



THE STEAMSHIP MUTUAL
UNDERWRITING ASSOCIATION (BERMUDA) LIMITED

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To the Members

September 2000

Dear Sirs,

REVISIONS TO THE LOF CONTRACT AND THE SCOPIC CLAUSE.

Since 1997, the Lloyd's Form Working Party, comprising representatives of all sections of the industry, have been working on a new version of Lloyd's Open Form (LOF) with a view to producing a simpler, more concise document. The intention has been to produce a new version of LOF, to be named LOF 2000, which only contains those provisions which relate to the services themselves and the rights and obligations of the parties. Provisions relating to procedural and administrative matters are contained in a set of standard clauses which are to be incorporated into the contract by reference. As such, the changes are cosmetic rather than substantive.

A final draft of the LOF 2000 contract, limited to a single sheet, double-sided document, has now been produced. The subordinate provisions being contained in the LSSA Clauses and Lloyd's Procedural Rules. Copies of all these documents are attached hereto.

In view of the abovementioned changes to the LOF contract, it was decided to revise the SCOPIC clause, despite the fact that less than half of the 2 year trial period has expired.

The principal reason for this was that the SCOPIC clause specifically referred to LOF 95 and therefore needed amendment to take LOF 2000 into account. However, it meant that, at the same time, the opportunity could be taken to make certain clarificatory changes to answer criticisms that parts of the SCOPIC clause mechanism are unclear.

The amended version of the SCOPIC clause will be marked "SCOPIC 2000" and the principal amendments to it are listed hereunder:-

- sub-clause 1 has been amended such that the SCOPIC clause can now apply to any LOF agreement which incorporates the provisions of Article 14 of the International Convention on Salvage 1989. Thus, it can now be used in conjunction with LOF90, LOF95 or LOF2000;
- sub-clause 1 has been further amended to make it clear that, if a salvage operation is undertaken on the basis of an LOF agreement incorporating the SCOPIC clause, the traditional Article 14 "safety net" will not apply, even if the provisions of the SCOPIC clause have not been invoked;
- sub-clause 4 has been amended such that the salvor's right of withdrawal from the SCOPIC provisions for failure to provide SCOPIC security within 2 working days does not apply if SCOPIC security is provided before notice of such withdrawal is given;
- sub-clause 6 has been amended to make it clear that SCOPIC remuneration is only payable in excess of any potential Article 13 award, even if no Article 13 award is actually sought or paid. It also now clarifies how currency should be adjusted in the event that the currency applying to the main salvage agreement differs from that of the SCOPIC clause;
- the termination provisions detailed in sub-clause 9 have been amended to make it clear that the salvor has the right to terminate his services under both the SCOPIC clause and the main salvage agreement in certain specified circumstances;
- paragraphs 1(d) and 1(e) of appendix A (the SCOPIC tariff) have been amended to define the periods for which SCOPIC remuneration applies to personnel engaged in a salvage operation;

- paragraphs 2(a)(i) and 2(a)(iv) of Appendix A have been amended to clarify how SCOPIC rates apply to tugs and other craft during mobilisation to and demobilisation from the casualty and when taking on any necessary additional personnel or equipment;
- paragraph 2(e) of Appendix A has been amended to explain that the use of portable salvage equipment normally on board the tug shall be remunerated in the same manner as all other portable salvage equipment;
- paragraphs 2(f), 3(d), 3(g) and 4 of Appendix A clarify how tugs or portable salvage equipment lost or damaged during the operation will be treated for the purposes of SCOPIC remuneration;
- paragraph 3(c) of Appendix A has been amended to clarify how the "cap" on the hire of portable salvage equipment operates;
- paragraphs 3(f) and 4 of Appendix A introduce a 50% stand-by rate for "down-time" on tugs and equipment and on portable salvage equipment reasonably mobilised but not used during the salvage operation;
- paragraph 6 of Appendix B (The Special Casualty Representative) has been added to clarify the circumstances in which an SCR can be replaced

A set of guidelines have also been produced in order to clarify to the SCR his role in a casualty.

Copies of the latest version of the SCOPIC clause, its appendices and the SCR guidelines are attached.

It is anticipated that LOF 2000 and the revised SCOPIC clause will come into operations with effect from 1st September 2000.

Yours faithfully,

THE STEAMSHIP MUTUAL UNDERWRITING
ASSOCIATION (BERMUDA) LIMITED

Contractors services shall be rendered and accepted as salvage services upon the principle of "no cure – no pay" and any salvage remuneration to which the Contractors become entitled shall not be diminished by reason of the exception to the principle of "no cure – no pay" in the form of special compensation or remuneration payable to the Contractors under a Scopic Clause.

- E. **Prior services:** Any salvage services rendered by the Contractors to the property before and up to the date of this agreement shall be deemed to be covered by this agreement.
- F. **Duties of property owners:** Each of the owners of the property shall cooperate fully with the Contractors. In particular:
- (i) the Contractors may make reasonable use of the vessel's machinery gear and equipment free of expense provided that the Contractors shall not unnecessarily damage abandon or sacrifice any property on board;
 - (ii) the Contractors shall be entitled to all such information as they may reasonably require relating to the vessel or the remainder of the property provided such information is relevant to the performance of the services and is capable of being provided without undue difficulty or delay;
 - (iii) the owners of the property shall co-operate fully with the Contractors in obtaining entry to the place of safety stated in Box 3 or agreed or determined in accordance with Clause A.
- G. **Rights of termination:** When there is no longer any reasonable prospect of a useful result leading to a salvage reward in accordance with Convention Articles 12 and/or 13 either the owners of the vessel or the Contractors shall be entitled to terminate the services hereunder by giving reasonable prior written notice to the other.
- H. **Deemed performance:** The Contractors' services shall be deemed to have been performed when the property is in a safe condition in the place of safety stated in Box 3 or agreed or determined in accordance with clause A. For the purpose of this provision the property shall be regarded as being in safe condition notwithstanding that the property (or part thereof) is damaged or in need of maintenance if(i) the Contractors are not obliged to remain in attendance to satisfy the requirements of any port or harbour authority, governmental agency or similar authority and (ii) the continuation of skilled salvage services from the Contractors or other salvors is no longer necessary to avoid the property becoming lost or significantly further damaged or delayed.
- I. **Arbitration and the LSSA Clauses:** The Contractors remuneration and/or special compensation shall be determined by arbitration in London in the manner prescribed by Lloyds Standard Salvage and Arbitration Clauses ("the LSSA Clauses") and Lloyds Procedural Rules. The provisions of the LSSA Clauses and Lloyds Procedural Rules are deemed to be incorporated in this agreement and form an integral part hereof. Any other difference arising out of this agreement or the operations hereunder shall be referred to arbitration in the same way.
- J. **Governing law:** This agreement and any arbitration hereunder shall be governed by English law.
- K. **Scope of authority:** The Master or other person signing this agreement on behalf of the property identified in Box 2 enters into this agreement as agent for the respective owners thereof and binds each (but not the one for the other or himself personally) to the due performance thereof.
- L. **Inducements prohibited:** No person signing this agreement or any party on whose behalf it is signed shall at any time or in any manner whatsoever offer provide make give or promise to provide or demand or take any form of inducement for entering into this agreement.

