MARINE INSURANCE

A PRIMER

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INTRODUCTION

This paper is designed to provide the reader with a general overview of the content of different marine insurance policies. This paper focuses on three important elements of marine insurance: Hulls and machinery clauses, Cargo clauses and P & I rules.

This presentation will focus on clauses predominantly used in the North American market. A selection of the main clauses contained in these policies will be discussed, shedding light on some of the particularities of each specific policy, where applicable. Of course, every distinction between policies cannot be identified in this format, as to do so would necessitate a much lengthier analysis. Nevertheless, it is hoped that this paper will serve as a useful introduction to the principal clauses contained in such policies.

I. GENERAL HULL CLAUSES - RISKS COVERED

Introduction:

Hull and machinery insurance covers physical loss of or damage to the structure of the ship.

Voyage and time clauses were developed in the London insurance market for use with the S.G. (Ship and Goods) form. These clauses contained terminology until 1983 when the Institute of London Underwriters’ “plain language” time and voyage clauses for hulls were introduced (London Institute Time Clause (Hulls) – appendix A). These have been revised in 1995 and again in 2003 (International Hull Clauses (2003) – appendix B). North American hull and machinery policies vary from one region to another, given variations in the types of risks encountered. On the Canadian West Coast, the preferred clauses are the Canadian Hulls (Pacific) Clauses (appendix D). On the east coast, the London Institute Time Clauses seem to be preferred. Great Lakes fleets are generally insured under the Canadian Board of Marine Underwriters Great Lakes Hull Clauses (appendix E). Ocean-going and coastal vessels are often insured under the American Institute Hull Clauses (2003 – appendix C).

A. PERILS


Proximate cause:

The marine insurance industry has always favoured coverage via the enumeration of perils within the insurance contract. Regardless of the enumeration of the peril in question, the doctrine of proximate cause is applicable as a condition precedent to all coverage under a marine insurance policy.
Subsection 53(1) of the federal Marine Insurance Act (hereinafter "the Act") stipulates:

Subject to this Act and unless a marine policy otherwise provides, an insurer is liable only for the loss that is proximately caused by a peril insured against, including a loss that would not have occurred but for the misconduct or negligence of the master or crew.

The jurisprudence, while recognizing that proximate cause is a context-specific concept, has nevertheless, provided several general principles. Lord Wright in *Canada Rice Mills Ltd. v. Union Marine & General Co.*\(^2\) (hereafter *Canada Rice Mills*) stated that proximate cause "does not necessarily mean the cause last in time but what is in substance the cause..."\(^3\). In *H.B. Nickerson & Sons Ltd. v. Insurance Co. of North America et al.*\(^4\), Justice Marceau concluded that this doctrine refers "...to the dominant and effective cause, the one that has really triggered the natural sequence of causes that led to the loss."\(^5\).

More recent case law has adopted a broader approach. In *C.C.R. Finshing Ltd. v. British Reserve Insurance Co.*\(^6\), (hereafter *C.C.R. Finshing*) the issue before the Supreme Court of Canada was whether the fishing vessel *LaPointe* was a loss “proximately caused” by a peril of the sea. In concluding that it was, Justice McLachlin stated:

“ In summary, it is my view that the following procedure should be followed in determining whether a loss was proximately cause by a peril of the sea. First, the cause or causes of the loss should be ascertained. It should then be asked whether the loss is fortuitous in that it would not have occurred but for an accident or unforeseen event brought about by negligence or adverse or unusual conditions. [...] The question of whether insurance applies to a loss should not depend on metaphysical debates as to which of various causes contributing to an accident was proximate. It should be sufficient to bring the loss within the risk if it is established that, viewed in the entire context of the case, the loss is shown to be fortuitous in the sense that it would not have occurred save for an unusual event not ordinary to be expected in the normal course of things.” [we underline]\(^7\)

1. **Perils of the Seas, Rivers, Lakes and Other Navigable Waters**
   [ITC Clause 6.1.1 / IHC Clause 2.1.1 / AIHC Line 100 / CHPC Line 2 / CGLHC Line 99].

According to subsection 2(d) of the Schedule of the Act:

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1 SC 1993, c C-22.
2 [1941] 3 WWR 401 [1941] 1 DLR 1, 8 ILR (JCPC) [Canada Rice Mills].
3 *Ibid* at 11, 1 DLR.
5 *Ibid* at 326, 49 N.R.
6 [1990] 1 SCR 814 [C.C.R. Fishing].
7 *Ibid* at 823; see also 566935 B.C. Ltd. v. Allianz Insurance Co. of Canada, 2006 BCCA 469 [Allianz].
In a marine policy, a reference to “perils of the sea” means fortuitous accidents or casualties of the seas, but does not include ordinary action of the wind and waves.

The jurisprudence has interpreted a “peril of the seas” as the presence of an accident that is incidental to a sea voyage. The definition in the Act encapsulates the older cases, such as The Xantho where Lord Herschell said:

There must be some casually, something that could not be foreseen as one of the necessary incidents of the adventure [...] accidents which may happen, not against events which must happen.  

According to Justice Lambert in Case Existological Laboratories v. Foremost Insurance Co. et al. (The Bamcell II):

The accident must be "fortuitous", first in the sense that it is not caused intentionally by the assured and second, in the sense that it is not the inevitable result of deterioration caused by normal action of wind, waves and time...

In addition, the accident must be "of the seas" in the sense at least that the damage is damage that would not have occurred in an accident on land, such as damage by sinking, or by foundering following a collision at sea or striking a rock.

Justice Ritchie of the Supreme Court of Canada stated that the most widely accepted definition of the phrase “peril of the seas” as it is found in marine insurance policies is that contained in the reasons for judgement of Lord Wright in Canada Rice Mills:

“Where there is an accidental incursion of sea-water into a vessel at a part of the vessel, and in a manner, where sea-water is not expected to enter in the ordinary course of things, and there is consequent damage to the thing insured, there is prima facie a loss by perils of the sea. The accident may consist in some negligent act, such as improper opening of a valve, or a hole made in a pipe by mischance, or it may be that seawater is admitted by stress of weather or some like cause bringing the sea over openings ordinarily not exposed to the sea or, even without stress of weather, by the vessel heeling over owing to some accident, or by the breaking of hatches or other coverings. These are merely a few amongst many possible instances in which there may be a fortuitous

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8 Thomas Wilson Sons & Co v Owners of Cargo of the Xantho [The Xantho], 1887, LR 12 App Cas. 503, HL.
10 Ibid at 730.
incursion of sea-water. It is the fortuitous entry of sea-water which is the peril of the sea in such cases” 11.

More recently, in C.C.R. Fishing, Justice McLachlin reiterated that a “peril of the sea” must be both “fortuitous” and “of the seas”, and explained that the requirement that the cause of the loss be “fortuitous” excludes the natural and inevitable action of wind and waves, ordinary wear and tear, inherent defects and intentionally caused losses12. Generally, the word “fortuitous” carries the connotation that the cause of the loss was not intentional or inevitable, something which could not be foreseen as one of the necessary incidents of the adventure.

Regarding the second requirement, that the loss be “of the sea”, Justice McLachlin explained that the test is not whether the defect which started the causal chain that led to the loss is one that could occur exclusively at sea, but whether the accident itself could only have occurred at sea13.

The most obvious peril of the sea is the incursion of water into a ship. This can occur in situations other than a storm. For instance, the House of Lords has ruled that damage caused by the foundering of a ship following a collision with another ship14, and damage caused by rats gnawing a hole in a pipe allowing the incursion of seawater15 were caused by a peril of the seas. Justice Lowry has recently explained that a loss attributable to the ingress of seawater has never been held to have been caused by a peril of the sea in the absence of an antecedent fortuity that caused the entry of the water, it is the fortuitous ingress of seawater that causes damage that is a peril of the sea16.

Damage caused by storms is also an obvious peril of the seas. Such a storm need not be of exceptional force17, and according to Tucker L.J. in N.F. Neter & Co. Ltd. v. Licenses & General Ins. Co. Ltd.18, "it is clearly erroneous to say that, because the weather was such as might reasonably be anticipated, there can be no peril of the seas."19

Although the applicability of the above criteria is not dependant upon the initial unseaworthiness of the vessel preceding the adverse weather, there is no indemnification for damage caused by "the ordinary action of the wind and waves". Consequently, no indemnification would lie as a result of a ship sinking as a result of inherent decrepitude20.

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12 C.C.R.. Fishing, supra, note 6, at paras 8, 9.
13 Ibid at paras 10 and 11.
14 The Xantho, supra, note 8.
15 Hamilton, Fraser & Co v Pandorf & Co, (1887), 12 App Cas 518 (HL).
16 Allianz, supra, note 7, at paras 22 and 29.
17 Canada Rice Mills, supra, note 2.
18 [1944] 1 All ER 341.
19 Ibid.
2. **Fire, explosion**


The word “fire” is to be given its natural and ordinary meaning\(^\text{21}\). In case law, these perils have been widely defined, and include fire from any accidental cause, including negligence of the crew or spontaneous combustion of cargo\(^\text{22}\). In *The Knight of St Michael*\(^\text{23}\), the assured was allowed to recover for loss of freight, where over-heated cargo was discharged to avert imminent danger, but there must be a real risk of fire breaking out. Arson may also be included in the definition of fire, at least where the assured himself was not personally implicated\(^\text{24}\).

Losses occasioned where action is taken to extinguish a fire or to prevent an imminent outbreak of fire should be regarded a loss by fire and be covered by the policy\(^\text{25}\).

In *Canadian General Electric Co. v. Liverpool & London & Globe Insurance Co.*\(^\text{26}\), Justice Estey, for the Supreme Court of Canada, explained:

> Essential to an understanding of the rule and its application is the condition that before liability arises there must be an operating peril of the type or category described in the insurance contract. The danger must be present in the sense that unless something is done, damage will ensue. It may be that in the vagaries of nature, actual damage may not have yet been suffered (as in the Maine case, supra), but if the peril has actually arisen and damage can be reasonably anticipated from the peril (assuming it to be in the contract an enumerated risk), then damage suffered as a result of the preventive measures taken by the insured will be recoverable.\(^\text{27}\)

The word “explosion” is also to be given its natural and ordinary meaning. It would cover an event that is “violent, noisy, and caused by a very rapid chemical or nuclear reaction, or the bursting out of gas and vapour under pressure”. Explosions which fall within any of the express exclusions in other clauses, such as a War Exclusions Clause, would not be covered.

3. **Violent Theft by Persons Outside the Vessel / Thieves**


According to subsection 1(1) of the Schedule of the Act:

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\(^{22}\) *Ibid* at p 118.

\(^{23}\) \([1898]\) P 30, PDAD.


\(^{25}\) *Ibid*, at pp 1004 and 1005.

\(^{26}\) \([1981]\) 1 SCR 600

\(^{27}\) *Ibid*, at para 33.
"thieves" does not include persons who commit a clandestine theft or passengers, officers or members of the crew of the insured ship who commit a theft.

Robbery, accompanied by violence and committed by strangers is regarded as being fortuitous. Simple clandestine theft is not insured within this peril. The use of the term "violent theft" within the IHC, and ITC (Hulls) clauses refers to violence committed against persons or against the ship itself\(^{28}\). In addition, the wording "persons from outside the vessel" is intended to exclude theft by any member of the ship’s company or passengers, as indicated by the definition within the Act.

Such interpretation is more explicit in the American and Canadian Great Lakes policies, where the wording “assailing thieves” is used.

4. **Jettison**

   [ITC Clause 6.1.4 IHC Clause 2.1.4 / AIHC Lines 101/ CHPC Line 3 / CGLHC Line 99]

Jettison is defined as a heaving overboard of goods in order to lighten the ship, and when made intentionally, for the sake of saving the other interests from imminent danger\(^{29}\). However, throwing property overboard without reasonable justification or as a result of panic is not jettison\(^{30}\).

The peril of jettison encompasses both general average as well as non-general average acts. In cases of general average acts, the peril of jettison will cover both the general average sacrifice by the shipowner, as well as the general average contribution by the cargo-owners.

5. **Piracy**

   [ITC Clause 6.1.5 / IHC Clause 2.1.5 / AIHC Line 101 / CHPC Line 3 / CGLHC Lines 99]

Most policies include Piracy as one of the perils underwriters bear and take upon themselves.

According to subsection 1(1) of the Schedule to the Act entitled *Construction of Marine Policies*:

"pirates" includes passengers on the insured ship who mutiny and persons who attack the ship from land.

In marine insurance policies, the word pirates has been interpreted to mean: "persons plundering indiscriminately for their own ends, and not persons simply operating, even illegally and criminally, against the property of a particular state for a public political end\(^{31}\). Jurisprudence has added a prerequisite of force or threat thereof\(^{32}\).

\(^{28}\) May, *Supra*, note 20, at p 123.

\(^{29}\) Gilman and Merkin, *supra*, note 24, at p 1201.

\(^{30}\) *Notara v Henderson* (1870) LR 5 QB 346; (1872) 7 QB 225.

Piracy can only be carried out at sea\(^{33}\), however, there is disagreement as to whether the piracy must occur on the high seas, outside a country's territorial jurisdiction. In *The Andrea Lemos*\(^{34}\), Staughton J. accepted that while there was compelling authority that piracy must be outside territorial jurisdiction, for the purposes of maritime insurance there was no reason why the act of piracy had to be limited to acts outside territorial waters.

6. **Breakdown of or Accident to Nuclear Installations or Reactors**
   [ITC Clause 6.1.6 / CHPC Lines 53 - 54].

This clause first appeared when it was thought vessels might be nuclear powered\(^{35}\); only a few such trials were undertaken before cost and safety concerns put an end to the possibility. Such cover is no longer relevant and has subsequently been removed from the International Hull Clauses (2003).

7. **Land Conveyance, Dock or Harbour**
   [ITC Clause 6.1.7 / IHC Clause 2.1.6 / AIHC Line 114 / CHPC Lines 63-66 / CGLHC Line 113].

Under the ITC (Hulls) Clause, the term land conveyance is meant to be a deliberately expansive category\(^{36}\), the clause included aircraft or similar objects, and all nature of technology that can damage the hull by falling from the atmosphere, including satellites or debris falling or jettisoned therefrom.

The new IHC Clauses include specific reference to satellites and helicopters, and such airborne perils or object falling therefrom have been separated from those relating to land conveyances and harbour installations, and provided for at Clause 2.1.9.

Under the American and Canadian specific policies, this peril is included as part of the Inchmaree Clause, and thus subject to a due diligence proviso.

8. **Additional Perils (Inchmaree) Clause**

The cover afforded by policy was greatly extended by the Inchmaree Clause, which provides coverage for some additional perils. Such a clause is almost universally inserted in modern hull clauses. While its most important function may be to give protection in cases of machinery damage such as the bursting of boilers, breakage of shafts or of latent defects in the machinery or hull, the scope of the clause is much wider. The general intent of the

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\(^{32}\) *Athens Maritime Enterprises Corp. v Hellenic Mutual War Risks Association (Bermuda) Ltd.* [1983] QB 647 [*The Andrea Lemos*].

\(^{33}\) *Britannia Shipping Co. v Rutgers* (1792) 4 TR 783.

\(^{34}\) *Supra*, note 32.


clause was to extend the cover, in specified cases, to risks of damage to hull or machinery which could not be said to be the direct consequence of a marine peril37.

Initially, the Clause was widely understood to have the effect that there must be loss of or damage to some part of the vessel other than the part which is itself defective, so that the cost for the renewal of said defective part could not be recovered under the words “latent defect” or “breakage of shafts”38. However, in *Promet Engineering (Singapore) Pte Ltd v Sturge (The Nukila)*, 39 the Court of Appeal of England set that coverage is not confined to damage cause to some other “part” of the vessel, and indeed that where a condition aptly described as a “defect” at the start of the policy period has developed into a condition properly described as one of “damage”, that damage will be covered. Further implications of the *Nukila* case will be discussed below in the section regarding latent defects.

**The Due Diligence Proviso**

The perils encompassed by the Inchmaree Clause are subject to a due diligence proviso. It is this requirement of due diligence on the part of the owners or managers of the insured vessel that distinguishes these perils from those included in the general Perils Clause discussed in the previous section.

According to Mr. Justice Collier in *Hatfield v. The Queen*40, due diligence "is equivalent to reasonable diligence, having regard to the circumstances known, or fairly to be expected, and to the nature of the voyage, and the cargo to be carried."41.

a. **Accidents in loading discharging or shifting cargo or fuel**

   [ITC 6.2.1 / IHC 2.1.8 / AIHC Line 108 / CHPC Lines 51 / CGLHC Line 106]

The term "accident" is widely construed to include "any fortuitous, unexpected or untoward event. Under IHC Clauses, this coverage has been moved from the Additional Perils (Inchmaree) Clause to the General Perils Clause (2.1.8) thereby exempting such coverage from the due diligence proviso.

b. **Bursting of boilers breakage of shafts or any latent defect in the machinery or hull**

   [ITC 6.2.2 / IHC 2.2.1 / AIHC Lines 111-112 / CHPC Lines 55-56 / CGLHC Lines 109-111]

The essential requirements for recovery under this heading are that there should be a defect, that it should be in the machinery or hull, it should be latent, and it should have caused damage. The cover is also, of course, subject to the due diligence proviso.

A “defect” is to be contrasted with the effects of ordinary wear and tear, which are not covered under the Inchmaree clause.

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37 Gilman and Merkin, *supra*, note 24 at p 1031.
39 [1997] 2 Lloyd’s Rep 146 [*The Nukila*].
42 May, *supra*, note 20 at 139.
With respect to latent defects, Walton J. concluded in *Hutches v. The Royal Exchange (The Ellaline)*:

> The Underwriters agree to indemnify the owner against any loss of or damage to the hull or machinery through any latent defect, so that a claim does not fall within the clause unless there is loss of or damage to the hull or machinery...and there is no claim unless that damage has been caused through a latent defect...  

A latent defect can be the result of a defect in design many years before the accident, however, the clause does not provide coverage if the design is inadequate for the ordinary tasks that the ship is to perform. This is a shortcoming in the machinery rather than a defect. According to Goff J., as he then was in *The Carribean Sea*:

> If the hull or machinery is in such a state that there can properly be said to be a defect in it, and such a defect is the proximate cause of the casualty, it would seem to matter not that it had come into existence by virtue of (for example) poor design, or poor construction, or poor repair, unless a casualty so caused is excluded from the cover.

A particularity of the new IHC Clauses is that “Latent defect” cover now is given a specific clause (2.2.2.), with additional words excluding the cost of correcting the latent defect. This change has arisen from the *Nukila* case. The Nukila involved a jack-up rig that sustained severe fracturing in all three legs as a result of poorly profiled welds, which were agreed to constitute a latent defect. Insurers argued that the claim should be refused as the policy only paid for consequential damage sustained by a separate part, and, as the cracking was limited to the legs which contained the latent defect, there was no consequential damage. The Court of Appeal rejected the separate part argument, and concluded that damage had to be something different from, something over and above and incrementally greater than the latent defect itself and where the line is to be drawn is a matter of fact and degree. The Nukila’s crucial departure from past practice is that damage could be something different from the original latent defect, even if it was within the same component, so the need to identify a separate part that suffered consequential damage was dispensed with.

c. **Negligence of Master Officers Crew or Pilots**

*ITC 6.2.3 / IHC 2.2.3 / AIHC Lines 115-116 / CHPC Lines 57-58 / CGLHC Line 115*

In situations where the owner of the vessel is also its master, there can be no claim under the Inchmaree Clause where the individual was negligent both as owner and as master. Thus, in situations where the master is also the owner of the ship, the negligence must occur while acting as master.

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43 [1911] 2 KB 398.
44 *Prudent Tankers Ltd v Dominion Ins. Co. Ltd. (The Carribean Sea)* [1980] 1 Lloyd's Rep 338
45 Gilman and Merkin, *supra*, note 24 at p 1044.: However, the Court of Appeal did nonetheless emphasise that Insurers were still protected from losses where a latent defect has simply become patent.
Account, however, must be taken of the clause indicating that masters, officers, crew or pilots who hold shares in the vessel are not to be considered owners within the meaning of the clause. This would seem to indicate that if an owner is also master, officer or crew member and is negligent in this latter capacity, the effect of this provision would be to ignore his status as owner, thereby providing an exemption from the due diligence proviso\textsuperscript{47}.

d. Barratry of Masters, Officers or Crew

[ITC Clause 6.2.5 / IHC Clause 2.2.5 / AIHC Line 103 / CHPC Line 6 / CGLHC Line 101]

According to the Schedule of the Act:

"barratry" includes every wrongful act wilfully committed by the master or crew of the insured ship to the prejudice of the owner or charterer of the ship

There are not many decisions as to what will amount to barratry, but it seems quite clear that when any crime or fraud attended by, or producing, the loss or destruction of the ship be committed by mariners under such circumstances of violence or treachery that it could not have been prevented by the prudence or vigilance of the owner or of the master or his agent, this will be a loss by barratry of the mariners\textsuperscript{48}.

