

SCOPIC CLAUSE 2018

船东保赔协会特别补偿条款，2018

1. General

总则

This SCOPIC clause is supplementary to any Lloyd's Form Salvage Agreement "No Cure - No Pay" ("Main Agreement") which incorporates the provisions of Article 14 of the International Convention on Salvage 1989 ("Article 14"). The definitions in the Main Agreement are incorporated into this SCOPIC clause. If the SCOPIC clause is inconsistent with any provisions of the Main Agreement or inconsistent with the law applicable hereto, the SCOPIC clause, once invoked under sub-clause 2 hereof, shall override such other provisions to the extent necessary to give business efficacy to the agreement. Subject to the provisions of sub-clause 4 hereof, the method of assessing Special Compensation under Convention Article 14(1) to 14(4) inclusive shall be substituted by the method of assessment set out hereinafter. If this SCOPIC clause has been incorporated into the Main Agreement the Contractor may make no claim pursuant to Article 14 except in the circumstances described in sub-clause 4 hereof. For the purposes of liens and time limits the services hereunder will be treated in the same manner as salvage.

本SCOPIC条款是对并入1989国际救助公约第14条的劳合社“无效果—无报酬”标准格式救助合同(下称“主合同”)的补充。主合同中的定义适用于本SCOPIC条款。一旦本SCOPIC条款根据其第2条规定被启动，则当其与主合同的规定或所适用的法律不符时，本SCOPIC条款应在足以使主合同具有商业效率的范围内，优先于其他规定适用。除本条款第4条另有规定外，按照1989国际救助公约第14条第(1)款至第(4)款所规定的确定特别补偿的规定应由下文所列的计算方法所取代。如果本特别补偿条款已被并入主合同，除非出现本条款第4条所述的情形，否则救助签约人不能再依据国际救助公约第14条的规定提出任何索赔。在留置权及诉讼时效方面，本条款下的各项服务将按与救助行为相同的方式处理。

2. Invoking the SCOPIC Clause

船东保赔协会特别补偿条款的启动

The Contractor shall have the option to invoke by written notice to the owners of the vessel the SCOPIC clause set out hereafter at any time of his choosing regardless of the circumstances and, in particular, regardless of whether or not there is a "threat of damage to the environment". The assessment of SCOPIC remuneration shall commence from the time the written notice is given to the owners of the vessel and services rendered before the said written notice shall not be remunerated under this SCOPIC clause at all but in accordance with Convention Article 13 as incorporated into the Main Agreement ("Article 13").

救助签约人有权在其选择的任何时间以书面形式通知船舶所有人启动SCOPIC条款，而无需考虑当时的情况，尤其无需考虑是否有“损害环境的威胁”。SCOPIC特别补偿应自启动SCOPIC条款的书面通知送达船舶所有人时起算。于该书面通知送达船舶所有人之前提供的救助服务不得依据本SCOPIC条款获得特别补偿，但可依据已并入主合同的国际救助公约第13条获得救助报酬(下称“救助公约第13条”)。

3. Security for SCOPIC Remuneration

SCOPIC特别补偿的担保

- (i) The owners of the vessel shall provide to the Contractor within 2 working days (excluding Saturdays and Sundays and holidays usually observed at Lloyd's) after receiving written notice from the contractor invoking the SCOPIC clause, a bank guarantee or P&I Club letter (hereinafter called "the Initial Security") in a form reasonably satisfactory to the Contractor providing security for his claim for SCOPIC remuneration in the sum of US\$3 million, inclusive of interest and costs.

船舶所有人应在收到救助签约人选择启动SCOPIC条款的书面通知后两个工作日内(星期六、星期日及劳合社通常认为的节假日除外)，向其提供对担保格式合理满意的银行担保或互保协会担保，金额为300万美元，包括利息和费用(下称“初始担保”)，作为对救助签约人SCOPIC特别补偿的担保。

- (ii) If, at any time after the provision of the Initial Security the owners of the vessel reasonably assess the SCOPIC remuneration plus interest and costs due hereunder to be less than the security in place, the owners of the vessel shall be entitled to require the Contractor to reduce the security to a reasonable sum and the Contractor shall be obliged to do so once a reasonable sum has been agreed.

在最初担保提供后的任何时间，如果船舶所有人合理计算的SCOPIC特别补偿金加上利息和费用低于已经提供的初始担保金额时，船舶所有人有权要求救助签约人将此担保金额减少到一个合理的数额。该数额一经商定，救助签约人有义务接受减少后的担保金额。

- (iii) If at any time after the provision of the Initial Security the Contractor reasonably assesses the SCOPIC remuneration plus interest and costs due hereunder to be greater than the security in place, the Contractor shall be entitled to require the owners of the vessel to increase the security (hereinafter called "the Increased Security") to a reasonable sum and the owners of the vessel shall be obliged to do so once a reasonable sum has been agreed.