IMPORTANT NOTICES :

1. **Salvage security.** As soon as possible the owners of the vessel should notify the owners of other property on board that this agreement has been made. If the Contractors are successful the owners of such property should note that it will become necessary to provide the Contractors with salvage security promptly in accordance with Clause 4 of the LSSA Clauses referred to in Clause I. The provision of General Average security does not relieve the salvaged interests of their separate obligation to provide salvage security to the Contractors.
2. **Incorporated provisions.** Copies of the Scopic Clause; the LSSA Clauses and Lloyd's Procedural Rules may be obtained from (i) the Contractors or (ii) Lloyd's Salvage Arbitration Branch at Lloyd's, One Lime Street, London EC3M 7HA.

Tel.No. + 44(0)207 327 5408

Fax No. +44(0)207 327 6827

E-mail: lloyds-salvage@lloyds.com.

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 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:

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

Tel: +44 (0) 207 327 5408/5407/5849

Fax: +44 (0) 207 327 6827/5252

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 ARBITRATOR**

5.1. Whether or not security has been provided 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 pay the reasonable fees and expenses of the Council including

those of the Arbitrator and the Appeal Arbitrator.

- 5.2. The 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 time the Arbitrator is appointed.

- 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 Council on such terms as to the payment of the Arbitrator's travel and accommodation expenses as it 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. 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 alternative currency has been agreed.

6.7. 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 post 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 telex facsimile or in any other permanent form. Such notification if sent by post shall be deemed received on the working day following the day of posting.

- 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 and the Council may charge reasonable fees and expenses for their services in connection with the appeal arbitration whether it proceeds to a hearing or not and all such fees and expenses shall be treated as part of the costs of the appeal arbitration.

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 and (if applicable) clause 10.8. 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 all sums 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 to 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.

GENERAL PROVISIONS

12. **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.

13. **Contractors personnel and subcontractors.**

13.1. 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.

13.2. 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.

13.3. 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.

14. **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.

15. **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.

LLOYD'S PROCEDURAL RULES

1. Arbitrators Powers

In addition to all powers conferred by the Arbitration Act 1996 (or any amendment thereof) the Arbitrator shall have power:

- (a) to admit such oral or documentary evidence or information as he may think fit;
- (b) to conduct the arbitration in such manner in all respects as he may think fit subject to these Procedural Rules and any amendments thereto as may from time to time be approved by the Council of Lloyd's ("the Council");
- (c) to make such orders as to costs, fees and expenses including those of the Council charged under clauses 5.2 and 10.8 of the Lloyd's Standard Salvage and Arbitration Clauses ("the LSSA clauses") as may be fair and just;
- (d) to direct that the recoverable costs of the arbitration or of any part of the proceedings shall be limited to a specified amount;
- (e) to make any orders required to ensure that the arbitration is conducted in a fair and efficient manner consistent with the aim to minimise delay and expense and to arrange such meetings and determine all applications made by the parties as may be necessary for that purpose;
- (f) to conduct any such meetings by means of a conference telephone call if the parties agree;
- (g) on his own initiative or on the application of a party to correct any award (whether interim provisional or final) or to make an additional award in order to rectify any mistake error or omission provided that (i) any such correction is made within 28 days of the date of publication of the relevant award by the Council (ii) any additional award required is made

within 56 days of the said date of publication or, in either case, such longer period as the Arbitrator may in his discretion allow.

2. **Preliminary Meeting**

- (a) Within 6 weeks of being appointed or so soon thereafter as may be reasonable in the circumstances, the Arbitrator shall convene a preliminary meeting with the represented parties for the purpose of giving directions as to the manner in which the arbitration is to be conducted.
- (b) The Arbitrator may dispense with the requirement for a preliminary meeting if the represented parties agree a consent order for directions which the Arbitrator is willing to approve. For the purpose of obtaining such approval, the Arbitrator must be provided by the contractors or their representatives with a brief summary of the case in the form of a check list, any other party providing such comments as they deem appropriate so that the Arbitrator is placed in a position to decide whether to approve the consent order.
- (c) In determining the manner in which the arbitration is to be conducted, the Arbitrator shall have regard to:
 - (i) the interests of unrepresented parties;
 - (ii) whether some form of shortened and/or simplified procedure is appropriate including whether the arbitration may be conducted on documents only with concise written submissions;
 - (iii) the overriding objectives set out in clause 2 of the LSSA clauses.

3. **Order for Directions**

Unless there are special reasons, the initial order for directions shall include:-

- (a) a date for disclosure of documents including witness statements (see Rule 4);
- (b) a date for proof of values;
- (c) a date by which any party must identify any issue(s) in the case which are likely to necessitate the service of pleadings;
- (d) a date for a progress meeting or additional progress meetings unless all represented parties with reasonable notice agree that the same is unnecessary;
- (e) unless agreed by all represented parties to be premature, a date for the hearing and estimates for the time likely to be required by the Arbitrator to read evidence in advance and for the length of the hearing;
- (f) any other matters deemed by the Arbitrator or any party to be appropriate to be included in the initial order.

4. **Disclosure of documents**

Unless otherwise agreed or ordered, disclosure shall be limited to the following classes of document:

- (a) logs and any other contemporaneous records maintained by the shipowners personnel and personnel employed by the Contractors (including any subcontractors) and their respective surveyors or consultants in attendance during all or part of the salvage services;
- (b) working charts, photographs, video or film records;
- (c) contemporaneous reports including telexes, facsimile messages or prints of e-mail messages;
- (d) survey reports;
- (e) documents relevant to the proof of:

- (i) out of pocket expenses
- (ii) salvaged values

- (iii) the particulars and values of all relevant salvaging tugs or other craft and equipment

- (f) statements of witnesses of fact or other privileged documents on which the party wishes to rely.