Under the North American policies, barratry is included among the general perils covered and is therefore not subject to a due diligence proviso.

e. Nuclear Installations or Reactors Not on Board the Insured Vessel

[AIHC Line 113 / CHPC Line 51 / CGLHC Line 112]

Under this heading, underwriters will provide coverage for loss of or damage to the hull of the insured vessel caused by a breakdown or accident in the nuclear installation/reactor, subject to, of course, the due diligence proviso.

Under the ITC clauses, the breakdown of or accident to nuclear installations of reactors was included in the general Perils Clause at Clause 6.1.6 and as such, Not subject to any due diligence requirement. This particular head of coverage has been removed and deleted under the more recent IHC Clauses.

B. Pollution Hazard

[ITC Clause 7 / IHC Clause 5 / AIHC Lines 120 – 125 / CHPC Lines 211 - 220].

The pollution hazard clauses of the London Institute Time Clauses and the Canadian Hulls (Pacific) Clauses state that the policy covers loss of or damage to the vessel caused by any governmental authority acting under the powers vested in it to prevent or mitigate a

\textsuperscript{47} May, supra, note 20 at 142.

\textsuperscript{48} Gilman and Merkin, supra, note 24 at p 1019.
pollution hazard, or threat of it, resulting directly from damage to the vessel. For example, destruction or damage to the vessel by a governmental authority in an effort to minimize or avert the risk of oil pollution when the ship has been in an accident whereby an oil pollution hazard is present would be included under this category of coverage.49

The GCLHC stipulate no such provision, but “one would expect that a broker’s manuscript wording would contain a provision to this effect in order to reflect legal developments since the CGLHC clauses were first introduced”50.

The wording in the American Institute Hull Clause is somewhat broader as it refers to “environmental” hazard, and not pollution hazard. Similarly, under the IHC Clause 5, “threats to the environment” are included in coverage, and governmental response to broader threats to the environment than oil pollution are now covered – for example damage to sensitive coral reefs51.

The insurers are under no liability where the act of the governmental authority has resulted from any want of due diligence by the assured, the owners or the managers of the vessel.

C. COLLISION LIABILITY

In hull and machinery insurance policy, the word “collision” has a narrow meaning, and refers only to physical contact with another vessel. However, said contact need not necessarily involve the hulls of each ship. The Earl of Selborne in The Niobe 52 stated:

...I cannot adopt so narrow a construction of those words. I should hold them to extend to cases in which the injury was caused by impact of not only of the hull of the ship insured, but of her boats or steam launch, even if those accessories were not (as in this case) insured as being, in effect, parts of the ship.

The IHC and ITC Clauses provide “3/4ths Collision Liability”. This coverage, as its name indicates, provides indemnification to the assured for 3/4ths of any sum paid by the assured to others by reason of the assured’s liability for damages caused by a collision with another vessel. It should be noted that the remaining 1/4 of the indemnity not covered by this clause, is held covered by P&I insurance. Under the North American provisions, indemnification is not limited to 3/4 of the insured value.

The IHC and ITC collision clauses also provide for the recovery of 3/4ths of legal costs incurred in contesting or limiting liability, given prior written consent of the Underwriters. However, IHC Clause 6.3 provides that in all cases, indemnification is

50 George R Strathy and George C Moore, Law & Practice of Marine Insurance in Canada, (LexisNexis Canada Inc), at p 259.
51 Richards Hogg Lindley, supra, note 35, at p 12.
52 McCowan v Baine and Johnston (1891) AC 401; (1891-4) All ER 343.
limited to 25% of the insured value. Costs of recovery are governed by Clause 49 in Part 3, which imposes only the requirement that costs are reasonably incurred\(^53\).

1. **Damages**

The damages for which an indemnity is payable are generally limited to three heads:

a. **Loss of or damage to any other vessel or property on any other vessel**

The indemnity under this head is limited to physical loss or damage to the other vessel or property on board it. The term "property" includes cargo, gear and appurtenances\(^54\).

b. **Delay to or loss of use of any other vessel or property thereon**

Only damages for delay to a colliding vessel or property on that vessel are covered\(^55\).

c. **General average of, salvage of, or salvage under contract of, any such other vessel or property thereon**

In cases where a collision results in a general average sacrifice or expenditure, and/or the need for salvage assistance\(^56\).

2. **Exclusions**

a. **Removal or disposal of obstructions, wrecks, cargoes or any other thing whatsoever**

Collision coverage does not encompass incidents where damage was caused by an abandoned ship if the abandonment was caused by negligence for which the owner is responsible, such as the absence of lights or precautions\(^57\).

b. **Any real or personal property or thing whatsoever**

c. **Cargo or other property on, or the engagements of the insured vessel**

d. **Loss of life, personal injury or illness**

e. **Pollution or contamination of any real or personal property or things whatsoever (except other vessels with which the insured vessel is in collision)**

Under the IHC Clause 6.4.5, the pollution exclusion has been broadened to include the threat of pollution or contamination as well as damage to the environment or threat

\(^54\) Ibid at 233.
\(^55\) Ibid.
\(^56\) Ibid at 234.
\(^57\) Ibid at 237.
thereof. Also, the new clause does not extend this exclusion to a sum the insured has paid in respect of salvage remuneration in which the skill and efforts of the salvors in preventing or minimizing the damage has been taken into account. The AIHC and CGLHC provide similar provisions.

3. Measure of Indemnity - Principle of Cross Liabilities

Under the principle of cross liabilities, where a collision took place between two ships by which both were damaged and for which both were held to blame, the claim on underwriters is assessed as if each side made a payment to the other side of their respective liabilities.

It is important to note that under the considered policies, the cross-liabilities basis of settlement is not applicable where the liability of at least one of the shipowners is limited by law.

4. Excess Liabilities

It should be noted that under the Disbursements Warranty additional insurance coverage is permitted for a sum not exceeding 25% of the value stated, the Agreed Value or the insured value of the vessel.

D. GENERAL AVERAGE AND SALVAGE

The operation or threat of a peril may stimulate action to avert or minimise its effects. This may give rise to claims under the law of general average and the law of salvage.

1. General Average

The term “general average” refers to a maritime loss that is shared generally amongst the parties to the maritime adventure. While general average sacrifices and expenses, as well as the liability to make general average contributions, are typically covered by insurance, it is important to recognize that general average exists quite independently of insurance and that rights and obligations in general average are adjusted without reference to whether or not the parties are insured.

58 Gilman and Merkin, supra, note 24, at p 1001.
59 IHC Clause 24.1.1 / ITC Clause 21.1.1
60 AIHC lines 292-295 / CGLHC lines 250-252
61 CHPC lines 282-288
62 To be distinguished from a particular average loss which is borne, by the particular party on whom it falls.
The Act states:

65.(1) A general average loss is a loss caused by or directly consequential on a general average act, and includes a general average sacrifice and a general average expenditure.

(2) A general average act is any extraordinary sacrifice or expenditure, known as a general average sacrifice and a general average expenditure, respectively, that is voluntarily and reasonably incurred in time of peril for the purpose of preserving the property from peril in a common adventure.

The peril involved must be "substantial and threatening, and something more than the ordinary peril of the seas". However, it is not necessary that the ship be actually in the grip, or even nearly in the grip of disaster that may arise from danger. The act in question must be intentional and the sacrifice or expenditure must be voluntary. Unintentional acts, such as the diversion of a ship during war due to military command, are not general average acts.

An essential feature of general average would seem to be that the sacrifice or expenditure be made in the interest of more than one party to the adventure (i.e. not only shipowners or cargo). In Kemp v. Halliday, Blackburn J. stated: "It is essential that there should be a voluntary sacrifice to preserve more subjects than one". This reasoning was adopted by the Supreme Court of Canada in Western Assurance Co. v. Ontario Coal Co. of Toronto. This is to be contrasted with "completion of adventure" or "general benefit" as being the object of a general average act, as is the view in the United States, where the nature of the act rather than the number of interests involved is considered.

It should be noted that the Act and most general hull policies echo the principle laid down in the case of Dickenson v. Jardine, where it was held that the underwriters are liable to pay the assured in full for general average sacrifice, regardless of whether or not the assured has first enforced his right to contribution from other parties. With respect to general average expenditure, the assured may recover from the insurer only in respect of the proportion of the loss falling on the insured.

The right of recovery from underwriters in respect of a general average contribution is declared by s. 65(5) of the Act which provides:

"Subject to any express provision in the marine policy, an insured who has paid, or is liable to pay, a general average contribution in respect of the subject-matter insured may recover the contribution from the insurer."

64 Societe Nouvelle d'Armement v Spillers & Bakers Limited [1917] 1 KB 865 at 871; 33 TLR 189.
65 Vlassopoulos v British & Foreign Marine Insurance Co Ltd (The Makis) [1929] 1 KB 187 at 199 per Roche J.
67 Western Assurance Co. v Ontario Coal Co. of Toronto (1892) 21 SCR 383.
68 (1892) 21 SCR 383.
69 Supra, note 1, s.65(4)(b).
70 Supra, note 1, s.65(4)(a).
This provision, however, should be read in light of s.65(6) which reads:

"Subject to any express provision in the marine policy, an insurer is not liable for a general average loss or a general average contribution, unless the loss was incurred for the purpose of averting, or in connection with the avoidance of, a peril insured against".

Therefore, if a loss by a particular peril would not have been recoverable then expenses incurred to avoid that peril cannot give rise to a right of recovery. Also, the danger which causes the general average act cannot have arisen through the fault of the person claiming contribution. In St. Lawrence Construction Ltd. v. Federal Commerce and Navigation Co. Ltd71, Justice Stone stated quite clearly:

"[T]he law is also clear that a carrier is not entitled to recover from a shipper a contribution in general average where the general average situation was brought about by his own actionable fault".

It is worth noting that s.65(7) of the Act states:

"Where any ship, freight and goods, or any two of them are owned by the same insured, the liability of the insurer for a general average loss or a general average contribution shall be determined as if they were owned by different persons."

Thus, for instance, when the freight to be earned by the ship is at risk of shipowners, there will still arise contribution as regards general average though both ship and freight interests are in the same hands. Freight underwriters will have to contribute in general average as if the interests were separately owned. In practice, underwriters of property which has had to be sacrificed are treated as entitled to credit for contributions from other interests in the same ownership. Thus, the insured shipowner is deemed to have received his own contribution as cargo owner when they are in the same interest72.

Most policies contain a "foreign general average clause" which states that the adjustment will be conducted according to the law and practice prevailing at the place where the adventure ends, provided that the contract of affreightment contains no special terms on the subject73.

The measure of indemnity in the case of a general average contribution is set out in s.72 of the Act. Essentially, this section provides that when the sum insured is equal to or more than the contributory value, underwriters must pay the whole of the general average contribution. If the sum insured is less than the contributory value, underwriters must pay

71 [1985] 1 FC 767.
73 See I.T.C. (Hulls), s.11.3.
only the proportion of the contribution which the sum insured bears to the contributory
value.\footnote{For e.g., see \textit{Balmoral Co. v Marten} [1902] AC 511, where the ship was insured on a value of £33,000 and incurred general average expenses which were adjusted abroad on the basis of her real value £40,000, and therefore the assured could only recover 33/40ths of the amount so adjusted.}

2. \textbf{Salvage}

The \textit{Act} distinguishes, at s.64, between charges recoverable under maritime law by a salvor
who is not employed under any contract ("salvage charges"), and services rendered by the
assured or his agents or any person employed by him for the purpose of avoiding a loss
from a peril insured against ("expenses in the nature of salvage").

The distinction is in one sense immaterial in situations where the York-Antwerp Rules 1974
as amended 1990 apply to the common venture. Rule VI of the rules contains the following
passage:

\begin{quote}
Expenditure incurred by the parties to the adventure on account of salvage,
whether under contract or otherwise, shall be allowed in general average
to the extent that the salvage operations were undertaken for the purpose of
preserving from peril the property involved in the common maritime
adventure.
\end{quote}

The importance of the distinction lies in the fact that "salvage charges" are recoverable under
the particular clauses relating to salvage\footnote{See I.T.C. (Hulls), s. 11.1.} rather than under the sue and labour clause, and
therefore they cannot be recovered in addition to the sum insured\footnote{See \textit{Montgomery v Indemnity Mutual Marine Insurance Co Ltd} (1902), 1 KB 734 (CA).}. Also, when the
reimbursement of a salvage award paid to a salvor is made under a "Salvage" or "Salvage
Charges" head of cover, there is an apparent duplication in that it is only subsequently that
these payments will be readjusted between the interested parties in general average.

From the distinction, it would follow then that when a ship with cargo on board engages
a tug, underwriters would be liable for the cost as a general average expense. For
example, if salvage services are rendered under a Lloyd's Form of Salvage Agreement,
the liability would not be for salvage charges (because it is contractual), but rather as sue and
labour or general average expenditure.

This provision differs yet again under the Rules as amended 2004.

Under the new IHC Clauses, salvage charges and/or general average claims are no longer
subject to a pro rata reduction in respect of under-insurance.

The IHC Clauses, at 8.5.1, refers to special compensation payable to Salvors under
Article 14 of the International Convention on Salvage 1989. Article 14 provides for
special compensation to be paid by the Shipowner to the Salvor for preventing or
minimising damage to the environment by the ship and/or her cargo in circumstances
where the Salvor has failed to earn a sufficient customary salvage reward under Article
13. It was agreed (the “Montreal Compromise”) that Article 13 would be payable by property Underwriters, but that Article 14 “special compensation” would be paid by the vessel’s P&I coverage. Clauses 8.5.1 and 8.6.1 therefore make explicit the terms of the Montreal Compromise and represent no change in the cover provided by the ITC.

Further, Clause 8.5.2., liability costs and the port of refuge costs are excluded, but only if the contract of affreightment provides for the York-Antwerp Rules 1994. Ship’s proportion of such allowances when properly made under York-Antwerp Rules 1974 will not be recoverable under IHC 2003.

E. BOTTOM TREATMENT
[ITC Clause 15 / IHC Clause 17 / AIHC Line 234-238 / CHPC Lines 184-190 / CGLHC Lines 206-210]

In marine policies it is standard practice to limit the coverage of general repairs to a vessel's bottom. The ITC (Hulls) Clauses limit such repairs with the following clause:

15. BOTTOM TREATMENT

In no case shall a claim be allowed in respect of scraping gritblasting and/or surface preparation or painting of the Vessel’s bottom except that

15.1 gritblasting and/or other surface preparation of new bottom plates ashore and supplying and applying any "shop" primer thereto,

15.2 gritblasting and/or other surface preparation of:
the butts or area of plating immediately adjacent to any renewed or refitted plating damaged during the course of welding and/or repairs, areas of plating damaged during the course of fairing, either in place or ashore,

15.3 supplying and applying the first coat of primer/anti-corrosive to those particular areas mentioned in 15.1 and 15.2 above,

shall be allowed as part of the reasonable cost of repairs in respect of bottom plating damaged by an insured peril.

No change has been made to the above clause in the revised IHC Clauses, except in IHC 17.4, which now allows the cost of anti-fouling for new plating in damaged or disturbed areas, an equitable change given the much longer life of coatings now in use.

The American Institute Hull Clauses appear to be much more restrictive, covering the expense of sighting the bottom after stranding, if said expense be reasonably incurred. However, no claim shall in any case be allowed in respect of scraping or painting the

77 Richards Hogg Lindley, supra, note 35 at pp 14-16.
78 Richards Hogg Lindley, supra, note 35, at p 24.
Vessel's bottom. The Canadian Board Great Lakes Hull Clauses provide similar provisions.

F. WAGES AND MAINTENANCE

Another rarely discussed clause which also serves to limit the coverage of marine policy is the wages and maintenance clause. The ITC (Hulls) contain the following clause, which has not been changed under the IHC, and similar provisions are stipulated under the CGLHC.:

16. WAGES AND MAINTENANCE

No claim shall be allowed, other than in general average, for wages and maintenance of the Master, Officers and Crew, or any member thereof, except when incurred solely for the necessary removal of the Vessel from one port to another for the repair of damage covered by the Underwriters, or for trial trips for such repairs, and then only for such wages and maintenance as incurred whilst the Vessel is under way.

While the AIHC provide similar coverage, the exclusion does not apply to overtime or similar extraordinary payments to the Master, Officers or Crew incurred in shifting the Vessel for tank cleaning or repairs or while specifically engaged in these activities, either at port or at sea.

II GENERAL HULL CLAUSES - OTHER ISSUES:

A. EXCLUSIONS

The standard marine insurance contract excludes several risks from coverage. Generally, the policies provide variations of War and Strikes exclusions, terrorist, political motive and malicious acts exclusions, and nuclear exclusions.

While the enumeration of the exclusions may vary from policy to policy, each of the policies exclusions clauses are prefaced with a declaration similar to the following:

The following clauses shall be paramount and shall override anything contained in this insurance inconsistent therewith.

A declaration similar to the one above serves to limit the scope of the risks which may otherwise be covered under the perils clause.
B. DEDUCTIBLES

The deductible is a tool commonly used by the insurer to reduce its exposure and by the insured to reduce its insurance costs. Hulls and machinery policies typically contain one or more deductibles.

Typically, the deductible will not apply in the case of a total loss or a constructive total loss. Furthermore, most policies stipulate that the deductible will not apply in respect of Sue and Labour claims. The CHPC and CGLHC also stipulate that no deductible is applicable for salvage or general average.

The American Clauses differ in their application as the deductible is applied to all claims other than total loss claims.

C. TOTAL LOSS AND CONSTRUCTIVE TOTAL LOSS

The Act refers to two types of loss: total loss and partial loss. A total loss may be further divided into “actual total loss” and “constructive total loss”. Actual total loss occurs when the property is beyond physical retrieval. Where there is constructive total loss, the insured property is beyond economic retrieval.80

According to subsection 55(2) of the Act:

Unless a marine policy otherwise provides, insurance against total loss includes both actual total loss and constructive total loss.

1. Actual Total Losses

The Act, at s.56(1), provides a definition of what constitutes an actual total loss:

A loss is an actual total loss if the subject-matter insured is destroyed or is so damaged as to cease to be a thing of the kind insured or if the insured is irretrievably deprived of the subject-matter.

A total loss does not require the complete extinction or annihilation of the subject matter insured80. It can occur where a ship or cargo are beyond physical recovery. An actual total loss includes cases where a ship is sunk, where cargo is lost overboard, or where property is

79 George R Strathy and George C Moore, supra, note 50, at p 152.
80 Cossman v West (1887), 13 App. Cas. 160 (P.C.), rev’g. (1885), 18 N.S.R. 457 (C.A.)
destroyed by fire. Actual total loss may also occur where property is put out of reach of the owners, such as capture by pirates\textsuperscript{81}.

The difference between an actual total loss and a constructive total loss is a matter of degree.

2. **Constructive Total Losses**

Constructive total loss occurs where the insured property exists, but no longer has any economic value because the cost of retrieving it exceeds its insured value.

The Act, at s.57(1) defines a constructive total loss as follows:

> Unless a marine policy otherwise provides, a loss is a constructive total loss if the subject-matter insured is reasonably abandoned because the actual total loss of the subject-matter appears unavoidable or the preservation of the subject-matter from actual total loss would entail costs exceeding its value when the costs are incurred.

Without limiting the generality of subsection (1), a loss is a constructive total loss if

\begin{itemize}
\item[(a)] in the case of a ship or goods, the insured is deprived of possession of the ship or goods by reason of a peril insured against and either the insured is unlikely to recover the ship or goods or the cost of the recovery would exceed the value of the ship or goods when recovered;
\item[(b)] in the case of a ship, the ship is so damaged by a peril insured against that the cost of repairing it would exceed the value of the ship when repaired; or
\item[(c)] in the case of goods, the goods are so damaged that the cost of repairing and forwarding them to their destination would exceed the value of the goods on arrival.
\end{itemize}

While an actual total loss is easily identifiable, a constructive total loss is much less so. The term "reasonably abandoned" in the definition of a constructive total loss has been held to mean "given up for lost"\textsuperscript{82}. This term does not indicate that the insured has abandoned his interest in the vessel to the underwriters. According to subsection 58(1) of the Act

> An insured may treat a constructive total loss as a partial loss or may abandon the subject-matter to the insurer and treat the constructive total loss as an actual total loss.

\textsuperscript{81} George R Strathy and George C Moore, \textit{supra}, note 50, at p 154.

\textsuperscript{82} \textit{Court Line v. The King (The Lavington Court)} [1945] 2 All E.R. 357.
Hence, where an underwriter refuses to accept an abandonment and repairs a vessel at a cost less than the value of the vessel when repaired, there is not a constructive total loss\(^{83}\). However, where the underwriter refuses to accept an abandonment and repairs a vessel at a cost greater than the value of the vessel restored, there is a constructive total loss\(^{84}\).

