

# CMAC 救助合同

中国海事仲裁委员会（1994）标准格式

China Maritime Arbitration Commission Standard Form(1994)

\_\_\_\_\_年\_\_\_\_\_月\_\_\_\_\_日

\_\_\_\_\_  
(签署地)

\_\_\_\_\_  
(被救助船舶所有人名称)

\_\_\_\_\_  
(地址: \_\_\_\_\_)

电话: \_\_\_\_\_ 传真: \_\_\_\_\_

电传: \_\_\_\_\_ 邮政编码: \_\_\_\_\_

的

\_\_\_\_\_号船舶 (船旗国: \_\_\_\_\_)

\_\_\_\_\_船籍港: \_\_\_\_\_

\_\_\_\_\_的船长 (或船舶所有人)

\_\_\_\_\_代表

\_\_\_\_\_号船舶、船上货物、运费、燃料、物料和其他财产的所有人 (下称“被救助方”) 同

\_\_\_\_\_ (救助方名称)

\_\_\_\_\_  
(地址: \_\_\_\_\_)

电话: \_\_\_\_\_ 传真: \_\_\_\_\_ 电传: \_\_\_\_\_

\_\_\_\_\_  
邮政编码: \_\_\_\_\_) 的代表

2 \_\_\_\_\_ 签订本合同。

第一条 救助方应以应有的谨慎救助\_\_\_\_\_号船舶及/或船上货物、运费、燃料、物料和其他财产, 并将它们送到\_\_\_\_\_或以后商定的其它地点, 如果没有上述约定或商定地点, 可送往任一安全地点。

当获救的船舶及/或其它财产已被送到前款规定的地点时, 被救助方应及时接受救助方提出的合理的移交要求; 如未及时接受, 被救助方应对非属救助方过失造成的后果负责。

第二条 被救助方应与救助方通力合作, 包括获得准许进入合体第一条规定的地点; 免费提供救助方合理使用船上的机器、装置、设备、锚、锚链、物料和其他属具, 但救助方不应无故损坏、抛弃或牺牲上述物件或其他被救财产。

第三条 救助方有义务在合理需要的情况下，寻求其他救助方援助。

被救助方或船长合理要求其他救助方参与救助作业时，救助方应接受此种要求，但要求不合理的，原救助方的救助报酬金额不受影响。

第四条 在救助作业过程中，救助方和被救助方、船长均有义务以应有的谨慎防止或减少环境污染损害。

第五条 除本合同第九条规定外，救助方对本合同规定的救助标的进行救助，取得效果（包括取得部分效果）的，有权获得救助报酬；未取得效果的，无权获得救助报酬。

第六条 在救助作业中救助人命的救助方，对获救人员不得请求酬金，但是有权从救助船舶或其他财产、防止或减少环境污染损害的救助方获得的救助款项中，获得合理的份额。

第七条 确定救助报酬，应体现对救助作业的鼓励，并综合考虑下列各项因素：

- （一）船舶和其他财产的获救价值；
- （二）救助方在防止或减少环境污染损害方面的技能和努力；
- （三）救助方的救助成效；
- （四）危险的性质和程度；
- （五）救助方在救助船舶、其他财产和人命方面的技能和努力；
- （六）救助方所用的时间、支出的费用和遭受的损失；
- （七）救助方或者救助设备所冒的责任风险和其他风险；
- （八）救助方提供救助服务的及时性；
- （九）用于救助作业的船舶和其他设备的可用性和使用情况；
- （十）救助设备的备用情况、效能和设备的价值。

第八条 由于救助方的过失致使救助作业成为必须或更加困难的，或者救助方有欺诈或其他不诚实行为的，应当取消或减少向救助方支付的救助款项。

第九条 对构成环境污染损害危险的船舶或船上货物进行的救助，救助方依照本合同第七条规定所获得的救助报酬，少于依照本条规定可以得到的特别补偿的，救助方有权依照本条规定，从船舶所有人处获得相当于救助费用的特别补偿。