5. **Expert Evidence**

- (a) No expert evidence shall be adduced in the arbitration without the Arbitrator's permission.
- (b) The Arbitrator shall not give such permission unless satisfied that expert evidence is reasonably necessary for the proper determination of an issue arising in the arbitration.
- (c) No party shall be given permission to adduce evidence from more than one expert in each field requiring expert evidence save in exceptional circumstances.
- (d) Any application for permission to adduce expert evidence must be made within 14 days after disclosure of relevant documents has been effected.

6. **Mediation**

The Arbitrator shall ensure that in all cases the represented parties are informed of the benefit which might be derived from the use of mediation.

7. **Hearing of Arbitration**

- (a) In fixing or agreeing to a date for the hearing of an arbitration, the Arbitrator shall not unless agreed by all represented parties fix or accept a date unless the Arbitrator can allow time to read the principal evidence in advance, hear the arbitration and produce the award to the Council for publication in not more than 1 month from conclusion of the hearing.

- (b) The date fixed for the hearing shall be maintained unless application to alter the date is made to the Arbitrator within 14 days of the completion of disclosure or unless the Arbitrator in the exercise of his discretion determines at a later time that an adjournment is necessary or desirable in the interests of justice or fairness.
- (c) Unless all parties represented in the arbitration agree otherwise the Arbitrator shall relinquish his appointment if a hearing date cannot be agreed, fixed or maintained in accordance with rule 7(a) and/or (b) above due to the Arbitrator's commitments. In that event the Council shall appoint in his stead another arbitrator who is able to meet the requirements of those rules.

8. **Appeals**

- (a) All references in these Rules to the Arbitrator shall include the Arbitrator on Appeal where the circumstances so permit.
- (b) In any case in which a party giving notice of appeal intends to contend that the Arbitrator's findings on the salvaged value of all or any of the salvaged property were erroneous, or that the Arbitrator has erred in any finding as to the person whose property was at risk, a statement of such grounds of appeal shall be given in or accompanying the notice of appeal.
- (c) In all cases grounds of appeal or cross-appeal will be given to the Arbitrator on Appeal within 21 days of the notice of appeal or cross-appeal unless an extension of time is agreed.
- (d) Any respondent to an appeal who intends to contend that the award of the Original Arbitrator should be affirmed on grounds other than those relied upon by the Original Arbitrator shall give notice to that effect specifying the grounds of his contention within 14 days of receipt of the grounds of appeal mentioned in (c) above unless an extension of time is agreed.

SCOPIC CLAUSE

1. General

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 Clause 4 hereof, the method of assessing Special Compensation under 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.

2. Invoking the SCOPIC Clause

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").

3. Security for SCOPIC Remuneration

- (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.
- (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.

- (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 to a reasonable sum and the owners of the vessel shall be obliged to do so once a reasonable sum has been agreed.
- (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.

4. Withdrawal

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.

5. Tariff Rates

- (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.
- (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 SCR 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.
- (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:
 - (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.
 - (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 Shipowner's 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 in the circumstances.

- (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 and out of pocket expenses except that if the out of pocket expenses described in sub-clause 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
- (a) The actual cost of such men, tugs, other craft and equipment plus 10% of the tariff, or
 - (b) The tariff rate for such men, tugs, other craft and equipment plus 25% of the tariff rate
- whichever is the greater.

6. Article 13 Award

- (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 salvaged interests (including cargo, bunkers, lubricating oil and stores) after currency adjustment but before interest and costs even if the Article 13 award or any part of it is not recovered.
- (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.
- (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.

7. Discount

If the SCOPIC clause is invoked under sub-clause 2 hereof and the Article 13 Award or settlement (after currency adjustment but 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.

8. Payment of SCOPIC Remuneration

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

9. Termination

- (i) The Contractor shall be entitled to terminate the services under this SCOPIC clause and the Main Agreement by written notice to owners of the vessel with a copy to the SCR (if any) and any Special Representative appointed if the total cost of his services to date and the services that will be needed to fulfil his obligations hereunder to the property (calculated by means of the tariff rate but before the bonus conferred by sub-clause 5(iii) hereof) will exceed the sum of:-
 - (a) The value of the property capable of being salvaged; and
 - (b) All sums to which he will be entitled as SCOPIC remuneration
- (ii) 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.

- (iii) The termination provisions contained in sub-clause 9(i) and 9(ii) above shall only apply if the Contractor is not restrained 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.

10. Duties of Contractor

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.

11. Shipowner's Casualty Representative ("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.

12. Special Representatives

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.

13. Pollution Prevention

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.

14. General Average

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.

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

APPENDIX A (SCOPIC)

1. PERSONNEL

- (a) The daily tariff rate, or pro rata for part thereof, for personnel reasonably engaged on the contract, including any necessary time in proceeding to and returning from the casualty, shall be as follows:

Office administration, including communications	US\$1,000
Salvage Master	US\$1,500
Naval Architect or Salvage Officer/Engineer	US\$1,250
Assistant Salvage Officer/Engineer	US\$1,000
Diving Supervisor	US\$1,000
Diver	US\$ 750
Salvage Foreman	US\$ 750
Riggers, Fitters, Equipment Operators	US\$ 600
Specialist Advisors – Fire Fighters, Chemicals, Pollution Control	US\$1,000

- (b) The crews of tugs, and other craft, normally aboard that tug or craft for the purpose of its customary work are included in the tariff rate for that tug or craft but when because of the nature and/or location of the services to be rendered, it is a legal requirement for an additional crew member or members to be aboard the tug or craft, the cost of such additional crew will be paid.
- (c) The rates for any personnel not set out above shall be agreed with the SCR or, failing agreement, be determined by the Arbitrator.
- (d) For the avoidance of doubt, personnel are “reasonably engaged on the contract” within the meaning of Appendix A sub-clause 1(a) hereof if, in addition to working, they are eating, sleeping or otherwise resting on site or travelling to or from the site; personnel who fall ill or are injured while reasonably engaged on the contract shall be charged for at the appropriate daily tariff rate until they are demobilised but only if it was reasonable to mobilise them in the first place.
- (e) SCOPIC remuneration shall cease to accrue in respect of personnel who die on site from the date of death.