According to Mr. Justice McNair in *Rose v. Weekes*\(^{85}\):

*A constructive total loss exists when the subject-matter insured is not in fact totally lost, but is likely to become so from the improbability of recovery or the impracticability of repair...The assured must give notice of abandonment to justify constructive total loss recovery. But the notice of abandonment is not conclusive and the underwriters may refuse to accept it. It then becomes necessary to determine under the circumstances whether the abandonment should remain operative. One of these circumstances is whether the destruction or loss of the thing insured appears to be "unavoidable". Notice of abandonment must be justified by the facts as they exist at the time it is given and at the time of action brought. The first and basic test is: Is the recovery of the vessel unlikely? Another necessary test in the case of a vessel not totally destroyed is whether a prudent owner, who is uninsured, would have abandoned the vessel because of the probable likelihood of the cost of repair or restoration exceeding its value.*\(^{86}\)

Under the IHC, at clause 21, it is now necessary to show costs only up to 80% rather than 100% of the Insured Value, in order to establish a Constructive Total Loss. This change puts the IHC 2003 on par with the Norwegian Plan, and many countries which are subject to Civil Codes that make a similar provision. The AIHC, like the CGLHC, requires that the expense of recovering and repairing the vessel exceeds the Agreed Value. However, the North American clauses provide that no claim is to be made by the underwriters for freight, in the event of a total loss (actual or constructive)\(^{87}\).

**a. Single accident or sequence of damages**

The policies generally provide that the determination of constructive total loss shall be made by examining only the cost relating to a single accident or sequence of damages arising from the same accident.

**b. Deprivation of possession of ship or goods**

According to The Act subsection 57(2), there is constructive total loss of ship or goods where the assured is deprived of possession of his ship or goods. Unlikelihood, not uncertainty, of

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\(^{83}\) *Cunningham v St. Paul Fire & Marine Insurance Co.* (1914), 19 BCR 33, 5 WWR 1098, 16 DLR 39 (SC).

\(^{84}\) *Troop et al. v. Jones* (1884), 17 NBR 120 (CA.).

\(^{85}\) (1984), 7 CCLI 287 (FCTD).


\(^{87}\) AIHC lines 204-205, CHPC lines 160 – 162, CGLHC lines 179-180.
recovery is the test. According to Lord Wright in *Forestral Land, Timber & Railways Co. Ltd. v. Rickards and other Test Cases*:

There is a real difference in logic between saying that a future happening is uncertain and saying that it is unlikely. In the former the balance is even. No one can say one way or the other. In the latter, there is some balance against the event. It is true that there is nothing in the Act to show what degree of unlikelihood is required. If on the test of uncertainty the scales are level, any degree of unlikelihood would seem to shift the balance, however slightly. It is not required that the scale should spring up and kick the beam.

**c. Notice of Abandonment**

A notice of abandonment is a condition precedent to the right to claim for a constructive total loss. According to subsection 58(1) of the Act, by abandoning the subject-matter insured to the insurer, the insured may treat the constructive total loss as an actual total loss. Furthermore, according to subsections 58(2) and (3) of the Act:

...An insured who elects to abandon the subject-matter insured to the insurer must give a notice of abandonment to the insurer with reasonable diligence after the insured receives reliable information of the loss.

If an insured fails to give a notice of abandonment as required by this section, the constructive total loss may be treated only as a partial loss.

The effect of such a notice of abandonment, once accepted by the insurer, is that

“[... ]The insurer is entitled to acquire the interest of the insured in whatever remains of the subject-matter of the insured, including all proprietary rights thereto”.

In *Rose v Weekes*, Justice McNair stated that the notice of abandonment must be justified by the facts as they exist at the time the notice is given.

“The first and basic test is: Is the recovery of the vessel unlikely? Another necessary test in the case of a vessel not totally destroyed is whether a prudent owner, who is uninsured, would have abandoned

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88 [1941] 70 LILR 173.
89 Ibid. at 191.
90 Wood v. Stymest (1862), 10 NBR 309 (CA).
91 See also Phoenix Insurance Co. v McGhee, [1890] 18 SCR 61
92 The Act, s.60(4)(b).
93 Supra, note 88.
the vessel because of the probable likelihood of the cost of repair or restoration exceeding its value.”

However, in most instances, whether a loss could be considered a constructive total loss is a question to be determined on the specific facts of the case and is a matter of degree.

D. SUE AND LABOUR

After an accident has occurred, the insured has an obligation to take reasonable measures to minimize the resultant loss, or to “sue and labour”. As such clauses benefit the insurer, policies usually provide that, in addition to indemnifying the insured against the loss itself, the insurer will also pay the costs of such measures, known as “sue and labour” charges.

In *James Richardson & Sons, Ltd v Standard Marine Insurance Co.*, Justice Davis of the Supreme Court of Canada explained:

“Sue and labour clauses in marine insurance have for their object the encouragement of the insurer and the insured to do work to preserve, after an accident, the property covered by the policy and to make the best of a bad state of affairs. Should they do so, the waiver clause provides that their respective rights shall be in no wise prejudiced by any acts done in pursuance of such object and that the insured shall be entitled to obtain his expenses consequent on the work from the insurers. Under such a clause it is the duty of the insured to take reasonable measures to avert loss.”

This is reflected in Article 80 of the *Act*, which states:

80. It is the duty of an insured and an insured’s agent to take such measures as are reasonable for the purpose of averting or diminishing a loss under the marine policy.

Article 79 of the *Act* states the following:

79.(1) Where a marine policy contains a sue and labour clause, the engagement thereby entered into is supplementary to the contract and insured may recover from the insurer any expenses properly incurred under the clause, even if the insurer has paid for a total loss of the subject-matter insured or the subject-matter insured is warranted free from particular average, either wholly or under a specified percentage.

(2) General average losses, general average contributions, salvage charges, and expenses incurred for the purpose of averting or diminishing a loss by a peril not insured against are not recoverable under a sue and labour clause.

The general principle underlying sue and labour clauses is that an insured must have done everything in its power to minimize the loss\(^\text{95}\) in order to be entitled to an indemnity\(^\text{96}\). Such clauses can provide a significant benefit to the insurer, in that its liability can be greatly reduced by swift action taken by the insured with a view to preservation.

It matters not that the insured's efforts are in vain and that it may have received a payment under the policy for the entire sum insured for total loss. As s. 79 of the Act underlines, the sue and labour clause takes the form of a separate or supplementary contract with the insurer over and above the sum insured. Referring to particular charges, Justice Doherty, in Western Assurance Co. v. Baden Marine Assurance Co. stated:

“[Those incurred under the «sue and labour clause» are treated as being expenditures made in the interest of the insurer and under the authorization by him given by the terms of that clause, and are recoverable by the insured over and above the amount insured.”

In Royal Boskalis Westminster NV v Mountain\(^\text{97}\), a question was raised as to when the right to sue in labour comes into existence. Rix J. stated:

“their causation, purpose and character must come into account. Thus, so far as causation is concerned is concerned, they have to be generated in some way by the incidence of a peril insured against; so far as their purpose is concerned, they have to be incurred for the purpose of averting or minimizing a loss which otherwise would be covered by the terms of the policy; and so far as their character is concerned, they must have been reasonably incurred in or about the defence, safeguarding or recovery of the subject-matter insured and must also be unusual or extraordinary, or the result of unusual or extraordinary labour.”

This proposition was common ground. Where the parties differed, was as to the degree of causal proximity required of the peril insured against the incurring of the expenses in question; how immediate does the risk of loss have to be?\(^\text{98}\). Rix J. explained that both right and duty are intended to operate not only where a peril has begun to operate, but also where it threatens to do so. The duty does not arise until a peril is at any rate imminent; it is a duty which arises in response to a

\(^{95}\) S.80 of the Act actually imposes such a duty on the insured.

\(^{96}\) For examples of how the courts have interpreted this requirement, see Stad et al. v. Firemans Fund Insurance Co. et al. [1979] ILR. 1-1070 (BCSC), and Suo v. Openshaw Simmons Ltd. et al. [19781 ILR. 1-982 (SC).

\(^{97}\) [1997] LRLR 523

\(^{98}\) Gilman and Merkin, supra, note 24, at p 1145.
casualty, actual or imminent. The right to recover sue and labour expenses and the statutory duty are in this respect correlative.\footnote{State of the Netherlands v Youvell [1997] 2 Lloyd’s Rep 440, 458, at 547.}

Recently in \textit{The Nore Challenger}\footnote{[2005] 2 Lloyd’s Rep 534.}, Cooke J. stated that “it is trite law that the duty operates when the peril has arisen or is imminent, when the vessel is “in the grip of a peril”.

In \textit{Universal Sales, Limited et al. v Edinburgh Assurance Co. Ltd. et al.}\footnote{2012 FC 418 [The “Irving Whale”].}, the Federal Court of Canada held that sue and labour costs could not be recovered where said costs could not benefit the underwriters.

On September 7th 1970, the Irving Whale set sail from Halifax, bound for Bathurst, New Brunswick. Unfortunately, she sunk and remained below the surface for nearly 26 years. The Crown monitored the situation over the years and, from time to time, took remedial steps such as blocking vents from which oil was escaping. Seepage was nonetheless observed. It became apparent that sooner or later, the vessel would corrode and break up, releasing well over 3,000 m.t. of oil to the great prejudice of the marine habitat, the shoreline and to those dependant upon the sea and shore. The insured were put on notice that they would be held accountable for the cost of raising the Irving Whale and neutralizing both her and her cargo. They were provided with reports indicating the estimated costs, in excess of $21,000,000. The insured offered to cooperate by providing, standby assistance during refloating and then by taking the Irving Whale in hand, cleaning her and disposing of the pollutants. The insured made a claim for sue and labour, which the underwriters contested. Justice Harrington explained:

\[\ldots\text{where a marine policy contains a sue and labour clause, there is in fact supplementary insurance so that the insured may recover expenses properly incurred even if the underwriter has paid for a total loss. An insured is duty bound to take “such measures as are reasonable for the purpose of averting or diminishing a loss under the marine policy.}\]

\[\text{The insertion of a sue and labour clause is thus to the benefit of the underwriters. The quid pro quo is that the insured will be indemnified for expenses reasonably incurred which had the potential of benefitting the underwriter.”}\footnote{Ibid at paras 27 and 28.}

In the case at issue, the underwriters’ liability insurance coverage was limited to $5,000,000. Estimated costs of preventive measures and cargo extraction were in excess of $21,000,000. Consequently, sue and labour expenses incurred by the Irving Group could not possibly have benefitted the underwriters. The sue and labour claim was thus dismissed.
E. CHANGE OF OWNERSHIP

The importance that underwriters place on being kept informed of any change in the risk underwritten is reflected in change of ownership clauses, standard to most hull policies. The management of a vessel is an extremely important factor in assessing hull risks, the sale of a vessel or termination clause provides that coverage will cease if there is a change in the vessel's classification, ownership, flag of registry, charter, or management.

The Institute Time Clauses (Hulls) policy, for example, contains a provision which states the following:

Unless the Underwriters agree to the contrary in writing, this insurance shall terminate automatically at the time of:

4.2 any change, voluntary or otherwise, in the ownership or flag, transfer to new management, or charter on a bareboat basis, or requisition for title or use of the Vessel, provided that, if the Vessel has cargo on board and has already sailed from her loading port or is at sea in ballast, such automatic termination shall if required be deferred, whilst the Vessel continues her planned voyage, until arrival at final port of discharge if with cargo or at port of destination if in ballast. However, in the event of requisition for title or use without the prior execution of a written agreement by the Assured, such automatic termination shall occur fifteen days after such requisition whether the Vessel is at sea or in port.

A "change of management" would seem to infer a change of the firm or corporation exercising control over the vessel.

The American Institute Hull policy, at lines 270 and following, provides a similar provision to the one cited above. However, it does specify that:

The term "new management" as used above refers only to the transfer of the management of the vessel from one firm or corporation to another, and it shall not apply to any internal changes within the offices of the Assured.

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103 See I.T.C. (Hulls), s. 4.2; also see American Institute Hull policy, “Change of Ownership” clause.
104 The International Hull Clauses (2003) essentially follow this provision: see Clause 14.1
105 AIHC lines 283 and 284; The Canadian Great Lakes Hull Clauses is to the same effect.
III. CARGO COVERAGE

General Hull and Machinery policies explored above do not provide coverage with respect to cargo. Most collision liability clauses even explicitly exclude claims in respect of "cargo or other property on, or the engagements of, the insured Vessel". Cargo insurance is provided for in specific policies. Cargo coverage insures against perils of the sea likely to cause loss or damage to cargo. The most common clauses are the London Institute Cargo Clauses (A), perhaps most commonly known as an "All Risks" policy, which provide the broadest coverage and are discussed below. Institute Cargo Clauses “B” clauses offer “named perils” coverage against a narrower range of risks and the C clauses offer similar coverage against still narrower risks. There are exclusions common to all three sets of clauses, and some additional exclusions found in the B and C clauses which are not found in the A clauses.

Clause 1 of the London Institute (Cargo) (A) policy states:

This insurance covers all risks of loss of or damage to the subject-matter insured except as provided in Clauses 4, 5, 6, and 7 below.

Even when such broad wording applies, however, the burden of proof is on the assured to demonstrate that the loss was proximately caused by a "marine risk". Also, cases on this point have made it quite clear that "risk" must involve a fortuitous accident or casualty. Lord Birkenhead L.C., in British & Foreign Marine Insurance Co. Ltd. v. Gaunt, stated:

These words ("all risks") cannot be held to cover all damage however caused, for such damage as is inevitable from ordinary wear and tear and inevitable depreciation is not within the policies. Damage, if it is to be covered by policies such as these, must be due to some fortuitous circumstance or casualty.

There are, of course, limits to “all-risks”. They are risks and risks insured against. Accordingly, the expression does not cover

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106 ITC (Hulls) Clause 8.4.3.
107 Gilman and Merkin, supra, note 24.
108 See, for example, the London Institute Cargo Clauses (A) policy, at Appendix F. More restricted cargo coverage is provided for in the London Institute Cargo Clauses (B) and (C).
109 Gilman and Merkin, supra, note 24, at p 240.
110 The exceptions deal with subjects such as wilful misconduct of the assured, loss caused by delay or ordinary wear and tear, ordinary leakage and breakage, and inherent vice.
111 See Star-Rite International Food Inc. v Maritime Insurance Co. Ltd., unreported, June 10, 1986 (Ont CA).
112 May, supra, note 20 at 168.
113 (1921) 2 AC 41 (HL).
inherent vice or mere wear and tear. It covers a risk, not a certainty; it is something, which happens to the subject-matter from without, not the natural behaviour of the subject-matter, being what it is, in the circumstances under which it is carried.\textsuperscript{114}

This is echoed more recently by Justice Lowry of the British Columbia Court of Appeal in\textit{Nelson Marketing International Inc v. Royal & SunAlliance Insurance Co. of Canada}\textsuperscript{115}

An “all-risks” policy of marine insurance affords the insured an indemnity against loss caused by a broad range of events. But it is fundamental to the coverage that the cause of the loss be a true accident or casualty. It must be fortuitous.

“All risks” policies are not subject to any ejusdem generis limitation. Goods insured against all risks are in effect, and subject to any express exclusion in the policy […]\textsuperscript{116}

The main risks covered by the “A” clauses are: all risks of loss or damage to the insured property, general average and salvage charges in relation to the cargo; any liability of the insured under a “both to blame collision” clause in the contract of affreightment.

The principle exclusions under the “A” clauses are: loss caused by the wilful misconduct of the insured; ordinary wear and tear, loss attributable to insufficiency of packing or preparation of the subject matter insured; loss damage or expense caused by the inherent vice of the insured property; damage proximately caused by delay; loss due to the financial default of the owners or operators of the vessel; loss from any weapon of war employing atomic fission; loss caused by was and strike risks; and loss arising from unseaworthiness of the vessel or craft where the insured or their servants are privy to the unseaworthiness.

To succeed on a claim under an “all risks” cargo policy, the insured must establish, by direct evidence or by an inference to be drawn from available evidence, that an external fortuitous occurrence caused the deterioration of the cargo as distinct from the cargo having simply succumbed to the ordinary incidents of the voyage because of the cargo’s inherent nature or susceptibility.\textsuperscript{117}

In \textit{Feuilletault Solution Systems Inc. v Zurich Canada et al.}\textsuperscript{118}, the Federal Court of Canada analysed the issue of whether a Plaintiff met his burden of proving that the loss

\textsuperscript{114} More recently cited by Madam Justice Gauthier in \textit{Feuilletault Solution Systems Inc. v Zurich Canada et al}, infra, note 118.
\textsuperscript{115} 2006 BCCA 327 [\textit{Nelson Marketing}] at para 9
\textsuperscript{116} Gilman and Merkin, supra, note 24, at p 1058.
\textsuperscript{117} \textit{Nelson Marketing}, supra, note 114, at para 13.
\textsuperscript{118} 2011 FC 260.
occurred through such a fortuity. The Plaintiff brought an action against its marine
insurers under an all risk policy for damage to forty units of Thomas II machines
shipped to Germany in three separate containers. Unfortunately for the plaintiff, the
action failed, as there was nothing to suggest that “any untoward or unusual event of
any kind caused the condensation to occur inside the containers. The weather was not
unusually bad or unusually humid or unusually hot or cold at any point during the
insured transit. It has not been established that there was anything unusual about the
containers themselves. There is no evidence of any ingress of water of any unusual
intake of humid air inside these containers during the insured transit”. In dismissing
the Feuitault claim, Madam Justice Gauthier (now of the Federal Court of Appeal) also
relied upon the decisions of Lord Birkenhead in *Nelson Marketing* and Justice Lowry in
*Allianz*.

**IV. PROTECTION AND INDEMNITY COVER**

Protection and indemnity (P&I) insurance originated in England in the mid-nineteenth
century. It provides third-party liability coverage that evolved in part from the mutual
protection system offered by the early hull clubs, and partly in response to the increases
in liability faced by shipowners. P&I Clubs were introduced to cover risks such as the one-quarter-collision liability and
liability for death and personal injury.

A Protection and Indemnity Club (P&I Club) is an association composed of shipowners to
insure risks on a mutual basis. These are basically liabilities of the shipowner to others or
expenses unintentionally incurred by the shipowner in running its vessel(s).

The *Act* applies to mutual insurance, which s. 89(1) defines as insurance “whereby two or
more persons mutually agree to insure one another against marine losses”. P&I Clubs fall
within this definition. However, the provisions of the *Act* relating to premiums do not
apply. Further, a P&I Club may derogate from the *Act*, to the extent that its provisions
may be modified by agreement of the parties to the insurance.

P&I insurance is subject to the articles of association and the rules of the particular
association/Club. Knowledge of the rules by which a member of an association has
agreed to be bound will be imputed to him.

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119 For a good overview of P&I Clubs, see Hill, Robertson & Hazelwood, *An Introduction to P&I*, 1988,
Lloyd's of London Press Inc, New York, USA.
121 Although s.89(1) of the *Act* does not correctly describe the existing system of so-called mutual insurance; it is
the associations, not the members, who are the insurers.
122 Supra, note 1, s.89(3).
123 Ibid., s.89(4).
124 *Turnbull v. Woolfe* (1862) LT (NS) 483.
A. **RISKS COVERED BY P&I RULES**

[References refer to example provisions in the U.K. P&I Club Rules (see Appendix C)]

1. **Loss of life, personal injury, illness of seamen** [Rule 2, ss.2,3]

P&I Clubs distinguish between seamen and others for policy purposes.

Seamen are indemnified in respect of compensation or damages for which shipowners have a liability to pay as a result of injury or death of any seaman, as well as hospital, medical, funeral and other expenses necessarily incurred in relation to such injury or death, including expenses of repatriating the seaman and sending abroad a substitute to replace him.

It is provided, however, that any such costs or expenses incurred under terms of employment and would not have arisen but for those terms are not held covered unless and to the extent that those terms had received the prior approval of the club managers.

2. **Personal effects** [Rule 2, s.1(c)(iii)]

The Clubs will provide coverage to a member who has incurred a liability due to a claim for loss of or damage to personal effects of crew or others, but this does not include cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature, unless there has been prior agreement between the member and the managers.

3. **Diversion Expenses** [Rule 2, s.7]

When a ship is diverted from its contractual routing, it may be justified under maritime law when it is done in an attempt to save life, or for some similar humanitarian reason, whether the life to be saved is on board the diverted vessel or not. In so far as the expenses are reasonably incurred for such a reason, ordinarily Club cover will allow recovery by a member for expenses in the nature of fuel, insurance, wages, stores, provisions and port charges.

4. **Fines** [Rule 2, s.22]

The coverage provided under this heading targets fines imposed by a court, tribunal or authority. This rule provides that the fine which is the subject of recovery from the Club must have been imposed upon the member; if it is imposed on an agent or seamen, it must be a fine for which the member is liable to reimburse that person.