在初始担保提供后的任何时间，如果救助签约人合理计算的SCOPIC特别补偿金加上利息和费用将高于已经出具的担保金额时，救助签约人有权要求船舶所有人将担保金额增加到一个合理的数额(以下称为“增加的担保”)。该数额一经商定，船舶所有人有义务按此数额增加担保金额。

- (iv) In the absence of agreement, any dispute concerning the proposed Guarantor, the form of the security or the amount of any reduction or increase in the security in place shall be resolved by the Arbitrator.

如未达成协议，与担保人、担保形式、担保额增减有关的任何争议应提交仲裁员解决。

4. Withdrawal and Termination by the Contractor

救助签约人撤销及中止SCOPIC条款

- (i) If the owners of the vessel do not provide the Initial Security within the said 2 working days, the Contractor, at his option, and on giving notice to the owners of the vessel, shall be entitled to withdraw from all the provisions of the SCOPIC clause and revert to his rights under the Main Agreement including Article 14 which shall apply as if the SCOPIC clause had not existed. PROVIDED THAT this right of withdrawal may only be exercised if, at the time of giving the said notice of withdrawal the owners of the vessel have still not provided the Initial Security or any alternative security which the owners of the vessel and the Contractor may agree will be sufficient.

如果船舶所有人未在上述的两个工作日内提供初始担保，救助签约人有权选择，以书面形式通知船舶所有人的撤销已经启动的SCOPIC条款，并恢复至在SCOPIC条款不曾存在时，其所享有的包括救助公约第14条在内的主合同下的所有权利。（需注意）只有在发出书面的撤销通知时，船舶所有人仍然没有提供初始担保或其他令船舶所有人和救助签约人可能都满意的替代担保时，救助签约人才可以行使撤销权。

- (ii) If the owners of the vessel do not provide the Increased Security within 2 working days of the date upon which the reasonable sum for such Increased Security has been agreed between the Contractor and the owners of the vessel or has otherwise been determined by the Arbitrator, the Contractor, at his option, and on giving notice to the owners of the vessel, shall be entitled to terminate the services under both the SCOPIC clause and the Main Agreement. The Contractor will in that event be entitled to payment of all SCOPIC remuneration due up to and including the date of such termination. The assessment of SCOPIC remuneration shall take into account all monies due under the tariff rates set out in Appendix A hereof including a reasonable time for demobilisation after the date of such termination.

如果船舶所有人没有在两个工作日之内提供与救助签约人已经商定或者仲裁员裁定的应增加的合理担保金额，救助签约人有权选择，向船舶所有人发出通知终止SCOPIC条款和主合同项下的所有服务。在这种情况下，签约救助人有权要求支付到期（包括终止日期）的所有SCOPIC特别补偿酬金。SCOPIC特别补

酬金应按照附录A规定的费率计算所有的应得款项，包括在终止之日起合理的遣散时间。

5. Tariff Rates

费率

- (i) SCOPIC remuneration shall mean the total of the tariff rates of personnel; tugs and other craft; portable salvage equipment; out of pocket expenses; and bonus due.

SCOPIC特别补偿是指按费率表计算下列项目所得费用的总和：

人工、拖轮和其它船艇、移动式救助设备、实际支出费用及应付奖金。

- (ii) SCOPIC remuneration in respect of all personnel; tugs and other craft; and portable salvage equipment shall be assessed on a time and materials basis in accordance with the Tariff set out in Appendix "A". This tariff will apply until reviewed and amended by the SCOPIC Committee in accordance with Appendix B (1)(b). The tariff rates which will be used to calculate SCOPIC remuneration are those in force at the time the salvage services take place.

与人工、拖轮或其它船艇、移动式救助设备有关的SCOPIC特别补偿应按附录A所列的费率表基于时间和材料进行计算。该费率表在SCOPIC委员会根据附录B第1条(b)款进行定期的审核并修改之前一直适用。用以计算SCOPIC特别补偿的费率应是进行救助服务当时有效的费率表。

- (iii) "Out of pocket" expenses shall mean all those monies reasonably paid by or for and on behalf of the Contractor to any third party and in particular includes the hire of men, tugs, other craft and equipment used and other expenses reasonably necessary for the operation. They will be agreed at cost, PROVIDED THAT:

实际支出费用是指已由救助签约人或代表救助签约人合理支付给任何第三方的全部费用，尤其是租用人力、拖轮、其它船艇和设备的租金，及救助作业必需的其它合理费用。此费用按实际花费的金额计算，但：

- (a) If the expenses relate to the hire of men, tugs, other craft and equipment from another ISU member or their affiliate(s), the amount due will be calculated on the tariff rates set out in Appendix "A" regardless of the actual cost.