2. TUGS AND OTHER CRAFT

- (a) (i) Tugs, which shall include salvage tugs, harbour tugs, anchor handling tugs, coastal/ocean towing tugs, off-shore support craft, and any other work boat in

excess of 500 b.h.p., shall be charged at the following rates, exclusive of fuel or lubricating oil, for each day, or pro rata for part thereof, that they are reasonably engaged in the services, including proceeding towards the casualty from the tugs' location when SCOPIC is invoked or when the tugs are mobilised (whichever is the later) and from the tugs' position when their involvement in the services terminates to a reasonable location having due regard to their employment immediately prior to their involvement in the services and standing by on the basis of their certificated b.h.p.:

For each b.h.p. up to 5,000 b.h.p.	US\$2.00
For each b.h.p. between 5,001 & 10,000 b.h.p.	US\$1.50
For each b.h.p. between 10,001 & 20,000 b.h.p.	US\$1.00
For each b.h.p. over 20,000 b.h.p.	US\$0.50

- (ii) Any tug which has aboard certified fire fighting equipment shall, in addition to the above rates, be paid:

US\$500 per day, or pro rata for part thereof, if equipped with Fi Fi 0.5

US\$1,000 per day, or pro rata for part thereof, if equipped with Fi Fi 1.0

for that period in which the tug is engaged in firefighting necessitating the use of the certified fire fighting equipment.

- (iii) Any tug which is certified as "Ice Class" shall, in addition to the above, be paid US\$1,000 per day, or pro rata for part thereof, when forcing or breaking ice during the course of services including proceeding to and returning from the casualty.

- (iv) For the purposes of paragraph 2(a)(i) hereof tugs shall be remunerated for any reasonable delay or deviation for the purposes of taking on board essential salvage equipment, provisions or personnel which the Contractor reasonably anticipates he shall require in rendering the services which would not normally be found on vessels of the tugs' size and type.

- (b) Any launch or work boat of less than 500 b.h.p. shall, exclusive of fuel and lubricating oil, be charged at a rate of US\$3.00 for each b.h.p.

- (c) Any other craft, not falling within the above definitions, shall be charged out at a market rate for that craft, exclusive of fuel and lubricating oil, such rate to be agreed with the SCR or, failing agreement, determined by the Arbitrator.

- (d) All fuel and lubricating oil consumed during the services shall be paid at cost of replacement and shall be treated as an out of pocket expense.

- (e) For the avoidance of doubt, the above rates shall not include any portable salvage equipment normally aboard the tug or craft and such equipment shall be treated in the same manner as portable salvage equipment and the Contractors shall be remunerated in respect thereof in accordance with Appendix A paragraphs 3 and 4(i) and (ii) hereof.
- (f) SCOPIC remuneration shall cease to accrue in respect of tugs and other craft which become a commercial total loss from the date they stop being engaged in the services plus a reasonable period for demobilisation (if appropriate) PROVIDED that such SCOPIC remuneration in respect of demobilisation shall only be payable if the commercial total loss arises whilst engaged in the services and through no fault of the Contractors, their servants, agents or sub-contractors.

3. PORTABLE SALVAGE EQUIPMENT

- (a) The daily tariff, or pro rata for part thereof, for all portable salvage equipment reasonably engaged during the services, including any time necessary for mobilisation and demobilisation, shall be as follows:

<u>Generators</u>	<u>Rate – US\$</u>	<u>Distribution Boards</u>	<u>Rate – US\$</u>
Up to 50 kW	60	Up to 50 kW	60
51 to 100 kW	125	51 to 100 kW	125
101 to 300 kW	200	101 to 300 kW	200
Over 301 kW	350	Over 301 kW	350
<u>Portable Inert Gas Systems</u>		<u>Protective Clothing</u>	
1,000m ³ /hour	1,200	Breathing Gear	50
1,500m ³ /hour	1,400	Hazardous Environment Suit	100
<u>Compressors</u>		<u>Pollution Control Equipment</u>	
High Pressure	100	Oil Boom, 24", per 10 metres	30
185 Cfm	150	Oil Boom, 36", per 10 metres	100
600 Cfm	250	Oil Boom, 48", per 10 metres	195
1200 Cfm	400		
Air Manifold	10	<u>Diving Equipment</u>	
Blower; 1,500m ³ /min.	850	Decompression Chamber,	
<u>Pumping Equipment</u>		2 man, including compressor	500
<u>Air</u>		4 man, including compressor	700
2"	75	Hot Water Diving Assembly	250
		Underwater Magnets	20

Rate – US\$

Diesel	50
4"	90
6"	120

Electrical Submersible

2"	50
4"	150
6"	500

Hydraulic

6"	600
8"	1,000

Hoses

Air Hose

¾"	per 30 metres or 100 feet	20
2"	per 30 metres or 100 feet	40

Layflat

2"	per 6 metres or 20 feet	10
4"	per 6 metres or 20 feet	15
6"	per 6 metres or 20 feet	20

Rigid

2"	per 6 metres or 20 feet	15
4"	per 6 metres or 20 feet	20
6"	per 6 metres or 20 feet	25
8"	per 6 metres or 20 feet	30

Fenders

Yokohama

1.00m. x 2.00m.	75
2.50m. x 5.50m.	150
3.50m. x 6.50m.	250

Low Pressure Inflatable

3 metres	70
6 metres	70
9 metres	150
12 metres	250
16 metres	250

Welding & Cutting Equipment

Bolt Gun	300
Gas Detector	100
Hot Tap Machine, including supporting equipment	1,000
Oxy-acetylene Surface Cutting Gear	25

Rate – US\$

Underwater Drill	20
Shallow Water Dive Spread	225

Lighting Systems

Lighting String, per 50 feet	25
Light Tower	50
Underwater Lighting System, 1,000 watts	75

Winches

Up to 20 tons, including 50 metres of wire	200
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Shackles

Up to 50 tonnes	10
51 to 100 tonnes	20
101 to 200 tonnes	30
Over 200 tonnes	50

Storage Equipment

10' Container	25
20' Container	40

Miscellaneous Equipment

Air Bags, less than 5 tons lift	40
5 to 15 tons lift	200
Air Lift 4"	100
6"	200
8"	300
Air Tugger, up to 3 tons	75
Ballast/Fuel Oil Storage Bins, 50,000 litres	100
Chain Saw	20
Damage Stability Computer and Software	250
Echo Sounder, portable	25
Extension Ladder	20
Hydraulic Jack, up to 100 tons	75
Hydraulic Powerpack	75
Pressure washer, water	250
steam	450
Rigging Package, heavy	400
light	200

