Contractors and the owners of salvaged cargo comprising at least 75% by value of salvaged cargo represented in accordance with Clause 7 of these Rules, the same agreement shall be binding on the owners of all salvaged cargo who were not represented at the time of the said approval.
- 15 Subject to the express approval of the Arbitrator, any salvaged cargo with a value below an agreed figure may be omitted from the salvaged fund and excused from liability for salvage where the cost of including such cargo in the process is likely to be disproportionate to its liability for salvage.

General Provisions

- 16 **Lloyd's documents:** Any Award notice authority order or other document signed by the Chairman of Lloyd's or any person authorised by the Council for the purpose shall be deemed to have been duly made or given by the Council and shall have the same force and effect in all respects as if it had been signed by every member of the Council.

17 Contractors' personnel and subcontractors

- 17.1 The Contractors may claim salvage on behalf of their employees and any other servants or agents who participate in the services and shall upon request provide the Owners with a reasonably satisfactory indemnity against all claims by or liabilities to such employees servants or agents.
- 17.2 The Contractors may engage the services of subcontractors for the purpose of fulfilling their obligations under clauses A and B of the Agreement but the Contractors shall nevertheless remain liable to the Owners for the due performance of those obligations.
- 17.3 In the event that subcontractors are engaged as aforesaid the Contractors may claim salvage on behalf of the subcontractors including their employees servants or agents and shall, if called upon so to do provide the Owners with a reasonably satisfactory indemnity against all claims by or liabilities to such subcontractors their employees servants or agents.

18 Disputes under Scopic Clause

Any dispute arising out of the Scopic Clause (including as to its incorporation or invocation) or the operations thereunder shall be referred for determination to the Arbitrator appointed under clause 5 hereof whose Award shall be final and binding subject to appeal as provided in clause 10 hereof.

19 Lloyd's Publications

Any guidance published by or on behalf of the Council relating to matters such as the Convention the workings and implementation of the Agreement is for information only and forms no part of the Agreement.