救助方进行前款规定的救助，取得防止或减少环境污染损害效果的，船舶所有人依照前款规定应向救助方支付的特别补偿，可以另行增加，增加的数额可以达到救助费用的百分之三十。如果根据本合同第十五条组成的仲裁庭认为适当，并且考虑合同第七条第一款规定的各项因素，可以裁决进一步增加特别补偿，但在任何情况下，增加部分的总数额不得超过救助费用的百分之一百。

本条所称救助费用，是指救助方在救助作业中直接支付的合理费用和实际使用的救助设备、投入救助人员的合理费用。确定救助费用应当考虑本合同第七条第（八）、（九）、（十）项规定的各项因素。

在任何情况下，本条规定的全部特别补偿，只有超过救助方依照本合同第七条规定能够获得救助报酬时，方可支付，支付金额为特别补偿超过救助报酬的差额部分。

由于救助方的过失未能防止或减少环境污染损害的，可以全部或部分地剥夺救助方获得特别补偿的权利。

第十条 为了保全救助方应得的救助报酬，在救助作业结束后，被救助方应根据救助方的要求，在 14 个银行工作日内（法定节假日除外）提供满意的担保。

船舶所有人及其雇佣人、代理人应在获救的货物交还前，尽力使货物所有人对其应承担的救助报酬提供满意的担保。

在按本条第一款规定提供担保以前，未经救助方书面同意，不得将获救船舶和其他财产从救助作业完成后最初抵达的港口或地点移走。如果救助方有理由认为被救助方将要违反或者企图违反本款规定，有权申请采取财产保全措施。

上述担保金额应包括利息和进行仲裁可能发生的合理费用在内。

第十一条 在本合同第九条的规定可能适用的情况下，船舶所有人应根据救助方的合理要求提供满意的担保。

第十二条 如果在签订本合同之前，被救助方或船长没有明确和合理地制止，救助方对遇险的船舶及/或船上货物、运费、燃料、物料和其他财产已提供了本合同所指的全部或部分救助服务，本合同的规定应适用于这种服务。

第十三条 本合同时由船长或船舶所有人代表船舶、船上货物、运费、燃料、物料和其他财产的所有人签订的，各所有人应各自履行本合同规定的义务。

救助报酬金额应由获救船舶和其他获救财产的各所有人，按照船舶和其他财产各自的获救价值的比例承担。

第十四条 参加同一救助作业的各救助方的救助报酬及/或特别补偿，根据第七、八、九条的规定由各方协商确定。

第十五条 救助方和被救助方之间以及签订本合同的各救助方及/或各被救助方相互之间根据本合同所发生的或与本合同有关的一切争议，均应提交中国海事仲裁委员会（下称“仲裁委员会”）仲裁解决。

仲裁委员会依照该会仲裁规则规定的程序进行仲裁。依据仲裁委员会仲裁规则组成的仲裁庭，有权根据救助方的请求，在合理条件下，作出中间裁决或部分裁决，要求被救助方向救助方先行支付适当的金额。被救助方根据仲裁庭上述裁决先行支付的金额，其提供的担保金额应作相应扣减。

仲裁委员会的裁决是终局的，对所有当事人均有约束力。

第十六条 除另有明确约定外，本合同和根据本合同进行的仲裁适用中华人民共和国法律。

第十七条 本合同前言中所列名称、地址、传真号、电传号和邮政编码如有变更，应立即通知仲裁委员会和对方。否则，一切按该地址邮寄的信件、文件等及按该号码传送的传真和电传，仲裁委员会或仲裁庭认为已经合理的时间即视为已经送达。