Fines resulting from the wilful misconduct of a seamen will only be reimbursed if either the member is obliged by law to pay such a fine or had reasonably paid the fine in order to obtain the release from arrest of the entered vessel or any other vessel which he owns. It should be noted that fines resulting from overloading are often specifically excluded from this cover.
5. **Oil Pollution** [Rule 2, s.12]

Coverage is provided for the following liabilities, losses, damages, costs and expenses set out below when and to the extent that they are caused by or incurred in consequence of the discharge from an entered ship of oil or any other substance, or the threat thereof:

- liability for loss, damage or contamination; any loss, damage or expense which the Owner incurs, or for which he is liable, as a party to any agreement approved by the Directors, including the costs and expenses incurred by the Owner in performing his obligations under such agreements;

- the costs of any measures reasonably taken for the purpose of avoiding or minimizing pollution or any resulting loss or damage together with any liability for loss of or damage to property caused by measures so taken;

- the costs of any measures reasonably taken to prevent an imminent danger of the discharge or escape from the entered ship of oil or any substance which may cause pollution;

- the costs or liabilities incurred as a result of compliance with any order or direction given by any government or authority, for the purpose of preventing or reducing pollution or the risk of pollution, provided that such compliance is not a requirement for the normal operation of the ship, and that such costs are not recoverable under the vessel’s hull policy.

Provided however, that there is no recovery for any liability arising as a consequence of the presence in, or the escape or discharge from, or threat of escape or discharge from, any land-based dump, storage or disposal facility, of any substance previously carried on the entered ship, whether or not as cargo, fuel, stores or waste, except to the extent that the Directors in their discretion, and without having to give any reasons for their decisions, otherwise determine.

Also, liability recoverable in General Average if the cargo of the ship had been carried on terms no less favourable to the Owner than those of the York-Antwerp Rules 1994 will not be reimbursed, unless special cover has been agreed to.

This rule also provides that the Owner of an entered ship shall be a party to the Small Tanker Oil Pollution Indemnification Agreement 2006 (STOPIA 2006) for the period of entry of such ship in the Association. Further, the Owner of an entered ship which is a “relevant ship” as defined by the Tanker Oil Pollution Indemnification Agreement (TOPIA) shall be a party to Topia for the period of entry of such ship in the Association.

6. **Collisions** [Rule 2, s.10]

Coverage is provided for collisions to the extent that such liability is not recoverable under the collision liability clauses contained in the hull policy of the entered ship.
Hull coverage usually extends only to 3/4 of the damages payable to other vessels or to third parties, e.g. the owner of a cargo carried in the other vessel. The assumption was that the owner would remain self-assured for the last 1/4, but with the extent and value of liabilities increasing, even 1/4 has become more than the average owner could reasonably bear for his own account. It was by associating together to mutually insure each other against this 1/4 risk that shipowners formed the mutual Clubs.

In addition to the 1/4 collision coverage, the Clubs give protection against the exposure to excess liability. In simple terms, this means that if a small ship with only a modest insured value collides with and heavily damages a much larger ship thus incurring collision liability very disproportionate to its own insured value, the Clubs will accept that balance over and above the 3/4 of insured value. In order to benefit from excess liability cover, however, the insured vessel must be insured for its realistic value (i.e. it must not be under-insured). The P&I Clubs offer full 4/4ths coverage with respect to risks arising from collision that are wholly excluded from the 3/4ths hull coverage: 1) raising, removal of wrecks, cargoes and any other thing whatsoever; 2) any real or personal property except other ships or vessels; 3) the cargo or other property on the entered ship, or general average contributions, special charges or salvage paid by the owners of that cargo or property; 4) loss of life, personal injury, repatriation or substitution expenses; 5) pollution or contamination; 6) remuneration paid, pursuant to the Special Compensation P&I Club (SCOPIC), in respect of the salvage of a ship with which the entered ship is in collision.

7. **Non-Contact Damage**
Whether or not non-contact or "wash" damage is covered depends on the particular Club. Some Clubs have clear collision rules, but have no rules specifically directed toward wash damage. Rather, such Clubs may have a rule which deals with "property not on board an entered ship". One might assume that wash damage would fall under such a rule. Other Clubs have clear and specific rules providing for coverage of liability arising from non-contact damage to ships.

8. **Life Salvage [Rule 2, s.9]**
Sums legally due to third parties by reason of the fact that they have saved or attempted to save the life of any person on or from an entered ship but only if and to the extent that such payments are not recoverable under the hull policy of the entered ship or from cargo underwriters.

9. **Stowaways and Refugees [Rule 2, s.8]**
Expenses, other than those covered under as Diversion Expenses, incurred by the Owner in discharging his obligations towards or making necessary arrangements for stowaways or refugees, but only if and to the extent that the Owner is legally liable for the expenses or they are incurred with the approval and agreement of the Managers.

10. **Quarantine [Rule 2, s.16]**
Expenses incurred by the Owner of an entered ship as a direct consequence of an outbreak of infectious disease on that ship, including quarantine and disinfection expenses and the net loss to the Owner (over and above such expenses as would have been incurred but for
the outbreak) in respect of the cost of fuel, insurance, wages, stores, provisions and port charges.

11. **Damage to fixed/movable property** [Rule 2, s.11]
If a member's vessel strikes and damages an object other than a ship, the Club bears the full risk because this sort of collision is excluded from the 3/4 collision liability clause in general hull policies. This rule would include damage to any harbour, dock, pier, jetty, structure, buoy, submarine or other cable fixed or movable object including land or property thereon not being a ship. An example of a movable object would be a shore crane running along a wharf.

12. **Cargo** [Rule 2, s.17]

The risk of loss or damage to cargo was the first "indemnity" risk to be covered by the clubs, when ship-owners realized that protecting clauses in a contract of carriage were not necessarily overall protection from attack by cargo interests and that indemnity insurance was at least advantageous, if not wholly necessary.

Coverage provided by P&I Clubs in this respect may be described as liabilities or unrecoverable expenditure together with costs or expenses connected with such liabilities in respect of cargo intended to be, being or having been carried in an entered ship arising out of a breach of a member's obligations or duties as a carrier of those goods or by any persons for whose acts, neglects or defaults the member is vicariously liable.

A common restriction on members whose vessels carry cargo is that the contract of carriage entered into with the shippers must be on terms no less favourable to him than the Hague-Visby Rules.

Also, the member may not deviate from the contract of carriage so as to commit a flagrant breach, or perhaps abuse, of the terms and conditions of carriage. For example, a member may not place cargo on deck while issuing an under-deck bill of lading.

Other exclusions to cargo cover arise when a member delivers cargo without production of the relevant original bill of lading or issues a bill of lading containing a false description or date. Clubs also require that refrigerated cargo spaces and apparatuses be inspected just prior to the carrying voyage. The managers may also require that the member give advance information as to the conditions of carriage, shippers' instructions for stowage and so forth.

13. **Unrecoverable general average contributions** [Rule 2, s.19]

This head of risk covers general average, special charges or salvage which a member would be entitled to claim from cargo or cargo interests, but is prevented from doing so solely by reason of breach of the contract of carriage (e.g. a breach such as unseaworthiness of the vessel which might otherwise prevent recovery of a general average contribution). Such a breach would entitle the cargo interests to refuse to pay general average contributions or
similar charges. Insofar as this example is concerned, however, it should be recognized that section 37(4) of the Act specifically provides that where a ship is sent to sea in an unseaworthy state with the privity of the insured, the insurer is not liable for any loss attributable to that unseaworthiness.

14. **Ship's proportion of general average** [Rule 2, s.20]
The Clubs indemnify members in respect of the entered ship's proportion of general average, special charges for salvage not recoverable under the hull policy by reason of the value of the ship being assessed for contribution to general average and salvage at a sound value in excess of the insured value under the hull policy. For the purpose of assessing any sum recoverable under this head, determine the proper value for which the entered ship should have been insured under its hull policy and the Club will only pay the amount of the ship's proportion which would have been recoverable under the hull policy even if the ship had been insured there under at such a value.

15. **Towage contracts** [Rule 2, s.13]
P&I Clubs generally provide coverage, to the extent that the owner is not already covered under its hull policy, for the customary towage of an entered ship, that is to say towage for the purpose of entering or leaving port or manoeuvring within the port during the ordinary course of trading. Towage of entered ships as are habitually towed in the ordinary course of trading from port to port or from place to place is also considered customary. Liability arising from non-customary contracts of towage will be covered by the Clubs to the extent that the contract has already been approved by the Clubs' managers. In the same vein, liability arising out of a pre-approved contract of towage of another ship or object by an entered ship will be covered, subject to the Clubs' directors deciding that the claim falls within the scope of Club coverage and that the owner should be reimbursed.

16. **Wreck of the entered vessel** [Rule 2, s.15]
Clubs also cover costs or expenses relating to the raising, removal, destruction, lighting or marking of the wreck of an entered vessel. The member is also covered against liabilities which may be incurred from the presence or involuntary shifting of the wreck or as a result of the failure to remove, destroy, light or mark such a wreck, or even a liability because of the escape of oil from the wreck. The Club will accept liability where the wreck became a wreck outside the vessel's period of insurance with the Club, but only where the casualty or event which caused the vessel to become a wreck occurred during the vessel's period of entry with the Club.

17. **Sue and labour expenses** [Rule 2, s.25]
Every P&I Club under its ordinary cover will allow a member to recover extraordinary costs and expenses reasonably incurred after the occurrence of a casualty for the purposes of avoiding or minimising any liabilities, costs or expenses against which the member is insured within such ordinary cover. Legal costs may also be recovered, but only insofar as prior written notice may be given to the Club and the Club in turn may have given approval of the same being incurred.
18. **The "Omnibus Rule" [Rule 2, s.24]**
This is, in essence, a "catch-all" provision which provides that if possible a member's claim should be brought within the cover, even though it does not fall neatly into one of the specifically listed risks; such claims are classified as being for "expenses incidental to the operation of ships". The P&I Clubs' attitude in this respect is in marked contrast to the market attitude that only specifically mentioned claims will be afforded coverage. However, it still remains that the application of the omnibus rule is entirely dependent upon the discretion of the Club directors' committee.

B. **EXCEPTIONS AND LIMITATIONS TO P&I COVER**

1. **Deductibles [Rule 2, Appendix B]**
The first form of limitation on Club cover is the practice of imposing deductibles on initial amounts of money which are to be borne by the member for his own account in respect of any one claim settlement. Deductibles are either set by the Club or at the instigation of the member when seeking either original entry into the Club or seeking to renew its membership.

2. **Member's wilful misconduct**
All Clubs will, in one way or another, expressly exclude liability to effect a recovery which is the direct consequence of an act of wilful misconduct. For example, the Statutes and Rules of the Assuranaforeningen Gard and Gard P&I (Bermuda) Ltd., 2012, state the following:

**Rule 24.**

2. The Association may also terminate the insurance of any or all of the Ships entered by a member:

   a. without notice, where a casualty or other event has been brought about by wilful misconduct on the part of the member, as defined in Rule 72;

**Rule 72.**

The Association shall not cover any liabilities, losses, costs or expenses arising or incurred in circumstances where there has been a wilful misconduct on the part of the Member, such misconduct being an act intentionally done, or a deliberate omission by the Member, with knowledge that the performance or omission will probably result in injury, or an act done or omitted in such a way as to allow an inference of a reckless disregard of the probable consequences.
3. **Damage to the entered ship or its equipment** [Rule 5(G)(i),(ii)]

P&I insurance is to be contrasted with property insurance. To cover physical loss or damage to the vessel would be duplicating hull insurance. Similarly, it is up to the member to insure his own equipment through some form of property insurance.

4. **Demurrage or delay to entered ship** [Rule 5(G)(viii)]

Contractual demurrage is an arrangement worked out, calculated, agreed and inserted as a provision in a charter-party before a voyage even commences. It comes, therefore, under the category of a commercial risk not only taken, but actually guarded against, and provided for before the event takes place and the penalty is invoked.

5. **Freight or Hire** [Rule 5(G)(iv)]

Freight\(^{125}\) or hire is not recoverable from a P&I Club; there are other specialist clubs (Freight, Demurrage and Defence Associations, which are known as F.D.& D. clubs) which provide such coverage.

6. **Cancellation of Charter** [Rule 5(G)(vi)]

Losses falling under this category are assimilated to normal "business risks" which are taken with eyes open and are akin to bad debts, insolvency and bankruptcy. This is neither a traditional nor a logical P&I risk.

7. **Salvage operations** [Rule 5(G)(v)]

Clubs are reluctant to accept into membership salvors for those liabilities which arise from their activities as professional salvors rather than from their activities as traditional tug owners. This reluctance springs from respect for pooling agreements\(^{126}\) and the desire not to inflict upon pool members claims of a significant size\(^{127}\) and a non-traditional nature.

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\(^{125}\) "Freight", as defined at s.2 of the *Act*, includes "the profit derivable by a shipowner from the use of the shipowner’s goods or movables and freight payable by a third party, but does not include passenger fares.

\(^{126}\) This is an agreement between the Association and any other Association or insurer whereby the parties undertake to share in agreed proportions the burden of the claims or outgoings (above an agreed retention) of the insurance business of each of them. See UK P&I Club Rule 44.

\(^{127}\) For an example of a salvor's liabilities arising from the negligent act of an employee, see *The "Tojo Maru"*, (1971) 1 LLR 341.
APPENDIX A

London Institute Time Clauses (Hulls)
INSTITUTE TIME CLAUSES
HULLS
This insurance is subject to English law and practice

1. NAVIGATION

1.1 The vessel is covered subject to the provisions of this insurance at all times and has leave to sail or navigate with or without pilots, to go on trial trips and to assist and tow vessels or craft in distress, but it is warranted that the vessel shall not be towed, except as is customary or to the first safe port or place when in need of assistance, or undertake towage or salvage services under a contract previously arranged by the Assured and/or Owners and/or Managers and/or Charterers. This Clause 1.1 shall not exclude customary towage in connection with loading and discharging.

1.2 In the event of the vessel being employed in trading operations which entail cargo loading or discharging at sea from or into another vessel (not being a harbour or inshore craft) no claim shall be recoverable under this insurance for loss of or damage to the vessel or liability to any other vessel arising from such loading or discharging operations, including whilst approaching, lying alongside and leaving, unless previous notice that the vessel is to be employed in such operations has been given to the Underwriters and any amended terms of cover and any additional premium required by them have been agreed.

1.3 In the event of the vessel sailing (with or without cargo) with an intention of being (a) broken up, or (b) sold for breaking up, any claim for loss of or damage to the vessel occurring subsequent to such sailing shall be limited to the market value of the vessel as scrap at the time when the loss or damage is sustained, unless previous notice has been given to the Underwriters and any amendments to the terms of cover, insured value and premium required by them have been agreed. Nothing in this Clause 1.3 shall affect claims under Clauses 8 and/or 11.

2. CONTINUATION

Should the vessel at the expiration of this insurance be at sea or in distress or at a port of refuge or of call, she shall, provided previous notice be given to the Underwriters, be held covered at a pro rata monthly premium to her port of destination.

3. BREACH OF WARRANTY

Held covered in case of any breach of warranty as to cargo, trade, locality, towage, salvage services or date of sailing, provided notice be given to the Underwriters immediately after receipt of advices and any amended terms of cover and any additional premium required by them be agreed.

4. TERMINATION

This Clause 4 shall prevail notwithstanding any provision whether written typed or printed in this insurance inconsistent therewith.

Unless the Underwriters agree to the contrary in writing, this insurance shall terminate automatically at the time of

4.1 change of the Classification Society of the vessel, or change, suspension, discontinuance, withdrawal or expiry of her Class therein, provided that if the vessel is at sea such automatic termination shall be deferred until arrival at her next port. However where such change, suspension, discontinuance or withdrawal of her Class has resulted from loss or damage covered by Clause 6 of this insurance or which would be covered by an insurance of the vessel subject to current Institute War and Strikes Clauses Hulls-Time such automatic termination shall only operate should the vessel sail from her next port without the prior approval of the Classification Society,
4.2 any change, voluntary or otherwise, in the ownership or flag, transfer to new management, or
charter on a bareboat basis, or requisition for title or use of the vessel, provided that, if the
vessel has cargo on board and has already sailed from her loading port or is at sea in ballast,
such automatic termination shall if required be deferred, whilst the vessel continues her
planned voyage, until arrival at final port of discharge if with cargo or at port of destination if in
ballast. However, in the event of requisition for title or use without the prior execution of a
written agreement by the Assured, such automatic termination shall occur fifteen days after
such requisition whether the vessel is at sea or in port.

A pro rata daily net return of premium shall be made.

5. ASSIGNMENT

No assignment of or interest in this insurance or in any moneys which may be or become payable
thereunder is to be binding on or recognised by the Underwriters unless a dated notice of such
assignment or interest signed by the Assured, and by the assignor in the case of subsequent
assignment, is endorsed on the Policy and the Policy with such endorsement is produced before
payment of any claim or return of premium thereunder.

6. PERILS

6.1 This insurance covers loss of or damage to the subject-matter insured caused by

6.1.1 perils of the seas rivers lakes or other navigable waters

6.1.2 fire, explosion

6.1.3 violent theft by persons from outside the vessel

6.1.4 jettison

6.1.5 piracy

6.1.6 breakdown of or accident to nuclear installations or reactors

6.1.7 contact with aircraft or similar objects, or objects falling therefrom, land conveyance,
dock or harbour equipment or installation

6.1.8 earthquake volcanic eruption or lightning.

6.2 This insurance covers loss of or damage to the subject-matter insured caused by

6.2.1 accidents in loading discharging or shifting cargo or fuel

6.2.2 bursting of boilers breakage of shafts or any latent defect in the machinery or hull

6.2.3 negligence of Master Officers Crew or Pilots

6.2.4 negligence of repairers or charterers provided such repairers or charterers are not an
Assured hereunder

6.2.5 barratry of Master Officers or Crew,

provided such loss or damage has not resulted from want of due diligence by the Assured,
Owners or Managers.

6.3 Master Officers Crew or Pilots not to be considered Owners within the meaning of this Clause
6 should they hold shares in the vessel.
7. POLLUTION HAZARD

This insurance covers loss of or damage to the vessel caused by any governmental authority acting under the powers vested in it to prevent or mitigate a pollution hazard, or threat thereof, resulting directly from damage to the vessel for which the Underwriters are liable under this insurance, provided such act of governmental authority has not resulted from want of due diligence by the Assured, the Owners, or Managers of the vessel or any of them to prevent or mitigate such hazard or threat. Master, Officers, Crew or Pilots not to be considered Owners within the meaning of this Clause 7 should they hold shares in the vessel.

8. 3/4THS COLLISION LIABILITY

8.1 The Underwriters agree to indemnify the Assured for three-fourths of any sum or sums paid by the Assured to any other person or persons by reason of the Assured becoming legally liable by way of damages for

8.1.1 loss of or damage to any other vessel or property on any other vessel
8.1.2 delay to or loss of use of any such other vessel or property thereon
8.1.3 general average of, salvage of, or salvage under contract of, any such other vessel or property thereon,

where such payment by the Assured is in consequence of the vessel hereby insured coming into collision with any other vessel.

8.2 The indemnity provided by this Clause 8 shall be in addition to the indemnity provided by the other terms and conditions of this insurance and shall be subject to the following provisions:

8.2.1 Where the insured vessel is in collision with another vessel and both vessels are to blame then, unless the liability of one or both vessels becomes limited by law, the indemnity under this Clause 8 shall be calculated on the principle of cross-liabilities as if the respective Owners had been compelled to pay to each other such proportion of each other's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Assured in consequence of the collision.

8.2.2 In no case shall the Underwriters' total liability under Clauses 8.1 and 8.2 exceed their proportionate part of three-fourths of the insured value of the vessel hereby insured in respect of any one collision.

8.3 The Underwriters will also pay three-fourths of the legal costs incurred by the Assured or which the Assured may be compelled to pay in contesting liability or taking proceedings to limit liability, with the prior written consent of the Underwriters.

EXCLUSIONS

8.4 Provided always that this Clause 8 shall in no case extend to any sum which the Assured shall pay for or in respect of

8.4.1 removal or disposal of obstructions, wrecks, cargoes or any other thing whatsoever
8.4.2 any real or personal property or thing whatsoever except other vessels or property on other vessels
8.4.3 the cargo or other property on, or the engagements of, the insured vessel
8.4.4 loss of life, personal injury or illness
8.4.5 pollution or contamination of any real or personal property or thing whatsoever (except other vessels with which the insured vessel is in collision or property on such other vessels).
9. SISTERSHIP

Should the vessel hereby insured come into collision with or receive salvage services from another vessel belonging wholly or in part to the same Owners or under the same management, the Assured shall have the same rights under this insurance as they would have were the other vessel entirely the property of Owners not interested in the vessel hereby insured; but in such cases the liability for the collision or the amount payable for the services rendered shall be referred to a sole arbitrator to be agreed upon between the Underwriters and the Assured.