如果该费用是由于租用国际救助联盟(ISU)其他会员或其附属机构的人力、拖轮、其它船艇和设备而支付的租金，则应付金额按附录A所列的费率计算，而不考虑实际发生费用的多与少。

- (b) If men, tugs, other craft and equipment are hired from any party who is not an ISU member and the hire rate is greater than the tariff rates referred to in Appendix "A" the actual cost will be allowed in full, subject to the Special Casualty Representative ("SCR") being satisfied that in the particular circumstances of the case, it was

reasonable for the Contractor to hire such items at that cost. If an SCR is not appointed or if there is a dispute, then the Arbitrator shall decide whether the expense was reasonable in all the circumstances.

如果人力、拖轮、其它船艇或设备租自任何非国际救助联盟(ISU)会员，且租金率高于附录A所列的费率，则实际发生的费用可全额作为直接支付的费用，但取决于是海难事故特派代表(SCR)是否同意在特定的情况下救助签约人租用这些项目所花费的费用是合理的。如果未任命SCR或者有争议，应由仲裁机构裁定在此情况下该花费是否合理。

- (c) Any out of pocket expense incurred during the course of the service in a currency other than US dollars shall for the purpose of the SCOPIC clause be converted to US dollars at the rate prevailing at the termination of the services.

在救助服务中任何不是以美元计价的实际支出费用，为了适用SCOPIC条款，都应按服务结束时的国际主流汇率折算成美元。

- (iv) In addition to the rates set out above and any out of pocket expenses, the Contractor shall be entitled to a standard bonus of 25% of those rates except that if the out of pocket expenses described in sub-paragraph 5(iii)(b) exceed the applicable tariff rates in Appendix "A" the Contractor shall be entitled to a bonus such that he shall receive in total

除上述费率和实际支出费用外，救助签约人还有权获得相当于这些费率25%的标准奖金。但如果出现第5条(3)款(b)项所述的实际支付的费率超过了所适用的附录A费率的情形，救助签约人有权获得按下列方式计算的奖金：

- (a) The actual cost of such men, tugs, other craft and equipment plus 10% of the cost, or 租用人力、拖轮、其它船艇或设备的实际花费，加10%，或
- (b) The tariff rate for such men, tugs, other craft and equipment plus 25% of the tariff rate whichever is the greater.

这类人力、拖轮、其它船艇或设备按附录A费率，加25%，两者中取较高者。

6. Article 13 Award

依救助公约第13条可获得的救助报酬

- (i) The salvage services under the Main Agreement shall continue to be assessed in accordance with Article 13, even if the Contractor has invoked the SCOPIC clause. SCOPIC remuneration as assessed under sub-clause 5 above will be payable only by the owners of the vessel and only to the extent that it exceeds the total Article 13 Award (or, if none, any potential Article 13 Award) payable by all salved interests (including cargo, bunkers, lubricating oil and stores) before currency adjustment and before interest and costs even if the Article 13 Award or any part of it is not recovered.

即使救助签约人已选择了启动SCOPIC条款，主合同下的救助报酬仍应按照救助公约第13条进行计算。按上述第5条计算的SCOPIC特别补偿仅由船舶所有人支付，且仅支付高出所有受益方（包括货物、燃油、润滑油和物料）在货币换算之前及不计算利息和费用的情况下应支付的第13条救助报酬（如果没有救助报酬，则按潜在的第13条救助报酬）总额的部分，即使该救助报酬的全部或部分未获支付。

- (ii) In the event of the Article 13 Award or settlement being in a currency other than United States dollars it shall, for the purposes of the SCOPIC clause, be exchanged at the rate of exchange prevailing at the termination of the services under the Main Agreement.

如果第13条救助报酬或其结算金额不是以美元进行结算，为适用SCOPIC条款，应按照主合同的救助服务结束时的国际主流汇率折算成美元。

- (iii) The salvage Award under Article 13 shall not be diminished by reason of the exception to the principle of "No Cure - No Pay" in the form of SCOPIC remuneration.