	<u>Rate – US\$</u>		<u>Rate – US\$</u>
Underwater Cutting Gear	50	Rock,	Drill 50
Underwater Welding Kit	50		Splitter 400
250 Amp Welder	150	Steel Saw	20
400 Amp Welder	200	Tirfors, up to 5 tonnes	10
		Thermal Imaging Camera	250
		Tool Package, per set	175
		Ventilation Package	20
		VHF Radio	10
		Z Boat, including outboard up to	
		14 feet	200
		over 14 feet	350

- (b) Any portable salvage equipment engaged but not set out above shall be charged at a rate to be agreed with the SCR or, failing agreement, determined by the Arbitrator.
- (c) The total charge (before bonus) for each item of portable salvage equipment, owned by the contractor, shall not exceed the manufacturer's recommended retail price on the last day of the services multiplied by 1.5.
- (d) Compensation for any portable salvage equipment lost or destroyed during the services shall be paid provided that the total of such compensation and the daily tariff rate (before bonus) in respect of that item do not exceed the actual cost of replacing the item at the Contractor's base with the most similar equivalent new item multiplied by 1.5.
- (e) All consumables such as welding rods, boiler suits, small ropes etc. shall be charged at cost and shall be treated as an out of pocket expense.
- (f) The Contractor shall be entitled to remuneration at a stand-by rate of 50% of the full tariff rate plus bonus for any portable salvage equipment reasonably mobilised but not used during the salvage operation provided
- (i) It has been mobilised with the prior agreement of the owner of the vessel or its mobilisation was reasonable in the circumstances of the casualty, or
 - (ii) It comprises portable salvage equipment normally aboard the tug or craft that would have been reasonably mobilised had it not already been aboard the tug or craft.
- (g) SCOPIC remuneration shall cease to accrue in respect of portable salvage equipment which becomes a commercial total loss from the date it ceases to be useable plus a reasonable period for demobilisation (if appropriate) PROVIDED that such SCOPIC remuneration in respect of demobilisation shall only be payable if the commercial total

loss arises while it is engaged in the services and through no fault of the Contractors, their servants, agents or sub-contractors.

4. DOWNTIME

If a tug or piece of portable salvage equipment breaks down or is damaged without fault on the part of the Contractor, his servants, agents or sub-contractors and as a direct result of performing the services it should be paid for during the repair while on site at the stand-by rate of 50% of the tariff rate plus uplift pursuant to sub-clause 5(iv) of the SCOPIC clause.

If a tug or piece of portable salvage equipment breaks down or otherwise becomes inoperable without fault on the part of the Contractor, his servants, agents or sub-contractors and as a direct result of performing the services and cannot be repaired on site then:

- (i) If it is not used thereafter but remains on site then no SCOPIC remuneration is payable in respect of that tug or piece of portable salvage equipment from the time of the breakdown.
- (ii) If it is removed from site, repaired and reasonably returned to the site for use SCOPIC remuneration at the standby rate of 50% of the tariff rate plus bonus pursuant to sub-clause 5(iv) of the SCOPIC clause shall be payable from the breakdown to the date it is returned to the site.
- (iii) If it is removed from the site and not returned SCOPIC remuneration ceases from the breakdown but is, in addition, payable for the period that it takes to return it directly to base at the stand-by rate of 50% of the tariff rate plus bonus pursuant to sub-clause 5(iv) of the SCOPIC clause.

APPENDIX B (SCOPIC)

1. (a) The SCR shall be selected from a panel (the "SCR Panel") appointed by a Committee (the "SCR Committee") comprising of representatives appointed by the following:
 - 3 representatives from the International Group of P and I Clubs
 - 3 representatives from the ISU
 - 3 representatives from the IUMI
 - 3 representatives from the International Chamber of Shipping
 - (b) The SCR Committee shall be responsible for an annual review of the tariff rates as set out in Appendix A.
 - (c) The SCR Committee shall meet once a year in London to review, confirm, reconfirm or remove SCR Panel members.
 - (d) Any individual may be proposed for membership of the SCR Panel by any member of the SCR Committee and shall be accepted for inclusion on the SCR Panel unless at least four votes are cast against his inclusion.
 - (e) The SCR Committee shall also set and approve the rates of remuneration for the SCRs for the next year.
 - (f) Members of the SCR Committee shall serve without compensation.
 - (g) The SCR Committee's meetings and business shall be organised and administered by the Salvage Arbitration Branch of the Corporation of Lloyd's (hereinafter called "Lloyds") who will keep the current list of SCR Panel members and make it available to any person with a bona fide interest.
 - (h) The SCR Committee shall be entitled to decide its own administrative rules as to procedural matters (such as quorums, the identity and power of the Chairman etc.).
2. The primary duty of the SCR shall be the same as the Contractor, namely to use his best endeavours to assist in the salvage of the vessel and the property thereon and in so doing to prevent and minimise damage to the environment.
 3. The Salvage Master shall at all times remain in overall charge of the operation, make all final

decisions as to what he thinks is best and remain responsible for the operation.

4. The SCR shall be entitled to be kept informed by or on behalf of the Salvage Master or (if none) the principal contractors' representative on site (hereinafter called "the Salvage Master"). The Salvage Master shall consult with the SCR during the operation if circumstances allow and the SCR, once on site, shall be entitled to offer the Salvage Master advice.
5. (a) Once the SCOPIC clause is invoked the Salvage Master shall send daily reports (hereinafter called the "Daily Salvage Reports") setting out:-
 - the salvage plan (followed by any changes thereto as they arise)
 - the condition of the casualty and the surrounding area (followed by any changes thereto as they arise)
 - the progress of the operation
 - the personnel, equipment, tugs and other craft used in the operation that day.
- (b) Pending the arrival of the SCR on site the Daily Salvage Reports shall be sent to Lloyd's and the owners of the vessel. Once the SCR has been appointed and is on site the Daily Salvage Reports shall be delivered to him.
- (c) The SCR shall upon receipt of each Daily Salvage Report:-
 - (i) Transmit a copy of the Daily Salvage Report by the quickest method reasonably available to Lloyd's, the owners of the vessel, their liability insurers and (if any) to the Special Hull Representative and Special Cargo Representative (appointed under clause 12 of the SCOPIC clause and Appendix C) if they are on site; and if a Special Hull Representative is not on site the SCR shall likewise send copies of the Daily Salvage Reports direct to the leading Hull Underwriter or his agent (if known to the SCR) and if a Special Cargo Representative is not on site the SCR shall likewise send copies of the Daily Salvage Reports to such cargo underwriters or their agent or agents as are known to the SCR (hereinafter in this Appendix B such Hull and Cargo property underwriters shall be called "Known Property Underwriters").
 - (ii) If circumstances reasonably permit consult with the Salvage Master and endorse his Daily Salvage Report stating whether or not he is satisfied and