10. NOTICE OF CLAIM AND TENDERS

10.1 In the event of accident whereby loss or damage may result in a claim under this insurance, notice shall be given to the Underwriters prior to survey and also, if the vessel is abroad, to the nearest Lloyd's Agent so that a surveyor may be appointed to represent the Underwriters should they so desire.

10.2 The Underwriters shall be entitled to decide the port to which the vessel shall proceed for docking or repair (the actual additional expense of the voyage arising from compliance with the Underwriters' requirements being refunded to the Assured) and shall have a right of veto concerning a place of repair or a repairing firm.

10.3 The Underwriters may also take tenders or may require further tenders to be taken for the repair of the vessel. Where such a tender has been taken and a tender is accepted with the approval of the Underwriters, an allowance shall be made at the rate of 30% per annum on the insured value for time lost between the despatch of the invitations to tender required by Underwriters and the acceptance of a tender to the extent that such time is lost solely as the result of tenders having been taken and provided that the tender is accepted without delay after receipt of the Underwriters' approval.

Due credit shall be given against the allowance as above for any amounts recovered in respect of fuel and stores and wages and maintenance of the Master Officers and Crew or any member thereof, including amounts allowed in general average, and for any amounts recovered from third parties in respect of damages for detention and/or loss of profit and/or running expenses, for the period covered by the tender allowance or any part thereof.

Where a part of the cost of the repair of damage other than a fixed deductible is not recoverable from the Underwriters the allowance shall be reduced by a similar proportion.

10.4 In the event of failure to comply with the conditions of this Clause 10 a deduction of 15% shall be made from the amount of the ascertained claim.

11. GENERAL AVERAGE AND SALVAGE

11.1 This insurance covers the vessel's proportion of salvage, salvage charges and/or general average, reduced in respect of any under-insurance, but in case of general average sacrifice of the vessel the Assured may recover in respect of the whole loss without first enforcing their right of contribution from other parties.

11.2 Adjustment to be according to the law and practice obtaining at the place where the adventure ends, as if the contract of affreightment contained no special terms upon the subject; but where the contract of affreightment so provides the adjustment shall be according to the York-Antwerp Rules.

11.3 When the vessel sails in ballast, not under charter, the provisions of the York-Antwerp Rules, 1974 (excluding Rules XX and XXI) shall be applicable, and the voyage for this purpose shall be deemed to continue from the port or place of departure until the arrival of the vessel at the first port or place thereafter other than a port or place of refuge or a port or place of call for bunkering only. If at any such intermediate port or place there is an abandonment of the adventure originally contemplated the voyage shall thereupon be deemed to be terminated.
11.4 No claim under this Clause 11 shall in any case be allowed where the loss was not incurred to avoid or in connection with the avoidance of a peril insured against.

12. DEDUCTIBLE

12.1 No claim arising from a peril insured against shall be payable under this insurance unless the aggregate of all such claims arising out of each separate accident or occurrence (including claims under Clauses 8, 11 and 13) exceeds [Response] in which case this sum shall be deducted. Nevertheless the expense of sighting the bottom after stranding, if reasonably incurred specially for that purpose, shall be paid even if no damage be found. This Clause 12.1 shall not apply to a claim for total or constructive total loss of the vessel or, in the event of such a claim, to any associated claim under Clause 13 arising from the same accident or occurrence.

12.2 Claims for damage by heavy weather occurring during a single sea passage between two successive ports shall be treated as being due to one accident. In the case of such heavy weather extending over a period not wholly covered by this insurance the deductible to be applied to the claim recoverable hereunder shall be the proportion of the above deductible that the number of days of such heavy weather falling within the period of this insurance bears to the number of days of heavy weather during the single sea passage.

The expression "heavy weather" in this Clause 12.2 shall be deemed to include contact with floating ice.

12.3 Excluding any interest comprised therein, recoveries against any claim which is subject to the above deductible shall be credited to the Underwriters in full to the extent of the sum by which the aggregate of the claim unreduced by any recoveries exceeds the above deductible.

12.4 Interest comprised in recoveries shall be apportioned between the Assured and the Underwriters, taking into account the sums paid by the Underwriters and the dates when such payments were made, notwithstanding that by the addition of interest the Underwriters may receive a larger sum than they have paid.

13. DUTY OF ASSURED (SUE AND LABOUR)

13.1 In case of any loss or misfortune it is the duty of the Assured and their servants and agents to take such measures as may be reasonable for the purpose of averting or minimising a loss which would be recoverable under this insurance.

13.2 Subject to the provisions below and to Clause 12 the Underwriters will contribute to charges properly and reasonably incurred by the Assured their servants or agents for such measures. General average, salvage charges (except as provided for in Clause 13.5) and collision defence or attack costs are not recoverable under this Clause 13.

13.3 Measures taken by the Assured or the Underwriters with the object of saving, protecting or recovering the subject-matter insured shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.

13.4 When expenses are incurred pursuant to this Clause 13 the liability under this insurance shall not exceed the proportion of such expenses that the amount insured hereunder bears to the value of the vessel as stated herein, or to the sound value of the vessel at the time of the occurrence giving rise to the expenditure if the sound value exceeds that value. Where the Underwriters have admitted a claim for total loss and property insured by this insurance is saved, the foregoing provisions shall not apply unless the expenses of saving and labouring exceed the value of such property saved and then shall apply only to the amount of the expenses which is in excess of such value.

13.5 When a claim for total loss of the vessel is admitted under this insurance and expenses have been reasonably incurred in saving or attempting to save the vessel and other property and there are no proceeds, or the expenses exceed the proceeds, then this insurance shall bear its pro rata share of such proportion of the expenses, or of the expenses in excess of the proceeds, as the case may be, as may reasonably be regarded as having been incurred in respect of the vessel; but if the vessel be insured for less than
its sound value at the time of the occurrence giving rise to the expenditure, the amount recoverable under this clause shall be reduced in proportion to the under-insurance.

13.6 The sum recoverable under this Clause 13 shall be in addition to the loss otherwise recoverable under this insurance but shall in no circumstances exceed the amount insured under this insurance in respect of the vessel.

14. NEW FOR OLD
Claims payable without deduction new for old.

15. BOTTOM TREATMENT
In no case shall a claim be allowed in respect of scraping gritblasting and/or other surface preparation or painting of the vessel's bottom except that

15.1 gritblasting and/or other surface preparation of new bottom plates ashore and supplying and applying any "shop" primer thereto,

15.2 gritblasting and/or other surface preparation of:
the butts or area of plating immediately adjacent to any renewed or refitted plating damaged during the course of welding and/or repairs,
areas of plating damaged during the course of fairing, either in place or ashore,

15.3 supplying and applying the first coat of primer/anti-corrosive to those particular areas mentioned in 15.1 and 15.2 above,

shall be allowed as part of the reasonable cost of repairs in respect of bottom plating damaged by an insured peril.

16. WAGES AND MAINTENANCE
No claim shall be allowed, other than in general average, for wages and maintenance of the Master, Officers and Crew, or any member thereof, except when incurred solely for the necessary removal of the vessel from one port to another for the repair of damage covered by the Underwriters, or for trial trips for such repairs, and then only for such wages and maintenance as are incurred whilst the vessel is under way.

17. AGENCY COMMISSION
In no case shall any sum be allowed under this insurance either by way of remuneration of the Assured for time and trouble taken to obtain and supply information or documents or in respect of the commission or charges of any manager, agent, managing or agency company or the like, appointed by or on behalf of the Assured to perform such services.

18. UNREPAIRED DAMAGE

18.1 The measure of indemnity in respect of claims for unrepaired damage shall be the reasonable depreciation in the market value of the vessel at the time this insurance terminates arising from such unrepaired damage, but not exceeding the reasonable cost of repairs.

18.2 In no case shall the Underwriters be liable for unrepaired damage in the event of a subsequent total loss (whether or not covered under this insurance) sustained during the period covered by this insurance or any extension thereof.

18.3 The Underwriters shall not be liable in respect of unrepaired damage for more than the insured value at the time this insurance terminates.
19. CONSTRUCTIVE TOTAL LOSS

19.1 In ascertaining whether the vessel is a constructive total loss, the insured value shall be taken as the repaired value and nothing in respect of the damaged or break-up value of the vessel or wreck shall be taken into account.

19.2 No claim for constructive total loss based upon the cost of recovery and/or repair of the vessel shall be recoverable hereunder unless such cost would exceed the insured value. In making this determination, only the cost relating to a single accident or sequence of damages arising from the same accident shall be taken into account.

20. FREIGHT WAIVER

In the event of total or constructive total loss no claim to be made by the Underwriters for freight whether notice of abandonment has been given or not.

21. DISBURSEMENTS WARRANTY

21.1 Additional insurances as follows are permitted:

21.1.1 Disbursements, Managers' Commissions, Profits or Excess or Increased Value of Hull and Machinery. A sum not exceeding 25% of the value stated herein.

21.1.2 Freight, Chartered Freight or Anticipated Freight, insured for time. A sum not exceeding 25% of the value as stated herein less any sum insured, however described, under 21.1.1

21.1.3 Freight or Hire, under contracts for voyage. A sum not exceeding the gross freight or hire for the current cargo passage and next succeeding cargo passage (such insurance to include, if required, a preliminary and an intermediate ballast passage) plus the charges of insurance. In the case of a voyage charter where payment is made on a time basis, the sum permitted for insurance shall be calculated on the estimated duration of the voyage, subject to the limitation of two cargo passages as laid down herein. Any sum insured under 21.1.2 to be taken into account and only the excess thereof may be insured, which excess shall be reduced as the freight or hire is advanced or earned by the gross amount so advanced or earned.

21.1.4 Anticipated Freight if the vessel sails in ballast and not under Charter. A sum not exceeding the anticipated gross freight on next cargo passage, such sum to be reasonably estimated on the basis of the current rate of freight at time of insurance plus the charges of insurance. Any sum insured under 21.1.2 to be taken into account and only the excess thereof may be insured.

21.1.5 Time Charter Hire or Charter Hire for Series of Voyages. A sum not exceeding 50% of the gross hire which is to be earned under the charter in a period not exceeding 18 months. Any sum insured under 21.1.2 to be taken into account and only the excess thereof may be insured, which excess shall be reduced as the hire is advanced or earned under the charter by 50% of the gross amount so advanced or earned but the sum insured need not be reduced while the total of the sums insured under 21.1.2 and 21.1.5 does not exceed 50% of the gross hire still to be earned under the charter. An insurance under this Section may begin on the signing of the charter.

21.1.6 Premiums. A sum not exceeding the actual premiums of all interests insured for a period not exceeding 12 months (excluding premiums insured under the foregoing sections but including, if required, the premium or estimated calls on any Club or War etc. Risk insurance) reducing pro rata monthly.

21.1.7 Returns of Premium. A sum not exceeding the actual returns which are allowable under any insurance but which would not be recoverable thereunder in the event of a total loss of the vessel whether by insured perils or otherwise.
21.1.8 Insurance irrespective of amount against:

Any risks excluded by Clauses 23, 24, 25 and 26 below.

21.2 Warranted that no insurance on any interests enumerated in the foregoing 21.1.1 to 21.1.7 in excess of the amounts permitted therein and no other insurance which includes total loss of the vessel P.P.I., F.I.A., or subject to any other like term, is or shall be effected to operate during the currency of this insurance by or for account of the Assured, Owners, Managers or Mortgagees. Provided always that a breach of this warranty shall not afford the Underwriters any defence to a claim by a Mortgagee who has accepted this insurance without knowledge of such breach.

22. RETURNS FOR LAY-UP AND CANCELLATION

22.1 To return as follows:

22.1.1 Pro rata monthly net for each uncommenced month if this insurance be cancelled by agreement.

22.1.2 For each period of 30 consecutive days the vessel may be laid up in a port or in a lay-up area provided such port or lay-up area is approved by the Underwriters (with special liberties as hereinafter allowed)

(a) (Response) per cent net not under repair

(b) (Response) per cent net under repair.

If the vessel is under repair during part only of a period for which a return is claimable, the return shall be calculated pro rata to the number of days under (a) and (b) respectively.

22.2 PROVIDED ALWAYS THAT

22.2.1 a total loss of the vessel, whether by insured perils or otherwise, has not occurred during the period covered by this insurance or any extension thereof

22.2.2 in no case shall a return be allowed when the vessel is lying in exposed or unprotected waters, or in a port or lay-up area not approved by the Underwriters but, provided the Underwriters agree that such non-approved lay-up area is deemed to be within the vicinity of the approved port or lay-up area, days during which the vessel is laid up in such non-approved lay-up area may be added to days in the approved port or lay-up area to calculate a period of 30 consecutive days and a return shall be allowed for the proportion of such period during which the vessel is actually laid up in the approved port or lay-up area

22.2.3 loading or discharging operations or the presence of cargo on board shall not debar returns but no return shall be allowed for any period during which the vessel is being used for the storage of cargo or for lightening purposes

22.2.4 in the event of any amendment of the annual rates, the above rates of return shall be adjusted accordingly

22.2.5 in the event of any return recoverable under this Clause 22 being based on 30 consecutive days which fall on successive insurances effected for the same Assured, this insurance shall only be liable for an amount calculated at pro rata of the period rates 22.1.2(a) and/or (b) above for the number of days which come within the period of this insurance and to which a return is actually applicable. Such overlapping period shall run, at the option of the Assured, either from the
first day on which the vessel is laid up or the first day of a period of 30
consecutive days as provided under 22.1.2(a) or (b), or 22.2.2 above.

The following clauses shall be paramount and shall override anything contained in this
insurance inconsistent therewith.

23. WAR EXCLUSION

In no case shall this insurance cover loss damage liability or expense caused by

23.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile
act by or against a belligerent power

23.2 capture seizure arrest restraint or detainment (barratry and piracy excepted), and the
consequences thereof or any attempt thereat

23.3 derelict mines torpedoes bombs or other derelict weapons of war.

24. STRIKES EXCLUSION

In no case shall this insurance cover loss damage liability or expense caused by

24.1 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil
commotions

24.2 any terrorist or any person acting from a political motive.

25. MALICIOUS ACTS EXCLUSION

In no case shall this insurance cover loss damage liability or expense arising from

25.1 the detonation of an explosive

25.2 any weapon of war

and caused by any person acting maliciously or from a political motive.

26. NUCLEAR EXCLUSION

In no case shall this insurance cover loss damage liability or expense arising from any weapon of
war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or
matter.
APPENDIX B

International Hulls Clauses (2003)
"These clauses are purely illustrative. Different policy conditions may be agreed. The specimen clauses are available to any interested person upon request. In particular:
(a) in relation to any clause which excludes losses from the cover, insurers may agree a separate insurance policy covering such losses or may extend the clause to cover such events;
(b) In relation to clauses making cover of certain risks subject to specific conditions each insurer may alter the said conditions."

(FOR USE WITH THE CURRENT MAR POLICY FORM)

INTERNATIONAL HULL CLAUSES (01/11/03)

PART 1 - PRINCIPAL INSURING CONDITIONS

1 GENERAL

1.1 Part 1, Clauses 32-36 of Part 2 and Part 3 apply to this insurance. Parts 2 and 3 shall be those current at the date of inception of this insurance. Clauses 37-41 of Part 2 shall only apply where the Underwriters have expressly so agreed in writing.

1.2 This insurance is subject to English law and practice.

1.3 This insurance is subject to the exclusive jurisdiction of the English High Court of Justice, except as may be expressly provided herein to the contrary.

1.4 If any provision of this insurance is held to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this insurance, which shall remain in full force and effect.

2 PERILS

2.1 This insurance covers loss of or damage to the subject-matter insured caused by

2.1.1 perils of the seas, rivers, lakes or other navigable waters

2.1.2 fire, explosion

2.1.3 violent theft by persons from outside the vessel

2.1.4 jettison

2.1.5 piracy

2.1.6 contact with land conveyance, dock or harbour equipment or installation

2.1.7 earthquake, volcanic eruption or lightning

2.1.8 accidents in loading, discharging or shifting cargo, fuel, stores or parts

2.1.9 contact with satellites, aircraft, helicopters or similar objects, or objects falling therefrom.

2.2 This insurance covers loss of or damage to the subject matter insured caused by
2.2.1 bursting of boilers or breakage of shafts but does not cover any of the costs of repairing or replacing the boiler which bursts or the shaft which breaks

2.2.2 any latent defect in the machinery or hull, but does not cover any of the costs of correcting the latent defect

2.2.3 negligence of Master, Officers, Crew or Pilots

2.2.4 negligence of repairers or charterers provided such repairers or charterers are not an Assured under this insurance

2.2.5 barratry of Master, Officers or Crew

provided that such loss or damage has not resulted from want of due diligence by the Assured, Owners or Managers.

2.3 Where there is a claim recoverable under Clause 2.2.1, this insurance shall also cover one half of the costs common to the repair of the burst boiler or the broken shaft and to the repair of the loss or damage caused thereby.

2.4 Where there is a claim recoverable under Clause 2.2.2, this insurance shall also cover one half of the costs common to the correction of the latent defect and to the repair of the loss or damage caused thereby.

2.5 Master, Officers, Crew or Pilots shall not be considered Owners within the meaning of Clause 2.2 should they hold shares in the vessel.

3 LEASED EQUIPMENT

3.1 This insurance covers loss of or damage to equipment and apparatus not owned by the Assured but installed for use on the vessel and for which the Assured has assumed contractual liability, where such loss or damage is caused by a peril insured under this insurance.

3.2 The liability of the Underwriters shall not exceed the lesser of the contractual liability of the Assured for loss of or damage to such equipment or apparatus or the reasonable cost of their repair or their replacement value. All such equipment and apparatus are included in the insured value of the vessel.

4 PARTS TAKEN OFF

4.1 This insurance covers loss of or damage to parts taken off the vessel, where such loss or damage is caused by a peril insured under this insurance.

4.2 Where the parts taken off the vessel are not owned by the Assured but where the Assured has assumed contractual liability for such parts, the liability of the Underwriters for such parts taken off shall not exceed the lesser of the contractual liability of the Assured for loss of or damage to such parts or the reasonable cost of their repair or their replacement value.

4.3 If at the time of loss of or damage to the parts taken off the vessel, such parts are covered by any other insurance or would be so covered but for this Clause 4, then this insurance shall only be excess of such other insurance.

4.4 Cover in respect of parts taken off the vessel shall be limited to 60 days whilst not on
board the vessel. Periods in excess of 60 days shall be held covered provided notice is
given to the Underwriters prior to the expiry of the 60 day period and any amended
terms of cover and any additional premium required are agreed.

4.5 In no case shall the total liability of the Underwriters under this Clause 4 exceed 5%
of the insured value of the vessel.

5 POLLUTION HAZARD

This insurance covers loss of or damage to the vessel caused by any governmental
authority acting under the powers vested in it to prevent or mitigate a pollution hazard
or damage to the environment or threat thereof, resulting directly from damage to the
vessel for which the Underwriters are liable under this insurance, provided that such
act of governmental authority has not resulted from want of due diligence by the
Assured, Owners or Managers to prevent or mitigate such hazard or damage or threat
thereof. Master, Officers, Crew or Pilots shall not be considered Owners within the
meaning of this Clause 5 should they hold shares in the vessel.

6 3/4THS COLLISION LIABILITY

6.1 The Underwriters agree to indemnify the Assured for three fourths of any sum or
sums paid by the Assured to any other person or persons by reason of the Assured
becoming legally liable by way of damages for

6.1.1 loss of or damage to any other vessel or property thereon

6.1.2 delay to or loss of use of any such other vessel or property thereon

6.1.3 general average of, salvage of, or salvage under contract of, any such other
vessel or property thereon,

where such payment by the Assured is in consequence of the insured vessel coming
into collision with any other vessel.

6.2 The indemnity provided by this Clause 6 shall be in addition to the indemnity
provided by the other terms and conditions of this insurance and shall be subject to
the following provisions

6.2.1 where the insured vessel is in collision with another vessel and both vessels
are to blame then, unless the liability of one or both vessels becomes limited
by law, the indemnity under this Clause 6 shall be calculated on the principle
of cross-liabilities as if the respective Owners had been compelled to pay to
each other such proportion of each other's damages as may have been
properly allowed in ascertaining the balance or sum payable by or to the
Assured in consequence of the collision

6.2.2 in no case shall the total liability of the Underwriters under Clauses 6.1 and
6.2 exceed their proportionate part of three fourths of the insured value of the
insured vessel in respect of any one collision.

6.3 The Underwriters shall also pay three fourths of the legal costs incurred by the
Assured or which the Assured may be compelled to pay in contesting liability or
taking proceedings to limit liability, provided always that their prior written consent
to the incurring of such costs shall have been obtained and that the total liability of
the Underwriters under this Clause 6.3 shall not (unless the Underwriters' specific
written agreement shall have been obtained) exceed 25% of the insured value of the insured vessel.