签字：

\_\_\_\_\_  
代表救助方

\_\_\_\_\_  
代表被救助方

(dated) \_\_\_\_\_  
(place of signature) \_\_\_\_\_

It is hereby agreed between \_\_\_\_\_ (name of Master or Owner) of the m. v. \_\_\_\_\_ (name of the vessel being salvaged) (flag: \_\_\_\_\_ port of registry: \_\_\_\_\_) owned by \_\_\_\_\_ (address: \_\_\_\_\_ tel: \_\_\_\_\_ fax: \_\_\_\_\_ telex: \_\_\_\_\_ postal code: \_\_\_\_\_) for and on behalf of the m. v. \_\_\_\_\_, her cargo, freight, bunkers, stores and any other property thereon (hereinafter called "the salvaged party") and the representative of the salvor (address: \_\_\_\_\_ tel: \_\_\_\_\_ fax: \_\_\_\_\_ telex: \_\_\_\_\_ postal code: \_\_\_\_\_) that:

1. The salvor shall exercise due care to save the m. v. and/or her cargo, freight, bunkers, stores and any other property thereon and take them to or such other place as may hereafter be agreed, or if no such place is named or agreed, to any other place of safety.

When the vessel and/ or other property salvaged have been brought to the place named in the preceding paragraph, the salvaged party shall promptly accept redelivery when reasonably requested by the salvor to do so. If the salvaged party failed to do so, they shall be responsible for the result to which the salvor has no fault.

2. The party salvaged shall co-operate fully with the salvor including obtaining permit of entry to the place as defined in Clause 1 of this Contract and allowing the salvor to make reasonable use, free of expenses, of the vessel's machinery, gear, equipment, anchor and anchor chains, stores and other appurtenances provided that the salvor shall not unnecessarily damage, abandon or sacrifice the same or any other property being salvaged.

3. The salvor shall owe duty to seek the assistance of other salvors where reasonably necessary.

The salvor shall accept the intervention of other salvors when reasonably requested to do so by the salvaged party or the master, provided however that the amount of his reward shall not be prejudiced if such a request was found unreasonable.

4. During the salvage operations, the salvor and the salvaged party and the master are under an obligation to exercise due care to prevent or minimize pollution damage to the environment.

5. Except as otherwise provided for in Clause 9 of this Contract, where the salvage operations rendered to the subject-matter of the Salvage Contract have had a useful result (including partial result), the salvor shall be entitled to a reward, and the salvor shall not be entitled to a reward if the salvage operations have had no useful result.

6. The salvors of human life may not demand any remuneration from those whose lives are saved. However, salvors of human life are entitled to a fair share of the payment awarded to the salvor for salvaging the ship or other property or for preventing or minimizing the pollution damage to the environment.

7. The reward shall be fixed with a view to encouraging salvage operations, taking into full account the following criteria:

- (1) Value of the vessel and other property salvaged;
- (2) Skill and efforts of the salvor in preventing or minimizing the pollution damage to the environment;
- (3) Measure of success obtained by the salvor;
- (4) Nature and extent of the danger;
- (5) Skill and efforts of the salvor in salvaging the vessel, other property and life;
- (6) Time used and expenses and losses incurred by the salvor;
- (7) Risk of liability and other risks run by the salvor or their equipment;
- (8) Promptness of the salvage services rendered by the salvor;
- (9) Availability and use of ships or other equipment intended for the salvage operations;
- (10) State of readiness and efficiency of the salvor's equipment and the value thereof. The amount of reward shall not exceed the value of the vessel and other property salvaged.

8. Where the salvage operations have become necessary or more difficult due to the fault of the salvor or where the salvor has committed fraud or other dishonest conduct, the salvor shall be deprived of the whole or part of the payment payable to him.

9. If the salvor, performing the salvage operations in respect of the vessel which by itself or her cargo threatened pollution damage to the environment, has failed to earn a reward under Clause 7 of this Contract at least equivalent to the special compensation assessable in accordance with this Clause, he shall be entitled to special compensation from the owner of the vessel equivalent to his expenses as herein defined.

If the salvor, performing the salvage operations prescribed in the preceding paragraph, has prevented or minimized pollution damage to the environment, the special compensation payable by the owner to the salvor under the preceding Paragraph may be increased by an amount up to a maximum of 30% of the expenses incurred for the salvage. The arbitration tribunal formed in accordance with Clause 15 of this Contract may, if it deems fair and just and taking into consideration the various factors defined in Paragraph 1 of Clause 7 of this Contract, render an award further increasing the amount of such special compensation, but in no event shall the total increase be more than 100% of the expenses incurred for the salvage.