- (iii) If not satisfied with the Daily Salvage Report, prepare a dissenting report setting out any objection or contrary view and deliver it to the Salvage Master and transmit it to Lloyd's, the owners of the vessel, their liability insurers and to any Special Representatives (appointed under clause 12 of the SCOPIC clause and Appendix C) or, if one or both Special Representatives has not been appointed, to the appropriate Known Property Underwriter.
- (iv) If the SCR gives a dissenting report to the Salvage Master in accordance with Appendix B(5)(c)(iii) to the SCOPIC clause, any initial payment due for SCOPIC remuneration shall be at the tariff rate applicable to what is in the SCR's view the appropriate equipment or procedure until any dispute is resolved by agreement or arbitration.
- (d) Upon receipt of the Daily Salvage Reports and any dissenting reports of the SCR, Lloyd's shall distribute upon request the said reports to any parties to this contract and any of their property insurers of whom they are notified (hereinafter called "the Interested Persons") and to the vessel's liability insurers.
- (e) As soon as reasonably possible after the Salvage services terminate the SCR shall issue a report (hereinafter call the "SCR's Final Salvage Report") setting out:
 - the facts and circumstances of the casualty and the salvage operation insofar as they are known to him.
 - the tugs, personnel and equipment employed by the Contractor in performing the operation.
 - A calculation of the SCOPIC remuneration to which the contractor may be entitled by virtue of this SCOPIC clause.

The SCR's Final Salvage Report shall be sent to the owners of the vessel and their liability insurers and to Lloyd's who shall forthwith distribute it to the Interested Persons.

- 6. (a) The SCR may be replaced by the owner of the vessel if either:
 - (i) the SCR makes a written request for a replacement to the owner of the vessel (however the SCR should expect to remain on site throughout the services and should only expect to be substituted in exceptional circumstances); or
 - (ii) the SCR is physically or mentally unable or unfit to perform his duties; or

- (iii) all salved interests or their representatives agree to the SCR being replaced.
 - (b) Any person who is appointed to replace the SCR may only be chosen from the SCR Panel.
 - (c) The SCR shall remain on site throughout the services while he remains in that appointment and until the arrival of any substitute so far as practicable and shall hand over his file and all other correspondence, computer data and papers concerning the salvage services to any substitute SCR and fully brief him before leaving the site.
 - (d) The SCR acting in that role when the services terminate shall be responsible for preparing the Final Salvage Report and shall be entitled to full co-operation from any previous SCR's or substitute SCR's in performing his functions hereunder.
7. The owners of the vessel shall be primarily responsible for paying the fees and expenses of the SCR. The Arbitrator shall have jurisdiction to apportion the fees and expenses of the SCR and include them in his award under the Main Agreement and, in doing so, shall have regard to the principles set out in any market agreement in force from time to time.

APPENDIX C (SCOPIC)

The Special Representatives

1. The Salvage Master, the owners of the vessel and the SCR shall co-operate with the Special Representatives and shall permit them to have full access to the vessel to observe the salvage operation and to inspect such of the ship's documents as are relevant to the salvage operation.
2. The Special Representative shall have the right to be informed of all material facts concerning the salvage operation as the circumstances reasonably allow.
3. If an SCR has been appointed the SCR shall keep the Special Representatives (if any and if circumstances permit) fully informed and shall consult with the said Special Representatives. The Special Representatives shall also be entitled to receive a copy of the Daily Salvage Reports direct from the Salvage Master or, if appointed, from the SCR.
4. The appointment of any Special Representatives shall not affect any right that the respondent ship and cargo interests may have (whether or not they have appointed a Special Representative) to send other experts or surveyors to the vessel to survey ship or cargo and inspect the ship's documentation or for any other lawful purpose.
5. If an SCR or Special Representative is appointed the Contractor shall be entitled to limit access to any surveyor or representative (other than the said SCR and Special Representative or Representatives) if he reasonably feels their presence will substantially impede or endanger the salvage operation.

GUIDELINES FOR SHIPOWNER'S CASUALTY REPRESENTATIVES

1. Introduction

With effect from 1st August 1999 the SCOPIC clause was formally approved for use in conjunction with Salvage Agreements under Lloyd's Open Form of Salvage Agreement "No Cure - No Pay". Article 14 of the 1989 Salvage Convention provided that salvors could receive special compensation in certain circumstances where the salvaged fund was insufficient to allow them to recover their expenses and a fair rate for tugs and equipment used in salvage operations. The SCOPIC clause endorsed this concept but introduced a tariff to calculate the Salvors' special compensation together with an uplift fixed at 25%. Although appointed by the Shipowners, the Shipowners' Casualty Representative ("SCR") performs his functions under the SCOPIC clause on behalf of all parties and their insurers. His role is to monitor the salvage services and liabilities and provide a Final Salvage Report which forms the basis for the settlement of any claim for SCOPIC remuneration which the salvor might have against the shipowner. SCR's are chosen by the shipowner from a Panel ("the SCR Panel") the members of which are chosen by a group consisting of representatives of the International Group of P&I Clubs, the International Salvage Union, the International Union of Marine Insurers and the International Chamber of Shipping (called the "SCR Committee"). The SCR Committee has promulgated the following guidelines to SCR's to assist them in performing their function as SCR's in the collection of evidence, the monitoring of the salvage operation and compilation of the Final Salvage Report (including the provisional calculation of SCOPIC remuneration).

2. The SCR's duty

(a) Appendix B paragraph 2 of SCOPIC states:-

"The Salvage Master shall at all times remain in overall charge of the operation, make all final decisions as to what he thinks is best and remain responsible for the operation".