EXCLUSIONS

6.4 In no case shall the Underwriters indemnify the Assured under this Clause 6 for any sum, which the Assured shall pay for or in respect of

6.4.1 removal or disposal of obstructions, wrecks, cargoes or any other thing whatsoever

6.4.2 any real or personal property or thing whatsoever except other vessels or property on other vessels

6.4.3 the cargo or other property on, or the engagements of, the insured vessel

6.4.4 loss of life, personal injury or illness

6.4.5 pollution or contamination, or threats thereof, of any real or personal property or thing whatsoever (except other vessels with which the insured vessel is in collision or property on such other vessels) or damage to the environment, or threat thereof, save that this exclusion shall not exclude any sum which the Assured shall pay for or in respect of salvage remuneration in which the skill and efforts of the salvors in preventing or minimising damage to the environment as referred to in Article 13 paragraph 1(b) of the International Convention on Salvage, 1989 have been taken into account.

7 SISTERSHIP

Should the insured vessel come into collision with or receive salvage services from another vessel belonging wholly or in part to the same Owners or under the same management, the Assured shall have the same rights under this insurance as they would have were the other vessel entirely the property of Owners not interested in the insured vessel; but in such cases the liability for the collision or the amount payable for the services rendered shall be referred to a sole arbitrator to be agreed upon between the Underwriters and the Assured.

8 GENERAL AVERAGE AND SALVAGE

8.1 This insurance covers the vessel's proportion of salvage, salvage charges and/or general average, without reduction in respect of any under-insurance, but in case of general average sacrifice of the vessel the Assured may recover in respect of the whole loss without first enforcing their right of contribution from other parties.

8.2 General average shall be adjusted according to the law and practice obtaining at the place where the adventure ends, as if the contract of affreightment contained no special terms upon the subject; but where the contract of affreightment so provides the adjustment shall be according to the York-Antwerp Rules.

8.3 When the vessel sails in ballast, not under charter, the provisions of the York-Antwerp Rules, 1994 (excluding Rules XX and XXI) shall be applicable, and the voyage for this purpose shall be deemed to continue from the port or place of departure until the arrival of the vessel at the first port or place thereafter other than a port or place of refuge or a port or place of call for bunkering only. If at any such intermediate port or place there is an abandonment of the adventure originally
contemplated, the voyage shall thereupon be deemed to be terminated.

8.4 The Underwriters shall not be liable under this Clause 8 where the loss was not incurred to avoid or in connection with the avoidance of a peril insured under this insurance.

8.5 The Underwriters shall not be liable under this Clause 8 for or in respect of

8.5.1 special compensation payable to a salvor under Article 14 of the International Convention on Salvage, 1989 or under any other provision in any statute, rule, law or contract which is similar in substance

8.5.2 expenses or liabilities incurred in respect of damage to the environment, or the threat of such damage, or as a consequence of the escape or release of pollutant substances from the vessel, or the threat of such escape or release.

8.6 Clause 8.5 shall not however exclude any sum which the Assured shall pay

8.6.1 to salvors for or in respect of salvage remuneration in which the skill and efforts of the salvors in preventing or minimising damage to the environment as referred to in Article 13 paragraph l(b) of the International Convention on Salvage, 1989 have been taken into account

8.6.2 as general average expenditure allowable under Rule XI(d) of the York-Antwerp Rules 1994, but only where the contract of affreightment provides for adjustment according to the York-Antwerp Rules 1994.

9 DUTY OF THE ASSURED (SUE AND LABOUR)

9.1 In case of any loss or misfortune it is the duty of the Assured and their servants and agents to take such measures as may be reasonable for the purpose of averting or minimising a loss which would be recoverable under this insurance.

9.2 Subject to the provisions below and to Clause 15, the Underwriters shall contribute to charges properly and reasonably incurred by the Assured their servants or agents for such measures. General average, salvage charges (except as provided for in Clause 9.4), special compensation and expenses as referred to in Clause 8.5 and collision defence or attack costs are not recoverable under this Clause 9.

9.3 Measures taken by the Assured or the Underwriters with the object of saving, protecting or recovering the subject-matter insured shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.

9.4 When the Underwriters have admitted a claim for total loss of the vessel under this insurance and expenses have been reasonably incurred in saving or attempting to save the vessel and other property and there are no proceeds, or the expenses exceed the proceeds, then this insurance shall bear its pro rata share of such proportion of the expenses, or of the expenses in excess of the proceeds, as the case may be, as may reasonably be regarded as having been incurred in respect of the vessel, excluding all special compensation and expenses as referred to in Clause 8.5.

9.5 The sum recoverable under this Clause 9 shall be in addition to the loss otherwise recoverable under this insurance but shall in no circumstances exceed the insured value of the vessel.
10 NAVIGATION PROVISIONS

Unless and to the extent otherwise agreed by the Underwriters in accordance with Clause 11

10.1 the vessel shall not breach any provisions of this insurance as to cargo, trade or locality (including, but not limited to, Clause 32)

10.2 the vessel may navigate with or without pilots, go on trial trips and assist and tow vessels or craft in distress, but shall not be towed, except as is customary (including customary towage in connection with loading or discharging) or to the first safe port or place when in need of assistance, or undertake towage or salvage services under a contract previously arranged by the Assured and/or Owners and/or Managers and/or Charterers

10.3 the Assured shall not enter into any contract with pilots or for customary towage which limits or exempts the liability of the pilots and/or tugs and/or towboats and/or their owners except where the Assured or their agents accept or are compelled to accept such contracts in accordance with established local law or practice

10.4 the vessel shall not be employed in trading operations which entail cargo loading or discharging at sea from or into another vessel (not being a harbour or inshore craft).

11 BREACH OF NAVIGATION PROVISIONS

In the event of any breach of any of the provisions of Clause 10, the Underwriters shall not be liable for any loss, damage, liability or expense arising out of or resulting from an accident or occurrence during the period of breach, unless notice is given to the Underwriters immediately after receipt of advices of such breach and any amended terms of cover and any additional premium required by them are agreed.

12 CONTINUATION

Should the vessel at the expiration of this insurance be at sea and in distress or missing, she shall be held covered until arrival at the next port in good safety, or if in port and in distress until the vessel is made safe, at a pro rata monthly premium, provided that notice be given to the Underwriters as soon as possible.

These Clauses 13 and 14 shall prevail notwithstanding any provision whether written typed or printed in this insurance inconsistent therewith.

13 CLASSIFICATION AND ISM

13.1 At the inception of and throughout the period of this insurance and any extension thereof

13.1.1 the vessel shall be classed with a Classification Society agreed by the Underwriters

13.1.2 there shall be no change, suspension, discontinuance, withdrawal or expiry of the vessel's class with the Classification Society

13.1.3 any recommendations, requirements or restrictions imposed by the vessel's Classification Society which relate to the vessel's seaworthiness or to her maintenance in a seaworthy condition shall be complied with by the dates
required by that Society

13.1.4 the Owners or the party assuming responsibility for operation of the vessel from the Owners shall hold a valid Document of Compliance in respect of the vessel as required by chapter IX of the International Convention for the Safety of Life at Sea (SOLAS) 1974 as amended and any modification thereof.

13.1.5 the vessel shall have in force a valid Safety Management Certificate as required by chapter IX of the International Convention for the Safety of Life at Sea (SOLAS) 1974 as amended and any modification thereof.

13.2 Unless the Underwriters agree to the contrary in writing, in the event of any breach of any of the provisions of Clause 13.1, this insurance shall terminate automatically at the time of such breach, provided

13.2.1 that if the vessel is at sea at such date, such automatic termination shall be deferred until arrival at her next port.

13.2.2 where such change, suspension, discontinuance or withdrawal of her class under Clause 13.1.2 has resulted from loss or damage covered by Clause 2 or by Clause 5 or by Clause 41.1.3 (if applicable) or which would be covered by an insurance of the vessel subject to current Institute War and Strikes Clauses Hulls-Time, such automatic termination shall only operate should the vessel sail from her next port without the prior approval of the Classification Society.

A pro rata daily net return of premium shall be made provided that a total loss of the vessel, whether by perils insured under this insurance or otherwise, has not occurred during the period of this insurance or any extension thereof.

14 MANAGEMENT

14.1 Unless the Underwriters agree to the contrary in writing, this insurance shall terminate automatically at the time of

14.1.1 any change, voluntary or otherwise, in the ownership or flag of the vessel

14.1.2 transfer of the vessel to new management

14.1.3 charter of the vessel on a bareboat basis

14.1.4 requisition of the vessel for title or use

provided that, if the vessel has cargo on board and has already sailed from her loading port or is at sea in ballast, such automatic termination shall if required be deferred, whilst the vessel continues her planned voyage, until arrival at final port of discharge if with cargo or at port of destination if in ballast. However, in the event of requisition for title or use without the prior execution of a written agreement by the Assured, such automatic termination shall occur fifteen days after such requisition whether the vessel is at sea or in port.

14.2 Unless the Underwriters agree to the contrary in writing, this insurance shall terminate automatically at the time of the vessel sailing (with or without cargo) with an intention of being broken up, or being sold for breaking up.
14.3 In the event of termination under Clause 14.1 or Clause 14.2, a pro rata daily net return of premium shall be made provided that a total loss of the vessel, whether by perils insured under this insurance or otherwise, has not occurred during the period of this insurance or any extension thereof.

14.4 It is the duty of the Assured, Owners and Managers at the inception of and throughout the period of this insurance and any extension thereof to

14.4.1 comply with all statutory requirements of the vessel's flag state relating to construction, adaptation, condition, fitment, equipment, operation and manning of the vessel.

14.4.2 comply with all requirements of the vessel's Classification Society regarding the reporting to the Classification Society of accidents to and defects in the vessel.

In the event of any breach of any of the duties in this Clause 14.4, the Underwriters shall not be liable for any loss, damage, liability or expense attributable to such breach.

15 DEDUCTIBLE(S)

15.1 Subject to Clause 15.2, no claim arising from a peril insured under this insurance shall be payable under this insurance unless the aggregate of all such claims arising out of each separate accident or occurrence (including claims under Clauses 2, 3, 4, 5, 6 (including, if applicable, Clause 6 as amended by Clauses 37 or 38), Clauses 8 and 9 and, if applicable, Clause 41 exceeds the deductible amount agreed in which case this sum shall be deducted. Nevertheless the expense of sighting the bottom after stranding, if reasonably incurred specially for that purpose, shall be paid even if no damage is found.

15.2 No claim for loss of or damage to any machinery, shaft, electrical equipment or wiring, boiler, condenser, heating coil or associated pipework, arising under Clauses 2.2.1 to 2.2.5 and Clause 41 (if applicable) or from fire or explosion when either has originated in a machinery space, shall be payable under this insurance unless the aggregate of all such claims arising out of each separate accident or occurrence exceeds the additional machinery damage deductible amount agreed (if any) in which case that amount shall be deducted. Any balance remaining, after application of this deductible, with any other claim arising from the same accident or occurrence, shall then be subject to the deductible referred to in Clause 15.1.

15.3 Clauses 15.1 and 15.2 shall not apply to a claim for total or constructive total loss of the vessel or, in the event of such a claim, to any associated claim under Clause 9 arising from the same accident or occurrence.

15.4 Claims for damage by heavy weather occurring during a single sea passage between two successive ports shall be treated as being due to one accident. In the case of such heavy weather extending over a period not wholly covered by this insurance the deductible to be applied to the claim recoverable under this insurance shall be the proportion of the deductible in Clause 15.1 that the number of days of such heavy weather falling within the period of this insurance and any extension thereof bears to the number of days of heavy weather during the single sea passage. The expression "heavy weather" in this Clause 15.4 shall be deemed to include contact with floating ice.
15.5 Claims for damage occurring during each separate lightening operation and/or each separate cargo loading or discharging operation from or into another vessel at sea, where recoverable under this insurance, shall be treated as being due to one accident.

16 NEW FOR OLD

Claims recoverable under this insurance shall be payable without deduction on the basis of new for old.

17 BOTTOM TREATMENT

The Underwriters shall not be liable in respect of scraping, gritblasting and/or other surface preparation or painting of the vessel's bottom except that

17.1 gritblasting and/or other surface preparation of new bottom plates ashore and supplying and applying any "shop" primer thereto

17.2 gritblasting and/or other surface preparation of

17.2.1 the butts or area of plating immediately adjacent to any renewed or refitted plating damaged during the course of welding and/or repairs

17.2.2 areas of plating damaged during the course of fairing, either in place or ashore

17.3 supplying and applying the first coat of primer/anti-corrosive to those particular areas mentioned in Clauses 17.1 and 17.2

17.4 supplying and applying anti-fouling coatings to those particular areas mentioned in Clauses 17.1 and 17.2,

shall be included as part of the reasonable cost of repairs in respect of damage to bottom plating caused by a peril insured under this insurance.

18 WAGES AND MAINTENANCE

Other than in general average, the Underwriters shall not be liable for wages and maintenance of the Master, Officers and Crew or any member thereof, except when incurred solely for the necessary removal of the vessel from one port to another for the repair of damage covered by the Underwriters, or for trial trips for such repairs, and then only for such wages and maintenance as are incurred whilst the vessel is under way.

19 AGENCY COMMISSION

No sum shall be recoverable under this insurance either by way of remuneration of the Assured for time and trouble taken to obtain and supply information or documents or in respect of the commission or charges of any manager, agent, managing or agency company or the like, appointed by or on behalf of the Assured to perform such services.

20 UNREPAIRED DAMAGE

20.1 The measure of indemnity in respect of claims for unrepaired damage shall be the reasonable depreciation in the market value of the vessel at the time this insurance terminates arising from such unrepaired damage, but not exceeding the reasonable
cost of repairs.

20.2 In no case shall the Underwriters be liable for unrepaired damage in the event of a subsequent total loss of the vessel (whether by perils insured under this insurance or otherwise) sustained during the period of this insurance or any extension thereof.

20.3 The Underwriters shall not be liable in respect of unrepaired damage for more than the insured value of the vessel at the time this insurance terminates.

21 CONSTRUCTIVE TOTAL LOSS

21.1 In ascertaining whether the vessel is a constructive total loss, 80% of the insured value of the vessel shall be taken as the repaired value and nothing in respect of the damaged or break-up value of the vessel or wreck shall be taken into account.

21.2 No claim for constructive total loss of the vessel based upon the cost of recovery and/or repair of the vessel shall be recoverable hereunder unless such cost would exceed 80% of the insured value of the vessel. In making this determination, only the cost relating to a single accident or sequence of damages arising from the same accident shall be taken into account.

22 FREIGHT WAIVER

If a total or constructive total loss of the vessel has been admitted by the Underwriters, they shall make no claim for freight whether notice of abandonment has been given or not.

23 ASSIGNMENT

No assignment of or interest in this insurance or in any moneys which may be or become payable under this insurance is to be binding on or recognised by the Underwriters unless a dated notice of such assignment or interest signed by the Assured, and by the assignor in the case of subsequent assignment, is endorsed on the policy and the policy with such endorsement is produced before payment of any claim or return of premium under this insurance.

24 DISBURSEMENTS WARRANTY

24.1 Additional insurances as follows are permitted by the Underwriters:

24.1.1 Disbursements, Managers' Commissions, Profits or Excess or Increased Value of Hull and Machinery. A sum not exceeding 25% of the value stated herein.

24.1.2 Freight, Chartered Freight or Anticipated Freight, insured for time. A sum not exceeding 25% of the value as stated herein less any sum insured, however described, under Clause 24.1.1

24.1.3 Freight or Hire, under contracts for voyage. A sum not exceeding the gross freight or hire for the current cargo passage and next succeeding cargo passage (such insurance to include, if required, a preliminary and an intermediate ballast passage) plus the charges of insurance. In the case of a voyage charter where payment is made on a time basis, the sum permitted for insurance shall be calculated on the estimated duration of the voyage, subject to the limitation of two cargo passages as laid down herein. Any sum insured
under Clause 24.1.2 to be taken into account and only the excess thereof may be insured, which excess shall be reduced as the freight or hire is advanced or earned by the gross amount so advanced or earned.

24.1.4 Anticipated Freight if the vessel sails in ballast and not under Charter. A sum not exceeding the anticipated gross freight on next cargo passage, such sum to be reasonably estimated on the basis of the current rate of freight at time of insurance plus the charges of insurance. Any sum insured under Clause 24.1.2 to be taken into account and only the excess thereof may be insured.

24.1.5 Time Charter Hire or Charter Hire for Series of Voyages. A sum not exceeding 50% of the gross hire which is to be earned under the charter in a period not exceeding 18 months. Any sum insured under Clause 24.1.2 to be taken into account and only the excess thereof may be insured, which excess shall be reduced as the hire is advanced or earned under the charter by 50% of the gross amount so advanced or earned but the sum insured need not be reduced while the total of the sums insured under Clause 24.1.2 and Clause 24.1.5 does not exceed 50% of the gross hire still to be earned under the charter. An insurance under this Clause may begin on the signing of the charter.

24.1.6 Premiums. A sum not exceeding the actual premiums of all interests insured for a period not exceeding 12 months (excluding premiums insured under the foregoing sections but including, if required, the premium or estimated calls on any Club or War etc. Risk insurance) reducing pro rata monthly.

24.1.7 Returns of Premium. A sum not exceeding the actual returns which are allowable under any insurance but which would not be recoverable thereunder in the event of a total loss of the vessel whether by perils insured under this insurance or otherwise.

24.1.8 Insurance irrespective of amount against. Any risks excluded by Clauses 29, 30 and 31.

24.2 It is warranted that no insurance on any interests enumerated in the foregoing Clauses 24.1.1 to 24.1.7 in excess of the amounts permitted therein and no other insurance which includes total loss of the vessel P.P.I., F.I.A., or subject to any other like term, is or shall be effected to operate during the period of this insurance or any extension thereof by or for account of the Assured, Owners, Managers or Mortgagees. Provided always that a breach of this warranty shall not afford the Underwriters any defence to a claim by a Mortgagee who has accepted this insurance without knowledge of such breach.

25 CANCELLING RETURNS

If this insurance shall be cancelled by agreement, the Underwriters shall pay a pro rata monthly net return of premium for each uncommenced month, provided always that a total loss of the vessel, whether by perils insured under this insurance or otherwise, has not occurred during the period of this insurance or any extension thereof.

26 SEPARATE INSURANCES

If more than one vessel is insured under this insurance, each vessel insured is deemed
to be separately insured, as if a separate policy had been issued in respect of each vessel.

27 SEVERAL LIABILITY

The Underwriters' obligations are several and not joint and are limited solely to the extent of their individual subscriptions. The Underwriters are not responsible for the subscription of any co-subscribing Underwriter who for any reason does not satisfy all or part of its obligations.

28 AFFILIATED COMPANIES

In the event of the vessel being chartered by an associated, subsidiary or affiliated company of the Assured, and in the event of loss of or damage to the vessel by perils insured under this insurance, the Underwriters waive their rights of subrogation against such charterers, except to the extent that any such charterer has the benefit of liability cover for such loss or damage.

These Clauses 29, 30 and 31 shall be paramount and shall override anything contained in this insurance inconsistent therewith.

29 WAR & STRIKES EXCLUSION

In no case shall this insurance cover loss, damage, liability or expense caused by

29.1 war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power

29.2 capture, seizure, arrest, restraint or detainment (barratry and piracy excepted), and the consequences thereof or any attempt thereof

29.3 derelict mines, torpedoes, bombs or other derelict weapons of war.

29.4 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions.

30 TERRORIST, POLITICAL MOTIVE AND MALICIOUS ACTS EXCLUSION

In no case shall this insurance cover loss, damage, liability or expense arising from

30.1 any terrorist

30.2 any person acting from a political motive

30.3 the use of any weapon or the detonation of an explosive by any person acting maliciously or from a political motive.

31 RADIOACTIVE CONTAMINATION, CHEMICAL, BIOLOGICAL, BIOCHEMICAL AND ELECTROMAGNETIC WEAPONS EXCLUSION

In no case shall this insurance cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from

31.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or
from any nuclear waste or from the combustion of nuclear fuel

31.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof

31.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter

31.4 the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this Clause 31.4 does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes

31.5 any chemical, biological, bio-chemical or electromagnetic weapon.

PART 2 - ADDITIONAL CLAUSES (01/11/03)

32 NAVIGATING LIMITS

Unless and to the extent otherwise agreed by the Underwriters in accordance with Clause 33, the vessel shall not enter, navigate or remain in the areas specified below at any time or, where applicable, between the dates specified below (both days inclusive):

Area 1 - Arctic
(a) North of 70° N. Lat.

(b) Barents Sea

except for calls at Kola Bay, Murmansk or any port or place in Norway, provided that the vessel does not enter, navigate or remain north of 72°30’N. Lat. or east of 35° E. Long.