依据救助公约第13条应得的救助报酬不应因SCOPIC特别补偿作为“无效果、无报酬”原则的例外而有所减少。

7. Discount

扣减

If the SCOPIC clause is invoked under sub-clause 2 hereof and the Article 13 Award or settlement (before currency adjustment and before interest and costs) under the Main Agreement is greater than the assessed SCOPIC remuneration then, notwithstanding the actual date on which the SCOPIC remuneration provisions were invoked, the said Article 13 Award or settlement shall be discounted by 25% of the difference between the said Article 13 Award or settlement and the amount of SCOPIC remuneration that would have been assessed had the SCOPIC remuneration provisions been invoked on the first day of the services.

如果本SCOPIC条款依第2条得以启动，但按照主合同应得的第13条救助报酬或其应付金额(货币换算之前、且不包含利率和费用)高于计算所得的SCOPIC特别补偿时，上述的第13条救助报酬或应付金额应扣去其与如果从救助服务开始的第一天即启动SCOPIC条款进行计算所得出的SCOPIC特别补偿之间差额的25%，而不考虑SCOPIC条款的实际启动日期。

8. Payment of SCOPIC Remuneration

SCOPIC特别补偿的支付

- (i) The date for payment of any SCOPIC remuneration which may be due hereunder will vary according to the circumstances.

应当支付SCOPIC特别补偿的时间会随实际情况而有所不同：

- (a) If there is no potential salvage award within the meaning of Article 13 as incorporated into the Main Agreement then, subject to Appendix B(5)(c)(iv), the undisputed amount of SCOPIC remuneration due hereunder will be paid by the owners of the vessel within 1 month of the presentation of the claim. Interest on sums due will accrue from the date of termination of the services until the date of payment at the US prime rate plus 1%.

如果没有已并入主合同的救助公约第13条意义上的潜在救助报酬，除附录B第5条(c)款(IV)项另有规定外，船舶所有人应在收到索赔后一个月内支付没有争议的SCOPIC特别补偿。利息自救助服务完成之日起计算至特别补偿金支付完毕之日，利率为美国基准利率加1%。

- (b) If there is a claim for an Article 13 salvage award as well as a claim for SCOPIC remuneration, subject to Appendix B(5)(c)(iv), 75% of the amount by which the assessed SCOPIC remuneration exceeds the total Article 13 security demanded from ship and cargo will be paid by the owners of the vessel within 1 month and any undisputed balance paid when the Article 13 salvage award has been assessed and falls due. Interest will accrue from the date of termination of the services until the date of payment at the US prime rate plus 1%.

如果既有SCOPIC特别补偿，又有第13条救助报酬的索赔，除附录B第5条(c)款(IV)项另有规定外，船舶所有人应一个月内支付SCOPIC特别补偿高出船货获益方提供的对第13条救助报酬担保总额的部分的75%，且当第13条救助报酬被确定并到期时，船舶所有人应当支付没有争议的余额。利息从救助服务完成之日起，至支付完毕之日止，利率为美国基准利率加1%。

- (ii) The Contractor hereby agrees to give an indemnity in a form acceptable to the owners of the vessel in respect of any overpayment in the event that the SCOPIC remuneration due ultimately proves to be less than the sum paid on account.

如果最终应支付的SCOPIC特别补偿被证明应该少于已支付的金额，对于多支付的部分，救助签约人同意以船舶所有人可接受的方式向其返还多支付的部分。

9. Termination

终止

- (i) The owners of the vessel may at any time terminate the obligation to pay SCOPIC remuneration after the SCOPIC clause has been invoked under sub-clause 2 hereof provided that the Contractor shall be entitled to at least 5 clear days' notice of such termination. In the event of such termination the assessment of SCOPIC remuneration shall take into account all monies due under the tariff rates set out in Appendix A hereof including time for

demobilisation to the extent that such time did reasonably exceed the 5 days' notice of termination.

在SCOPIC条款依据其第2条被启动后，船舶所有人可随时终止其支付SCOPIC特别补偿的义务，但应提前至少5天通知救助签约人。在这种情况下，SCOPIC特别补偿的确定应考虑依本条款附录A所列费率计算的所有应付金额，包括为遣散救助队伍而发生的确实合理需要超过5天终止通知期的时间。

- (ii) The termination provisions contained in Clause 4 (ii) and sub-clause 9(i) above shall only apply if the Contractor is not prevented from demobilising his equipment by Government, Local or Port Authorities or any other officially recognised body having jurisdiction over the area where the services are being rendered.