(b) Appendix B paragraph 2 of SCOPIC states:-

"The primary duty of the SCR shall be the same as the Contractor, namely to use his best endeavours to assist in the salvage of the vessel and the property thereon and in so doing to prevent and minimise damage to the environment".

- (c) The SCR has a duty to report, observe and consult with the Salvage Master and produce Dissenting Reports (if necessary) and the Final Salvage Report (SCOPIC, Appendix B, paragraphs 5(d) and (e)).
- (d) The SCR has a duty, if appropriate, to endorse and in any case to circulate the Daily Salvage Reports of the Salvage Master to interested parties (see SCOPIC, Appendix B, paragraph 5(c)(i) and (ii)).

3. The SCR's Powers

- (a) The SCR is obliged to report, observe and consult with the Salvage Master but not to attempt to direct the salvage operation.
- (b) If the SCR disapproves of the way the salvage operation is being conducted, the type or number of tugs, men and equipment being used, he should inform the Salvage Master in writing as soon as possible and, if not satisfied with the Salvage Master's Daily Salvage Report, publish a dissenting report (see SCOPIC, Appendix B, Paragraph 5(c)(iii)). However the SCR has no power to direct the Salvage Master to employ more or less resources in the salvage operation and this decision must remain at the Salvage Master's discretion.
- (c) The SCR similarly cannot bind the owners of ship or cargo to any particular course of action. The SCR can contact any interest direct at any time provided all other salvaged interests are copied in.
- (d) The SCR's powers and duties are limited and he should not be held responsible either civilly or criminally for the acts or omissions of those interested in the salvaged property or the salvors in respect of events which led to or followed the incident giving rise to the salvage services (however see 8 below).
- (e) No decision or viewpoint of the SCR is binding on the parties. Obviously they are influential but if not accepted by one of the parties the final decision is that of the Arbitrator.

4. Special Representatives and the SCR

- (a) The Special Representatives have the right to be informed of all material facts concerning the salvage operation as the circumstances reasonably allow (SCOPIC, Appendix C, paragraph 2). A Special Representative is on board solely to investigate, monitor, ascertain and report on issues relevant to the Salvage operation

and the assessment of the salvage award to be made under Article 13 of the Salvage Convention 1989 or SCOPIC remuneration.

- (b) The SCR shall co-operate with the Special Representatives and he and shipowners and salvors shall jointly permit the Special Representatives to have "full access to the vessel to observe the salvage operation and to inspect such of the ship's documents as are relevant to the salvage operation". (SCOPIC, Appendix C, paragraph 1).
- (c) The SCR is obliged to provide any Special Representative with the Salvage Master's Daily Salvage Reports and any Dissenting Report as soon as possible after he receives or issues them or the Special Representative is appointed, whichever is the later (SCOPIC, Appendix C, paragraph 3).
- (d) To ease the burden on the Salvage Master the route of communication with the Salvage Master to which a Special Representative is entitled is through the SCR (if there is one readily available). This does not prevent the Salvage Master talking to the Special Representatives should he wish to do so.
- (e) It is not the SCR's function to police the Special Representatives even if he suspects the Special Representatives are not acting properly within the scope of their powers. In such circumstances he may notify all parties and it is for the Shipowner to decide what action should be taken.

5. The Salvage Master and the SCR

- (a) As stated in Paragraphs 2(a) and (b) above the Salvage Master remains in overall charge of the salvage operation and the SCR (like the Salvage Master) is under a duty to use his best endeavours to assist in the salvage of the vessel and the property thereon and in so doing to prevent and minimise damage to the environment.
- (b) By virtue of SCOPIC, Appendix B, paragraph 4, the SCR is entitled:-
 - ◆ To be kept informed by or on behalf of the Salvage Master or the Principal Contractor's Representative on site; and
 - ◆ To be consulted by the Salvage Master during the operation if circumstances allow; and

- ◆ Once on site the SCR shall be entitled to offer the Salvage Master advice (which the Salvage Master may or may not accept at his sole discretion).
- (c) The Salvage Master's Daily Salvage Report must be given to the SCR and should include the information in Appendix B, paragraph 5(a). The SCR should check the accuracy and sufficiency of the Daily Salvage Reports and, if he disagrees issue a Dissenting Report. Any Dissenting Report is to be delivered to the Salvage Master and the other parties mentioned in SCOPIC, Appendix B, paragraph 5(c)(iii) by the quickest method reasonably available. All Reports should be made in writing if practicable. The Salvage Master should be encouraged to submit his reports in the form of Appendix 1 hereto and the SCR should try to complete and append a Costs Schedule in the form of Appendix 2 hereto to each Daily Salvage Report.
- (d) It is the SCR's duty to obtain sufficient information from the Salvage Master, the Master of the vessel and others to enable him to calculate SCOPIC remuneration from the commencement of the salvage services (rather than just from the date on which SCOPIC was invoked). This should facilitate the assessment (where necessary) of any discount to be made from the Article 13 Salvage Convention 1989 Salvage Award pursuant to sub-clause 7 of the SCOPIC clause. The Salvors and the vessel's Master and Owners should co-operate with the SCR in this exercise and, in particular, should provide the SCR with copies of all Daily Salvage Reports from the commencement of the services, photocopies of the Deck Logs of the tugs and other craft involved in the operation and the casualty itself and any other documents which the SCR may reasonably require for this purpose.

6. The SCR's Final Salvage Report

- (a) SCOPIC, Appendix B, paragraph 5(e) states:-

"As soon as reasonably possible after the salvage services terminate, the SCR shall issue a report (hereinafter called the "SCR's Final Salvage Report") setting out:-

- ◆ the facts and circumstances of the casualty and the salvage operation insofar as they are known to him.
- ◆ The tugs, personnel and equipment employed by the Contractor in performing the operation.
- ◆ A calculation of the SCOPIC remuneration to which the Contractor may be entitled by virtue of this SCOPIC clause.

The SCR's Final Salvage Report shall be sent to the owners of the vessel and their liability insurers and to Lloyd's who shall forthwith distribute it to the Interested Persons".