Area 2 - Northern Seas
(a) White Sea.

(b) Chukchi Sea

Area 3 - Baltic
(a) Gulf of Bothnia north of a line between Umea (63°50’N. Lat.) and Vasa (63°06’N. Lat.) between 10th December and 25th May.

(b) Where the vessel is equal to or less than 90,000 DWT, Gulf of Finland east of 28°45’E. Long. between 15th December and 15th May.

(c) Vessels greater than 90,000 DWT may not enter, navigate or remain in the Gulf of Finland east of 28°45’E. Long. at any time.

(d) Gulf of Bothnia, Gulf of Finland and adjacent waters north of 59°24’N. Lat. between 8th January and 5th May, except for calls at Stockholm, Tallinn or Helsinki.
(e) Gulf of Riga and adjacent waters east of 22°E. Long. and south of 59°N. Lat. between 28th December and 5th May.

**Area 4 - Greenland**
Greenland territorial waters.

**Area 5 - North America (east)**
(a) North of 52°10'N. Lat. and between 50°W. Long. and 100°W. Long.

(b) Gulf of St. Lawrence, St. Lawrence River and its tributaries (east of Les Escoumins), Strait of Belle Isle (west of Belle Isle), Cabot Strait (west of a line between Cape Ray and Cape North) and Strait of Canso (north of the Canso Causeway), between 21st December and 30th April.

(c) St. Lawrence River and its tributaries (west of Les Escoumins) between 1st December and 30th April.

(d) St. Lawrence Seaway

(e) Great Lakes.

**Area 6 - North America (west)**
(a) North of 54°30'N. Lat. and between 100°W. Long. and 170°W. Long.

(b) Any port of place in the Queen Charlotte Islands or the Aleutian Islands

**Area 7 - Southern Ocean**
South of 50°S. Lat. except within the triangular area formed by rhumb lines drawn between the following points

(a) 50°S. Lat.; 50°W. Long

(b) 57°S. Lat.; 67°30'W. Long.

(c) 50°S Lat.; 160°W. Long.

**Area 8 - Kerguelen/Crozet**
Territorial waters of Kerguelen Islands and Crozet Islands.

**Area 9 - East Asia**
(a) Sea of Okhotsk north of 55°N. Lat. and east of 140°E. Long. between 1st November and 1st June.

(b) Sea of Okhotsk north of 53°N. Lat. and west of 140°E. Long. between 1st November and 1st June.

(c) East Asian waters north of 46°N. Lat. and west of the Kurile Islands and west of the Kamchatka Peninsula between 1st December and 1st May.

**Area 10 - Bering Sea**
Bering Sea except on through voyages and provided that

(a) vessel does not enter, navigate or remain north of 54°30'N. Lat.; and

(b) the vessel enters and exits west of Buldir Island or through the Amchitka, Amukta or Unimak passes; and
(c) the vessel is equipped and properly fitted with two independent marine radar sets, a global positioning system receiver (or Loran-C radio positioning receiver), a radio transceiver and GMDSS, a weather facsimile recorder (or alternative equipment for the receipt of weather and routing information) and a gyrocompass, in each case to be fully operational and manned by qualified personnel; and

(d) the vessel is in possession of appropriate navigational charts corrected up to date, sailing directions and pilot books.

33 PERMISSION FOR AREAS SPECIFIED IN NAVIGATING LIMITS

The vessel may breach Clause 32 and Clause 11 shall not apply, provided always that the Underwriters' prior permission shall have been obtained and any amended terms of cover and any additional premium required by the Underwriters are agreed.

34 RECOMMISIONING CONDITION

As a condition precedent to the liability of the Underwriters, the vessel shall not leave her lay-up berth under her own power or navigate following a lay-up period of more than 180 consecutive days unless the Assured has arranged for the Classification Society or a surveyor agreed by the Underwriters to examine the vessel and has carried out any repairs or requirements recommended by the Classification Society or such surveyor.

35 PREMIUM PAYMENT

35.1 The Assured undertakes that the premium shall be paid

35.1.1 in full to the Underwriters within 45 days (or such other period as may be agreed) of inception of this insurance; or

35.1.2 where payment by instalment premiums has been agreed

(a) the first instalment premium shall be paid within 45 days (or such other period as may be agreed) of inception of this insurance, and

(b) the second and subsequent instalments shall be paid by the date they are due.

35.2 If the premium (or the first instalment premium) has not been so paid to the Underwriters by the 46th day (or the day after such period as may have been agreed) from the inception of this insurance (and, in respect of the second and subsequent instalment premiums, by the date they are due), the Underwriters shall have the right to cancel this insurance by notifying the Assured via the broker in writing.

35.3 The Underwriters shall give not less than 15 days prior notice of cancellation to the Assured via the broker. If the premium or instalment premium due is paid in full to the Underwriters before the notice period expires, notice of cancellation shall automatically be revoked. If not, this insurance shall automatically terminate at the end of the notice period.

35.4 In the event of cancellation under this Clause 35, premium is due to the Underwriters on a pro rata basis for the period that the Underwriters are on risk but the full premium shall be payable to the Underwriters in the event of loss, damage, liability or expense arising out of or resulting from an accident or occurrence prior to the date of
termination which gives rise to a recoverable claim under this insurance.

35.5 Unless otherwise agreed, the Leading Underwriter(s) designated in the slip or policy are authorised to exercise rights under this Clause 35 on their own behalf and on behalf of all co-subscribing Underwriters. Nothing in this Clause 35.5 shall, however, prevent any co-subscribing Underwriter from exercising rights under this Clause 35 on its own behalf.

35.6 Where the premium is to be paid through a Market Bureau, payment to the Underwriters will be deemed to occur on the day of delivery of a premium advice note to the Bureau.

36 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

36.1 No benefit of this insurance is intended to be conferred on or enforceable by any party other than the Assured, save as may be expressly provided herein to the contrary.

36.2 This insurance may by agreement between the Assured and the Underwriters be rescinded or varied without the consent of any third party to whom the enforcement of any terms has been expressly provided for.

37 FIXED AND FLOATING OBJECTS

If the Underwriters have expressly agreed in writing, then Clauses 6 and 7 are amended to read as follows

6.1 The Underwriters agree to indemnify the Assured for three fourths of any sum or sums paid by the Assured to any other person or persons by reason of the Assured becoming legally liable by way of damages for

6.1.1 loss of or damage to any other vessel or fixed or floating object or property thereon

6.1.2 delay to or loss of use of any such other vessel or fixed or floating object or property thereon

6.1.3 general average of, salvage of, or salvage under contract of, any such other vessel or property thereon,

where such payment by the Assured is in consequence of the insured vessel coming into collision with any other vessel or striking any fixed or floating object.

6.2 The indemnity provided by this Clause 6 shall be in addition to the indemnity provided by the other terms and conditions of this insurance and shall be subject to the following provisions

6.2.1 where the insured vessel is in collision with another vessel and both vessels are to blame then, unless the liability of one or both vessels becomes limited by law, the indemnity under this Clause 6 shall be calculated on the principle of cross-liabilities as if the respective Owners had been compelled to pay to each other such proportion of each other's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Assured in
consequence of the collision

6.2.2 in no case shall the total liability of the Underwriters under Clauses 6.1 and 6.2 exceed their proportionate part of three fourths of the insured value of the insured vessel in respect of any one collision.

6.3 The Underwriters shall also pay three fourths of the legal costs incurred by the Assured or which the Assured may be compelled to pay in contesting liability or taking proceedings to limit liability, provided always that their prior written consent to the incurring of such costs shall have been obtained and that the total liability of the Underwriters under this Clause 6.3 shall not (unless the Underwriters’ specific written agreement shall have been obtained) exceed 25% of the insured value of the insured vessel.

EXCLUSIONS

6.4 In no case shall the Underwriters indemnify the Assured under this Clause 6 for any sum which the Assured shall pay for or in respect of

6.4.1 removal or disposal of obstructions, wrecks, cargoes or any other thing whatsoever

6.4.2 any real or personal property or thing whatsoever except other vessels or any fixed or floating object struck by the insured vessel or property on other vessels or any such fixed or floating object

6.4.3 the cargo or other property on, or the engagements of, the insured vessel

6.4.4 loss of life, personal injury or illness

6.4.5 pollution or contamination, or threats thereof, of any real or personal property or thing whatsoever (except other vessels with which the insured vessel is in collision or property on such other vessels) or damage to the environment, or threat thereof, save that this exclusion shall not exclude any sum which the Assured shall pay for or in respect of salvage remuneration in which the skill and efforts of the salvors in preventing or minimising damage to the environment as referred to in Article 13 paragraph 1(b) of the International Convention on Salvage, 1989 have been taken into account.

7. Should the insured vessel come into collision with another vessel or fixed or floating object belonging wholly or in part to the same owners or under the same management or receive salvage services from another vessel belonging wholly or in part to the same owners or under the same management, the assured shall have the same rights under this insurance as they would have were the other vessel or the fixed or floating object entirely the property of owners not interested in the insured vessel; but in such cases the liability for the collision or the amount payable for the services rendered shall be referred to a sole arbitrator to be agreed upon between the underwriters and the assured.

38 4/4ths Collision Liability
If the Underwriters have expressly agreed in writing, then Clause 6 is amended such that the words "three fourths of" are deleted on each occasion in which they appear in Clause 6.

39 \hspace{2em} RETURNS FOR LAY-UP

39.1 If the Underwriters have expressly agreed in writing, such percentage of the net premium as agreed by the Underwriters shall be returned for each period of 30 consecutive days the vessel may be laid up, not under repair, in a port or in a lay-up area provided such port or lay-up area is approved by the Underwriters.

39.2 The vessel shall not be considered to be under repair when work is undertaken in respect of ordinary wear and tear of the vessel and/or following recommendations in the vessel's Classification Society survey, but in the case of any repairs following loss of or damage to the vessel or involving structural alterations, whether covered by this insurance or otherwise, shall be considered as under repair.

39.3 PROVIDED ALWAYS THAT

39.3.1 a total loss of the vessel, whether by perils insured under this insurance or otherwise, has not occurred during the period of this insurance or any extension thereof

39.3.2 a return of premium shall not be allowed when the vessel is lying in exposed or unprotected waters, or in a port or lay-up area not approved by the Underwriters

39.3.3 loading or discharging operations or the presence of cargo on board shall not debar a return of premium but no return shall be allowed for any period during which the vessel is being used for the storage of cargo or for lightering purposes

39.3.4 in the event of any return of premium recoverable under this Clause 39 being based on 30 consecutive days which fall on successive insurances effected for the same Assured, this insurance shall only be liable for an amount calculated at pro rata of the agreed percentage net for the number of days which come within the period of this insurance or any extension thereof and to which a return is actually applicable. Such overlapping period shall run, at the option of the Assured, either from the first day on which the vessel is laid up or the first day of a period of 30 consecutive days as provided under Clause 39.1 above.

40 \hspace{2em} GENERAL AVERAGE ABSORPTION

40.1 If the Underwriters have expressly agreed in writing and subject to the provisions of Clause 8, the following shall apply in the event of an accident or occurrence giving rise to a general average act under the York-Antwerp Rules 1994 or under the provisions of the general average clause in the contract of affreightment.

40.2 The Assured shall have the option of claiming the total general average, salvage and special charges up to the amount expressly agreed by the Underwriters, without claiming general average, salvage or special charges from cargo, freight, bunkers, containers or any property not owned by the Assured on board the vessel (hereinafter the "Property Interests").
40.3 The Underwriters shall also pay the reasonable fees and expenses of the average adjuster for calculating claims under this Clause 40, in addition to any payment made under Clause 40.2.

40.4 If the Assured claims under this Clause 40, the Assured shall not claim general average, salvage or special charges against the Property Interests.

40.5 Claims under this Clause 40 shall be adjusted in accordance with the York-Antwerp Rules 1994, excluding the first paragraph of Rule XX and Rule XXI, relating to commission and interest.

40.6 Claims under this Clause 40 shall be payable without the application of the deductible(s) in Clause 15.

40.7 Without prejudice to any other defences that the Underwriters may have under this insurance or at law, the Underwriters waive any defences to payment under this Clause 40 which would have been available to the Property Interests, if the Assured had claimed general average, salvage or special charges from the Property Interests.

40.8 In respect of payments made under this Clause 40, the Underwriters waive their rights of subrogation against the Property Interests, save where the accident or occurrence giving rise to such payment is attributable to fault on the part of the Property Interests or any of them.

40.9 Claims under this Clause 40 shall be payable without reduction in respect of any under-insurance.

40.10 For the purposes of this Clause 40, special charges shall mean charges incurred by the Assured on behalf of or for the benefit of a particular interest to the adventure, for which charges the Assured is not responsible under the contract of affreightment.

41 ADDITIONAL PERILS

41.1 If the Underwriters have expressly agreed in writing, this insurance covers

41.1.1 the costs of repairing or replacing any boiler which bursts or shaft which breaks, where such bursting or breakage has caused loss of or damage to the subject matter insured covered by Clause 2.2.1, and that half of the costs common to the repair of the burst boiler or the broken shaft and to the repair of the loss or damage caused thereby which is not covered by Clause 2.3

41.1.2 the costs of correcting a latent defect where such latent defect has caused loss of or damage to the subject matter insured covered by Clause 2.2.2, and that half of the costs common to the correction of the latent defect and to the repair of the loss or damage caused thereby which is not covered by Clause 2.4

41.1.3 loss of or damage to the vessel caused by any accident or by negligence, incompetence or error of judgment of any person whatsoever provided that such loss or damage has not resulted from want of due diligence by the Assured, Owners or Managers.

41.2 Master, Officers, Crew or Pilots shall not be considered Owners within the meaning of Clause 41.1 should they hold shares in the vessel.
PART 3 - CLAIMS PROVISIONS (01/11/03)

42 LEADING UNDERWRITER(S)

42.1 Where there is co-insurance in respect of this insurance, all subscribing Underwriters agree that the Leading Underwriter(s) designated in the slip or policy may act on their behalves so as to bind them for their respective several proportions in respect of the following matters (in addition to Clause 35.5)

42.1.1 the appointment of surveyors, experts, average adjusters and lawyers, in relation to matters which may give rise to a claim under this insurance

42.1.2 the duties and obligations to be undertaken by the Underwriters including, but not limited to, the provision of security

42.1.3 claims procedures, the handling of any claim (including, but not limited to, agreements under Clause 43.2) and the pursuit of recoveries

42.1.4 all payments or settlements to the Assured or to third parties under this insurance other than those agreed on an 'ex-gratia' basis.

Notwithstanding the above, the Leading Underwriter(s), or any of them, may require any such matters to be referred to the co-subscribing Underwriters.

42.2. The co-subscribing Underwriters shall, to the extent of their respective several proportions, indemnify and hold harmless the Leading Underwriter(s) in respect of all liabilities, costs or expenses incurred by the Leading Underwriter(s) in respect of the matters in Clause 42.1.

42.2 If the Leading Underwriter(s) require expenses incurred for or on behalf of the Underwriters to be collected for a party instructed by the Leading Underwriter(s), the collecting party shall be entitled to charge 5% of the amount collected for this service or such other amount as may be agreed in advance by the Leading Underwriter(s), such fee to be paid by the Underwriters.

42.3 The agreement in this Clause 42 between the Leading Underwriter(s) and co-subscribing Underwriters is subject to the exclusive jurisdiction of the English High Court of Justice and is subject to English law and practice.

43 NOTICE OF CLAIMS

43.1 In the event of an accident or occurrence whereby loss, damage, liability or expense may result in a claim under this insurance, notice must be given to the Leading Underwriter(s) as soon as possible after the date on which the Assured, Owners or Managers become aware of such loss, damage, liability or expense so that a surveyor may be appointed if the Leading Underwriter(s) so desire.

43.2 If notice is not given to the Leading Underwriter(s) within 180 days of the Assured, Owners or Managers becoming aware of such loss, damage, liability or expense, no claim shall be recoverable under this insurance in respect of such loss, damage, liability or expense, unless the Leading Underwriter(s) agree to the contrary in writing.
44 TENDER PROVISIONS

44.1 The Leading Underwriter(s) shall be entitled to decide the port to which the vessel shall proceed for docking or repair (the actual additional expense of the voyage arising from compliance with the Leading Underwriter(s)' requirements being refunded to the Assured) and shall have a right of veto concerning a place of repair or a repairing firm.

44.2 The Leading Underwriters(s) may also take tenders or may require further tenders to be taken for the repair of the vessel. Where such a tender has been taken and a tender is accepted with the approval of the Leading Underwriter(s), an allowance shall be made at the rate of 30% per annum on the insured value for the time lost between the despatch of the invitations to tender required by the Underwriters and the acceptance of a tender to the extent that such time is lost solely as the result of tenders having been taken and provided that the tender is accepted without delay after receipt of the Leading Underwriter's approval.

44.3 Due credit shall be given against the allowance in Clause 44.2 for any amounts recovered in respect of fuel, stores, wages and maintenance of the Master, Officers and Crew or any member thereof, including amounts allowed in general average, and for any amounts recovered from third parties in respect of damages for detention and/or loss of profit and/or running expenses, for the period covered by the tender allowance or any part thereof.

44.4 Where a part of the cost of the repair of damage other than a fixed deductible is not recoverable from the Underwriters the allowance shall be reduced by a similar proportion.

44.5 If the Assured fails to comply with this Clause 44, a deduction of 15% shall be made from the amount of the ascertained net claim.

45 DUTIES OF THE ASSURED

45.1 The Assured shall, upon request and at their own expense, provide the Leading Underwriter(s) with all relevant documents and information that they might reasonably require to consider any claim.

45.2 Upon reasonable request, the Assured shall also assist the Leading Underwriter(s) or their authorised agents in the investigation of any claim, including, but not limited to

45.2.1 interview(s) of any employee, ex-employee or agent of the Assured

45.2.2 interview(s) of any third party whom the Leading Underwriter(s) consider may knowledge of matters relevant to the claim

45.2.3 survey(s) of the subject-matter insured

45.2.4 inspection(s) of the classification records of the vessel.

45.3 It shall be a condition precedent to the liability of the Underwriters that the Assured shall not at any stage prior to the commencement of legal proceedings knowingly or recklessly

45.3.1 mislead or attempt to mislead the Underwriters in the proper consideration of a claim or the settlement thereof by relying on any evidence which is false
45.3.2 conceal any circumstance or matter from the Underwriters material to the proper consideration of a claim or a defence to such a claim.

45.4 Clause 45.3 does not require the Assured at any stage to disclose to the Underwriters any document or matter which under English law is protected from disclosure by legal advice privilege or by litigation privilege.

46 DUTIES OF THE UNDERWRITERS IN RELATION TO CLAIMS

46.1 The Leading Underwriter(s) may, at their sole discretion, upon the notification of loss, damage, liability or expense arising from an accident or occurrence which may result in a claim under this insurance

46.1.1 instruct a surveyor who shall report to the Leading Underwriter(s) concerning the cause and extent of damage, the necessary repairs and the fair and reasonable cost thereof and any other matter which the Leading Underwriter(s) or the surveyor consider relevant

46.1.2 confirm the appointment of an independent average adjuster to assist the Assured in the preparation of the claim. If not already agreed, the Assured shall propose the average adjuster to be appointed who may be a Fellow of the Association of Average Adjusters of the United Kingdom or any other average adjuster mutually acceptable to the Assured and the Leading Underwriter(s).

46.2 Where such appointments are made, the Underwriters shall be responsible for payment of reasonable fees directly to the surveyor and the average adjuster irrespective of whether a claim ultimately arises under this insurance. However, the Underwriters' liability for the fees of the appointed average adjuster shall cease no later than at such time as the Underwriters pay, settle or communicate their intention to deny the claim under this insurance or when it becomes apparent that any claim is unlikely to exceed the relevant deductible(s) in Clause 15.

46.3 The making of such appointments is not an admission by the Underwriters that the accident, occurrence or resulting claim is covered under this insurance or a waiver of any rights or defences that the Underwriters may have under this insurance or at law.

46.4 The reports of the surveyor shall, subject to no conflict of interest being identified by the Leading Underwriter(s), be released without delay to the Assured and the appointed average adjuster.

46.5 The Leading Underwriter(s) shall be entitled to request the appointed average adjuster to provide status reports at any stage.

46.6 The Leading Underwriter(s) shall give prompt consideration to the making of a payment on account upon the recommendation of the appointed average adjuster or, if no adjuster is appointed, upon the request of the Assured supported by appropriate documentation.

46.7 The Leading Underwriter(s) shall make a decision in respect of any claim within 28 days of receipt by them of the appointed average adjuster's final adjustment or, if no adjuster is appointed, a fully documented claim presentation sufficient to enable the Underwriters to determine their liability in relation to coverage and quantum. If the Leading Underwriter(s) request additional documentation or information to make a decision, they shall make a decision within a reasonable time after receipt of the
additional documents or information requested, or of a satisfactory explanation as to why such documents and information are not available.