The salvor's expenses referred to in this Clause means the salvor's out-of-pocket expenses reasonably incurred in the salvage operation and reasonable expenses for the equipment and personnel actually used in the salvage operations. In determining the salvor's expenses, the provisions of Sub-paragraphs (8), (9) and (10) of Paragraph 1 of Clause 7 of this Contract shall be taken into consideration.

Under all circumstances, the total special compensation defined in this Clause shall be paid only if such compensation is greater than the reward recoverable by the salvor under Clause 7 of this Contract, and the amount to be paid shall be the difference between the special compensation and the reward.

If the salvor has failed, due to his negligence, to prevent or minimize the pollution damage to the environment, the salvor may be totally or partly deprived of the right to the special compensation.

In order to secure the remuneration to which the salvor is entitled, the owner of the salvaged property shall, after the completion of the salvage operations, provide satisfactory security at the request of the salvor within 14 bank working days (except holiday and Sunday)

The owner of the vessel, their servants and agents shall, before the release of the cargo, make best endeavours to cause the owners of the cargo salvaged to provide satisfactory security for their proportion of their salvage reward.

Without the consent in writing of the salvor, the vessel or other property salvaged shall not be removed from the port or place at which they first arrived after the completion of the salvage operations, until satisfactory security prescribed in Paragraphs (1) of this Clause has been provided. If the salvor has reason to believe that the party salvaged is to or attempts to violate the provision of this Paragraph, the salvor is entitled to apply for measure of property security.

The aforesaid amount(s) shall include interests and reasonable fees and expenses which might be incurred for arbitration.

11. In case the provisions of Clause 9 apply, the owner of the vessel shall provide satisfactory security at the reasonable request of the salvor.

12. The provision of this Contract shall apply to the salvage services, wholly or partly, as defined in this Contract that have been rendered to the vessel and/or her cargo, freight, bunkers, stores and other property in danger without the express and reasonable prohibition on the part of the salvaged party or the master prior to signing this Contract.

13. The master of the vessel or its owner enters into this Contract on behalf of owners of the vessel, her cargo, freight, bunkers, stores and any other property thereon and each of the respective owners is bound to the due performance of this Contract.

The salvage reward shall be paid by the owners of the vessel and other property salvaged vessel and property bear to the total salvaged values.

14. The distribution of salvage reward and/or special compensation among the salvors taking part in the same salvage operation shall be made by agreement among such salvors on the basis of the provisions of Clause 7, 8 and 9.

15. Any dispute arising under or in connection with this Contract between the salvor and the salvaged party and among the salvors and/or the salvaged parties who are the parties to this Contract shall be referred to China Maritime Arbitration Commission (Beijing/Shanghai) (hereinafter called the Commission) for arbitration.

The procedures of arbitration shall be governed by the Arbitration Rules of the Commission. The Arbitration tribunal formed in accordance with the Arbitration Rules of the Commission shall have power to make, upon request by the salvor and under reasonable conditions, an interlocutory or partial award ordering the party salvaged to pay in advance an appropriate amount of the payment to the

salvor. Such payment, if paid in advance by the salvaged party according to the aforesaid award of the arbitration tribunal, shall be deducted accordingly from the sum provided as security.

The award rendered by the Commission shall be final and binding on all the parties.

**16. Except otherwise expressly provided, the law of the People's Republic of China shall apply to this Contract and to the arbitration conducted under this Contract.**

**17. Any change(s) of the address, fax, telex number and postal code given in the preamble of this Contract shall be immediately communicated to the Commission and the other party. Failing this, any letter and document mailed to such address as well as any facsimile and telex message transmitted to such number shall be deemed to have been duly served to the parties over a period of time as deemed reasonable by the Commission or the arbitration tribunal.**

Signature

\_\_\_\_\_  
For and on behalf of the salvor

\_\_\_\_\_  
For and on behalf of the salvaged party