- (b) The factors to be addressed in the SCR's Final Salvage Report should include facts and circumstances of the casualty and the salvage operation (but not opinions) known to or ascertained by the SCR from reports and accounts received. The Report should not seek to attribute a cause to the condition which led to the casualty but merely the problem which gave rise to it, e.g. the Report may state that a casualty's steering gear was inoperable but should not suggest a cause for this breakdown such as poor maintenance.
- (c) The Final Salvage Report should also (where a liability to pay an Article 13 award might arise) include the SCR's calculation of SCOPIC remuneration from the commencement of the services for the purposes of assessing any SCOPIC Article 7 discount of the Convention Article 13 award. A liability to pay an Article 13 award might arise whenever value remains in the salvaged property on the termination of the services.
- (d) A proforma SCR's Final Salvage Report may be found in Appendix 3 to these Guidelines. Proformas may be downloaded from www.lloyds.com.
- (e)
 - (i) The SCR's Final Salvage Report should be issued by the SCR as quickly as possible following the termination of the salvage services. For this reason as much work as practicable should be carried out by the SCR on his Final Salvage Report on site.
 - (ii) If information from the Salvors, their sub-contractors or others is delaying production of the SCR's Final Salvage Report the SCR should produce an Interim Final Salvage Report while awaiting this information stating in the said report:-
 - ◆ Such information in Appendix B paragraph 5(e) as he has; and
 - ◆ That it is only an interim report; and
 - ◆ What information is awaited and approximately how much it represents in financial terms.
 - (iii) The SCR's Final Salvage Report or interim Final Salvage Report should be issued and sent to the Owners of the vessel, Lloyd's and the Shipowner's

liability insurers no later than one month after the termination of the salvage services or sooner if possible.

7. Unresolved Issues on the calculation of SCOPIC remuneration

If the parties cannot agree as to how SCOPIC remuneration should be calculated in any particular case, the SCR should publish his report omitting the disputed item(s) with a footnote dealing with any unresolved issues and leave one or both of the parties to apply to the Arbitrator for a decision on the point.

8. Liability Insurance

The SCR shall exercise reasonable care to avoid and minimise injury or damage to himself, his property or any third party while performing his functions on site and neither Lloyd's nor the SCR Committee can accept any liability in respect of such injury, damage or loss howsoever caused.

It is strongly recommended that the SCR shall have continuing insurance in adequate amounts for

- (a) Personal injury, accident, death or disability.
- (b) Third Party Liability.
- (c) Professional Liability.

SCR GUIDELINES

APPENDIX 1

SALVAGE MASTER'S DAILY SALVAGE REPORT FOR/DAY

1. Status of Casualty and Salvage plan.
2. Weather at location.
3. Developments since last report.
4. Action planned for next 24 hours.
5. Resources engaged.

Craft	Company	On hire	Off hire
_____	_____	_____	_____
_____	_____	_____	_____

Equipment	Company	On hire	Off hire
_____	_____	_____	_____
_____	_____	_____	_____

Personnel	Company	On hire	Off hire
_____	_____	_____	_____
_____	_____	_____	_____

6. Craft/equipment/personnel mobilising/demobilising/on order.
7. Equipment consumed/lost/damaged/personnel injury reports.
8. Areas of concern.

Signed
[Salvage Master]

9. SCR's comments.

Signed
(see SCOPIC App B para 5(c)(ii)) (SCR)

SCR GUIDELINES

APPENDIX 2

DAILY COST SCHEDULE

(to be completed by the SCR)

Date : _____ Total Days : _____

Resource Engaged	Quantity	Work Done	Day On	Day Off	Total Days	SCOPI Rate p.d.	Cost Rate p.d. SCOPI sub-clause 5(iv)(a)	Running Sub Total	25% SCOPI Uplift	10% Cost Uplift SCOPI sub-clause 5(iv)(a)	Running SCOPI Remuneration Total - SCR	Running SCOPI Remuneration Total - Contractors	SCR Comments
CARRIED FORWARD													
Salvors' Craft													
Third Party Craft													
Salvors' Personnel													
Third Party Personnel													
Salvors' Equipment													
Third Party Equipment													
TOTAL													

Explanatory Note

SCR GUIDELINES

APPENDIX 3

PRO FORMA SCR FINAL SALVAGE REPORT

[PART 1 - The Facts and Circumstances of the Casualty and Salvage Operation

1. Description of the vessel.

[ownership/age/type/size/specifications].

2. Description of cargo and bunkers on board at the time of the casualty.

[type/quantity/location on board].

3. Initial status of the casualty.

[The condition of the casualty, the surrounding conditions and any other factors relevant to any dangers faced by the casualty and its cargo when the salvage services commenced].

4. Details of salvage operation (including anti-pollution measures).

[This should comprise a summary of the information contained in the Salvage Master's Daily Salvage Reports and any other relevant source available to the SCR and should include a description of the operation, details of the personnel and equipment used, the period of the services and details of any life salvage carried out, losses suffered by the Salvors and any actions taken by the Salvors relevant to the salvage operation prior to SCOPIC being invoked].

5. Factors affecting Salvors

[Identify particular salvage operations believed to involve high risk to the Salvors' personnel, craft or equipment and list the factors relevant and list any potential liabilities faced by the Salvors in rendering the services as reported to the SCR].

6. **Details of any disputes between the Salvage Master and the SCR over the nature of the salvage services.**

[This should comprise a summary of any such information contained in the SCR's dissenting reports].

7. **Weather and sea conditions throughout the salvage operation.**

[This should comprise a summary of the information contained in the Salvage Master's Daily Salvage Reports].

8. **Description of vessel at termination of services.**

[This should comprise a factual description of the vessel's position and condition (including suitability for onward carriage of cargo, if applicable)].

9. **Description of cargo at termination of services.**

[type/quantity/location/extent of damage (if any)].

10. **Description of bunkers/lubes/stores at termination of services.**

[type/quantity/location/condition].]

PART 2 – Tugs, Personnel and Equipment and Provisional SCOPIC remuneration calculation

	Resource Engaged	Quantity	Work Done	Day On	Day Off	Total Days	SCOPIC Rate p.d.	Cost Rate p.d.	Sub Total	25% SCOPIC Uplift	10% Cost Uplift	SCR's Total	Contractor's Total	SCR Comments
CARRIED FORWARD														
Salvors' Craft														
Third Party Craft														
Salvors' Personnel														
Third Party Personnel														
Salvors' Equipment														
Third Party Equipment														
TOTAL														

PART 3 – Attachments

- (a) **Appendix 1 – Salvage Master’s Daily Salvage Reports**
- (b) **Appendix 2 – SCR’s Dissenting Reports (if any)**
- (c) **Appendix 3 – Daily Costs Schedules**

Signed

SCR

Dated