上述第4条第(ii)款和第9条第(i)款，关于终止主合同和SCOPIC条款的规定仅在政府、地方或港口当局或任何其它对提供救助服务的地域有管辖权的官方机构不阻止救助签约人遣散其救助设备时适用。

10. Duties of Contractor

救助签约人的职责

The duties and liabilities of the Contractor shall remain the same as under the Main Agreement, namely to use his best endeavours to save the vessel and property thereon and in so doing to prevent or minimise damage to the environment.

救助签约人的义务和责任与主合同的规定相同，即应尽其最大努力救助船舶及船上财产，并在实施救助行为时尽其最大努力防止或减少对环境的损害。

11. Article 18 – 1989 Salvage Convention

1989国际救助公约第18条

The Contractor may be deprived of the whole or part of the payment due under the SCOPIC clause to the extent that the salvage operations thereunder have become necessary or more difficult or more prolonged or the salved fund has been reduced or extinguished because of fault or neglect on its part or if the Contractor has been guilty of fraud or other dishonest conduct.

如果由于救助签约人的过失或疏忽，亦或救助签约人有欺诈或其他不诚信行为，导致救助作业变成必须、或变得更困难、或需延长、或获救的财产价值减少或消失，可以相应地部分或全部剥夺救助签约人依SCOPIC条款应得的特别补偿。

12. Special Casualty Representative (“SCR”)

事故特派代表（SCR）

Once this SCOPIC clause has been invoked in accordance with sub-clause 2 hereof the owners of the vessel may at their sole option appoint an SCR to attend the salvage operation in accordance with the terms and conditions set out in Appendix B. Any SCR so appointed shall not be called upon by any of the parties hereto to give evidence relating to non-salvage issues.

一旦本SCOPIC条款依据第2条被启动，船舶所有人可以根据附录B所列的条件和要求自行指定一名事故特派代表（SCR）参与救助作业。任何当事方不得要求被指定的SCR提供与救助作业无关的证据。

13. Special Representatives

特别代表

At any time after the SCOPIC clause has been invoked the Hull and Machinery underwriter (or, if more than one, the lead underwriter) and one owner or underwriter of all or part of any cargo on board the vessel may each appoint one special representative (hereinafter called respectively the “Special Hull Representative” and the “Special Cargo Representative” and collectively called the “Special Representatives”) at the sole expense of the appointor to attend the casualty to observe and report upon the salvage operation on the terms and conditions set out in Appendix C hereof. Such Special Representatives shall be technical men and not practising lawyers.

在SCOPIC条款启动后的任何时间，船壳保险人(如果不止一个船壳保险人，则为牵头船壳保险人)以及船上全部或任何一部分货物的所有人或其保险人可根据附录C所列的条件和要求各自指定一名特别代表(下称为“船壳险特别代表”和“货物特别代表”，合称为“特别代表”)出席事故现场，对救助作业进行观察和报告。由此产生的费用由指定人单独承担。该特别代表应是技术人员，而非执业律师。

14. Pollution Prevention

污染防治

The assessment of SCOPIC remuneration shall include the prevention of pollution as well as the removal of pollution in the immediate vicinity of the vessel insofar as this is necessary for the proper execution of the salvage but not otherwise.

SCOPIC特别补偿的计算应包括清除紧临船舶周围的污染物以及防止污染所发生的费用，但应限于为了妥善完成救助行为所必需而非其它目的。

15. General Average

共同海损

SCOPIC remuneration shall not be a General Average expense to the extent that it exceeds the Article 13 Award; any liability to pay such SCOPIC remuneration shall be that of the Shipowner alone and no claim whether direct, indirect, by way of indemnity or recourse or otherwise relating to SCOPIC remuneration in excess of the Article 13 Award shall be made in General Average or under the vessel's Hull and Machinery Policy by the owners of the vessel.

SCOPIC特别补偿高于第13条救助报酬的部分不得列为共同海损费用。支付SCOPIC特别补偿的任何责任应由船舶所有人单独承担。船舶所有人不得直接或间接地以补偿或追偿或其他方式，将SCOPIC特别补偿高出第13条救助报酬的部分列为共同海损或依据该船舶地船壳险保单进行索赔。

16. Any dispute arising out of this SCOPIC clause or the operations thereunder shall be referred to Arbitration as provided for under the Main Agreement.

任何由SCOPIC条款或据此进行的救助作业产生的争议应依主合同的规定提交仲裁解决。

注：以上用灰色标识的内容为 SCOPIC 2018 条款相对于 SCOPIC 2014 条款所做的修改。

【以上中文翻译由上海通立海事服务有限公司提供，不当之处，敬请给予斧正。】