47 **PROVISION OF SECURITY**

If the Assured is obliged to provide security to a third party in order to prevent the arrest of, or to obtain the release of, the vessel, due to an accident or occurrence giving rise to a claim alleged to be covered under this insurance, the Underwriters shall give due consideration to assisting the Assured by providing security on behalf of the Assured or counter-security in a form to be determined by the Leading Underwriter(s).

48 **PAYMENT OF CLAIMS**

Claims payable under this insurance shall, subject to the terms of any assignment, be paid to the loss payee or, if no loss payee has been agreed, to the Assured or as they may direct in writing. Such payment, whether in account or otherwise, when made shall be a complete discharge of the Underwriters' obligations under this insurance in respect of the amount so paid.

49 **RECOVERIES**

49.1 The Assured shall, whether or not the Underwriters have paid a claim or agreed to pay a claim or potential claim under this insurance, take reasonable steps to

49.1.1 assess as soon as possible whether there are any prospects of a recovery from third parties in respect of matters giving rise to a claim or to a potential claim under this insurance

49.1.2 protect any claims against such third parties if necessary by the commencement of proceedings and the taking of appropriate steps to obtain security for the claim from third parties

49.1.3 keep the Leading Underwriter(s) and the appointed average adjuster (if any) advised of the recovery prospects and any action taken against third parties

49.1.4 co-operate with the Leading Underwriter(s) in the taking of such steps as may be reasonably required to pursue any claims against third parties.

49.2 Underwriters shall pay the reasonable costs incurred by the Assured pursuant to this Clause 49 in the same proportion as the insured losses bear to the total of the insured and uninsured losses (as defined in Clause 49.4.2).

49.3 Where the Assured have incurred reasonable costs pursuant to Clause 49.1.2 and where no claim is recoverable under this insurance, provided always that the Underwriters' written agreement to the reimbursement of such costs shall have been obtained prior to the incurring of such costs, the Underwriters shall reimburse such costs to the extent agreed, notwithstanding that no claim is recoverable under this insurance.

49.4 In the event of recoveries from third parties in respect of claims which have been paid in whole or in part under this insurance, such recoveries shall be distributed between the Underwriters and the Assured as follows

49.4.1 the reasonable costs and expenses incurred in making such recoveries from
the third party shall be deducted first and returned to the paying party

49.4.2 the balance shall be apportioned between the Underwriters and the Assured in the same proportion that the insured losses and uninsured losses bear to the total of the insured and uninsured losses. For the purposes of Clause 49.2 and this Clause 49.4.2, uninsured losses shall mean loss of or damage to the subject-matter insured and any liability or expense which would have been recoverable under this insurance, but for the application of deductible(s) under Clause 15 and the limits of this insurance

49.5 In the event that under this insurance coverage is not provided in accordance with Clause 6, the following shall apply

49.5.1 Where the insured vessel is in collision with another vessel and both vessels are to blame then, unless the liability of one or both vessels becomes limited by law, any recovery due to the Underwriters shall be calculated on the principle of cross-liabilities as if the respective Owners had been compelled to pay to each other such proportion of each other's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Assured in consequence of the collision.

50 DISPUTE RESOLUTION

Subject to the overriding provisions of Clause 1.3, disputes between the Assured and the Underwriters may, if not settled amicably by negotiation, be referred at the request of the Assured or the Underwriters to mediation or other form of alternative dispute resolution and, in default of agreement as to the procedure to be adopted, any such mediation or other form of alternative dispute resolution shall be in accordance with the current CEDR Solve model procedures.
APPENDIX C

American Institute Clauses (2009)
American Institute Hull Clauses (September 29, 2009)

To be attached to and form a part of Policy No. ..........................................................

of the ..............................................................................................................................

The terms and conditions of the following clauses are to be regarded as substituted for those of the policy form to which they are
attached, the latter being hereby waived, except provisions required by law to be inserted in the Policy. All captions are inserted only for
purposes of reference and shall not be used to interpret the clauses to which they apply.

ASSURED

This Policy insures ...........................................................................................................

hereinafter referred to as the Assured.

If claim is made under this Policy by anyone other than the Owner of the Vessel, such person shall not be entitled to recover to a
greater extent than would the Owner, had claim been made by the Owner as an Assured named in this Policy.

Underwriters waive any right of subrogation against affiliated, subsidiary or interrelated companies of the Assured, provided that such
waiver shall not apply in the event of a collision between the Vessel and any vessel owned, demise chartered or otherwise controlled by any
of the aforesaid companies, or with respect to any loss, damage or expense against which such companies are insured.

LOSS PAYEE

Loss, if any, payable to .......................................................................................................
or order.

Provided, however, Underwriters shall pay claims to others as set forth in the Collision Liability clause and may make direct payment
to persons providing security for the release of the Vessel in Salvage cases.

VESSEL

The Subject Matter of this insurance is the Vessel called the ..........................................................................

or by whatsoever name or names the said Vessel is or shall be called, which for purposes of this insurance shall consist of and be limited to
her hull, launches, lifeboats, rafts, furniture, bunkers, stores, supplies, tackle, fittings, equipment, apparatus, machinery, boilers,
refrigerating machinery, insulation, motor generators and other electrical machinery. Each vessel deemed to be separately insured. In the
event that more than one vessel is insured by the policy to which these clauses are attached, all such clauses shall apply as though a
separate policy has been issued with respect to each vessel.

In the event any equipment or apparatus not owned by the Assured is installed for use on board the Vessel and the Assured has
assumed responsibility therefor, it shall also be considered part of the Subject Matter and the aggregate value thereof shall be included in
the Agreed Value.

Notwithstanding the foregoing, cargo containers, barges and lighters shall not be considered a part of the Subject Matter of this
insurance.

This insurance also covers loss or damage to parts temporarily removed from the vessel, where such loss or damage is caused by an
insured peril occurring during the policy period.

DURATION OF RISK

From the ......................................................... day of .................................................. 20........ time.

to the ......................................................... day of .................................................. 20........ time.

Should the Vessel at the expiration of this Policy be in distress, she shall, provided previous notice be given to the Underwriters, be
held covered at a pro rata monthly premium until moored safely afloat in a port of refuge.

In the event of payment by the Underwriters for Total Loss of the Vessel this Policy shall thereupon automatically terminate.

AGREED VALUE

The Vessel, for so much as concerns the Assured, by agreement between the Assured and the Underwriters in this Policy, is and shall
be valued at .......................................................... Dollars.

AMOUNT INSURED HEREUNDER

.......................................................... Dollars.

DEDUCTIBLE

Notwithstanding anything in this Policy to the contrary, there shall be deducted from the aggregate of all claims (including claims
under the Sue and Labor clause and claims under the Collision Liability clause) arising out of each separate accident, the sum of
$........................................ unless the accident results in a Total Loss of the Vessel in which case this clause shall not apply. A recovery from other
interests, however, shall not operate to exclude claims under this Policy provided the aggregate of such claims arising out of one separate
accident if unreduced by such recovery exceeds that sum. For the purpose of this clause each accident shall be treated separately, but it is
agreed that (a) a sequence of damages arising from the same accident shall be treated as due to that accident and (b) all heavy weather
damage, or damage caused by contact with floating ice, which occurs during a single sea passage between two successive ports shall be
treated as though due to one accident.
PREMIUM

The Underwriters to be paid in consideration of this insurance Dollars being at the annual rate of, per cent, which premium shall be due on attachment. If the Vessel is insured under this Policy for a period of less than one year at pro rata of the annual rate, full annual premium shall be considered earned and immediately due and payable in the event of Total Loss of the Vessel from a peril insured hereunder.

RETURNS OF PREMIUM

Premium returnable as follows:
1. Pro rata daily net in the event of termination under the Change of Ownership clause;
2. Pro rata monthly net for each uncommenced month if it be mutually agreed to cancel this Policy;
3. For each period of 30 consecutive days the Vessel may be laid up in port for account of the Assured, cents per cent. net not under repair, or
4. provided always that:
   a. a Total Loss of the Vessel has not occurred during the currency of this Policy;
   b. in no case shall a return for lay-up be allowed when the Vessel is lying in exposed or unprotected waters or in any location not approved by the Underwriters;
   c. in the event of any amendment of the annual rate, the above rates of return shall be adjusted accordingly;
   d. in no case shall a return be allowed when the Vessel is used as a storage ship or for lighting purposes; and
   e. in no case shall a return be allowed if the vessel is under repair due to a loss insured hereunder.
5. If the Vessel is laid up for a period of 30 consecutive days, a part only of which attaches under this Policy, the Underwriters shall pay such proportion of the return due in respect of a full period of 30 days as the number of days attaching hereto bears to 30. Should the lay-up period exceed 30 consecutive days, the Assured shall have the option to elect the period of 30 consecutive days for which a return is recoverable.

NON-PAYMENT OF PREMIUM

In the event of non-payment of premium 30 days after attachment, or of any additional premium when due, this Policy may be cancelled by the Underwriters upon 10 days written or electronic notice sent to the Assured at his last known address or in care of the broker who negotiated this Policy. Such proportion of the premium, however, as shall have been earned up to the time of cancellation shall be payable. In the event of Total Loss of the Vessel occurring prior to any cancellation or termination of this Policy, full annual premium shall be considered earned.

ADVENTURE

Beginning the adventure upon the Vessel, as above, and so shall continue and endure during the period aforesaid, as employment may offer, in port or at sea, in docks and graving docks, and on ways, gridirons and pontoons, at all times, in all places, and on all occasions, services and trades; with leave to sail or navigate with or without pilots, to go on trial trips and to assist and tow vessels or craft in distress, but the Vessel may not be towed, except as is customary or when in need of assistance, nor shall the Vessel render assistance or undertake towage or salvage services under contract previously arranged by the Assured, the Owners, the Managers or the Charterers of the Vessel, nor shall the Vessel, in the course of trading operations, engage in loading or discharging cargo at sea, from or into another vessel other than a barge, lighter or similar craft used principally in harbors or inland waters. The phrase "engage in loading or discharging cargo at sea" shall include while approaching, leaving or alongside, or while another vessel is approaching, leaving or alongside the Vessel.

The Vessel is held covered in case of any breach of conditions as to cargo, trade, locality, towage or salvage activities, or date of sailing, or loading or discharging cargo at sea, provided (a) notice is given to the Underwriters immediately following receipt of knowledge thereof by the Assured, and (b) any amended terms of cover and any additional premium required by the Underwriters are agreed to by the Assured.

PERILS

Touching the Adventures and Perils which the Underwriters are contented to bear and take upon themselves, they are of the Seas, Men-of-War, Fire, Lightning, Earthquake, Enemies, Pirates, Rovers, Assailing Thieves, Jettisons, Letters of Mark and Counter-Mark, Surprisals, Takings at Sea, Arrests, Restraints and Detainments of all Kings, Princes and Peoples, of what nation, condition or quality soever, Barbarity of the Master and Mariners and of all other like Perils, Losses and Misfortunes that have or shall come to the Hurt, Detrimet or Damage of the Vessel, or any part thereof, excepting, however, such of the foregoing perils as may be excluded by provisions elsewhere in the Policy or by endorsement thereof.

ADDITIONAL PERILS (INCHAMAREE)

Subject to the conditions of this Policy, this insurance also covers loss of or damage to the Vessel directly caused by the following:

- Accidents in loading, discharging or handling cargo, or in bunkering;
- Accidents in going on or off, or while on drydocks, graving docks, ways, gridirons or pontoons;
- Explosions on shipboard or elsewhere;
- Breakdown of motor generators or other electrical machinery and electrical connections thereto, bursting of boilers, breakage of shafts, or any latent defect in the machinery or hull, (excluding the cost and expense of replacing or repairing the defective part);
- Breakdown of or accidents to nuclear installations or reactors not on board the insured Vessel;
- Contact with aircraft, rockets or similar missiles, or with any land conveyance;
- Negligence of Charterers and/or Repairers, provided such Charterers and/or Repairers are not an Assured hereunder;
- Negligence of Masters, Officers, Crew or Pilots;

provided such loss or damage has not resulted from want of due diligence by the Assured, the Owners or Managers of the Vessel, or any of them. Masters, Officers, Crew or Pilots are not to be considered Owners within the meaning of this clause should they hold shares in the Vessel.
DELIBERATE DAMAGE (ENVIRONMENTAL HAZARD)

Subject to the conditions of this Policy, this insurance also covers loss of or damage to the Vessel directly caused by governmental authorities acting for the public welfare to prevent or mitigate an environmental hazard, or threat thereof, resulting directly from damage to the Vessel for which the Underwriters are liable under this Policy, provided such act of governmental authorities has not resulted from want of due diligence by the Assured, the Owners, or Managers of the Vessel or any of them to prevent or mitigate such hazard or threat. Masters, Officers, Crew or Pilots are not to be considered Owners within the meaning of this clause should they hold shares in the Vessel.

CLAIMS (GENERAL PROVISIONS)

In the event of any accident or occurrence which could give rise to a claim under this Policy, prompt notice thereof shall be given to the Underwriters and as soon as possible after the Assured has, or the Owners or Managers have, become aware or have knowledge of such loss, damage, liability or expense, and

(a) notwithstanding the foregoing requirement of prompt notice of all claims to the Underwriters, and without altering or amending such other prompt notice requirement, any claims under this Policy shall be barred if notice of the claim is not given to the Underwriters for any reason within twelve months after the Assured has, or the Owners or Managers of the Vessel have, become aware or have knowledge of the occurrence of the loss, damage, liability or expense giving rise to the claim, unless the Assured reasonably believes that such loss, damage liability or expense will not give rise to a claim, the Underwriters agree to waive this time bar in writing, or notice was properly given to the Underwriters on any subsequent policy year and it is later determined that the loss, damage, liability or expense should be apportioned over multiple policy years, including earlier years;

(b) where practicable, the Underwriters shall be advised prior to survey, so that they may appoint their own surveyor, if they so desire;

(c) the Underwriters shall be entitled to decide where the Vessel shall proceed for docking and/or repair (allowance to be made to the Assured for the actual additional expense of the voyage arising from compliance with the Underwriters' requirement);

(d) the Underwriters shall have the right of veto in connection with any repair firm proposed;

(e) the Underwriters may take tenders, or may require in writing that tenders be taken for the repair of the Vessel, in which event, upon acceptance of a tender with the approval of the Underwriters, an allowance shall be made at the rate of 30 per cent. per annum on the amount insured, for each day or pro rata for part of a day, for time lost between the issuance of invitations to tender and the acceptance of a tender, to the extent that such time is lost solely as the result of tenders having been taken and provided the tender is accepted without delay after receipt of the Underwriters' approval.

Due credit shall be given against the allowances in (c) and (e) above for any amount recovered:

1. in respect of fuel, stores, and wages and maintenance of the Master, Officers or Crew allowed in General or Particular Average; and

2. from third parties in respect of damages for detention and/or loss of profit and/or running expenses; for the period covered by the allowances or any part thereof.

No claim shall be allowed in Particular Average for wages and maintenance of the Master, Officers or Crew, except when incurred solely for the necessary removal of the Vessel from one port to another for average repairs or for trial trips to test average repairs, in which cases wages and maintenance will be allowed only while the Vessel is under way. This exclusion shall not apply to overtime or similar extraordinary payments to the Master, Officers or Crew incurred in shifting the Vessel for tank cleaning or repairs or while specifically engaged in these activities, either in port or at sea.

Upon the request of the Underwriters, the Assured must provide or make available information or documentation from the classification society reasonably requested by the Underwriters concerning the condition of the Vessel before and during the policy period. Additionally, the Assured shall authorize the Underwriters to obtain such information directly from the classification society and from the relevant authorities in the country where the Vessel is registered or has been through port state control. Prompt notice shall be given to the assured whenever such requests for information are made.

General and Particular Average shall be payable without deduction, new for old.

The expense of sitting the bottom after stranding shall be paid, if reasonably incurred especially for that purpose, even if no damage is found.

No claim shall in any case be allowed in respect of scraping or painting the Vessel's bottom.

In the event of loss or damage to equipment or apparatus not owned by the Assured but installed for use on board the Vessel and for which the Assured has assumed responsibility, claim shall not exceed (1) the amount the Underwriters would pay if the Assured were owner of such equipment or apparatus, or (2) the contractual responsibility assumed by the Assured to the owners or lessors thereof, whichever shall be less.

No claim for unrepaired damages shall be allowed, except to the extent that the aggregate damage caused by perils insured against during the period of the Policy and left unrepaired at the expiration of the Policy shall be demonstrated by the Assured to have diminished the actual market value of the Vessel on that date if undamaged by such perils.

Claims become time-barred after ten years from the end of the calendar year during which the loss or damage giving rise to any claim under this policy took place, unless the Underwriters agree to an extension in writing, which agreement shall not be unreasonably refused. However, this time bar shall not become effective until ninety days after notice of the time bar has been given to the Assured by the Underwriters, which notice may be given within six months of the expiry of the limitation period, or thereafter. If notice is given within six months of the expiry of the limitation period, the limitation expiry date shall be ten years after the date on which the loss or damage took place, or ninety days after the Assured's receipt of the notice, whichever is later. As respects claims for third-party liability, such claims shall not become time-barred before the time when the liability claim against the assured becomes time-barred. The ten-year limitation shall not apply to claims where notice was properly given to the underwriters on any subsequent policy year and it is later determined that the loss, damage, liability or expense should be apportioned over multiple policy years, including earlier years.

GENERAL AVERAGE AND SALVAGE

General Average and Salvage shall be payable as provided in the contract of affreightment, or failing such provision or there be no contract of affreightment, payable at the Assured's election either in accordance with York-Antwerp Rules 1974 or 1994, or as agreed, or with the Laws and Usages of the Port of New York. Provided always that when an adjustment according to the laws and usages of the port of destination is properly demanded by the owners of the cargo, General Average shall be paid accordingly.
In the event of salvage, towage or other assistance being rendered to the Vessel by any vessel belonging in part or in whole to the same Owners or Charterers, the value of such services (without regard to the common ownership or control of the vessels) shall be ascertained by arbitration in the manner provided for under the Collision Liability clause in this Policy, and the amount so awarded so far as applicable to the interest hereby insured shall constitute a charge under this Policy.

When the contributory value of the Vessel is greater than the Agreed Value herein, the liability of the Underwriters for General Average contribution (except in respect to amounts made good to the Vessel), or Salvage, shall not exceed that proportion of the total contribution due from the Vessel which the amount insured hereunder bears to the contributory value, and if, because of damage for which the Underwriters are liable as Particular Average, the value of the Vessel has been reduced for the purpose of contribution, the amount of such Particular Average damage recoverable under this Policy shall first be deducted from the amount insured hereunder, and the Underwriters shall then be liable only for the proportion which such net amount bears to the contributory value.

**TOTAL LOSS**

In ascertaining whether the Vessel is a constructive Total Loss the Agreed Value shall be taken as the repaired value and nothing in respect of the damaged or break-up value of the Vessel or wreck shall be taken into account.

There shall be no recovery for a constructive Total Loss hereunder unless the expense of recovering and repairing the Vessel would exceed the Agreed Value. In making this determination, only expenses incurred or to be incurred by reason of a single accident or a sequence of damages arising from the same accident shall be taken into account, but expenses incurred prior to tender of abandonment shall not be considered if such are to be claimed separately under the Sue and Labor clause.

In the event of Total Loss (actual or constructive), no claim is to be made by the Underwriters for freight, whether notice of abandonment has been given or not.

In no case shall the Underwriters be liable for unrepaired damage in addition to a subsequent Total Loss sustained during the period covered by this Policy.

**SUE AND LABOR**

And in case of any Loss or Misfortune, it shall be lawful and necessary for the Assured, their Factors, Servants and Assigns, to sue, labor and travel for, in and about the defense, safeguard and recovery of the Vessel, or any part thereof, without prejudice to this insurance, to the charges whereof the Underwriters will contribute their proportion as provided below. And it is expressly declared and agreed that no acts of the Underwriters or Assured in recovering, saving or preserving the Vessel shall be considered as a waiver or acceptance of abandonment.

In the event of expenditure under the Sue and Labor clause, the Underwriters shall pay the proportion of such expenses that the amount insured hereunder bears to the Agreed Value, or that the amount insured hereunder (less loss and/or damage payable under this Policy) bears to the actual value of the salvaged property, whichever proportion shall be less; provided always that their liability for such expenses shall not exceed their proportionate part of the Agreed Value.

If claim for Total Loss is admitted under this Policy and sue and labor expenses have been reasonably incurred in excess of any proceeds realized or value recovered, the amount payable under this Policy will be the proportion of such excess that the amount insured hereunder (without deduction for loss or damage) bears to the Agreed Value or to the sound value of the Vessel at the time of the accident, whichever value was greater; provided always that Underwriters' liability for such expenses shall not exceed their proportionate part of the Agreed Value. The foregoing shall also apply to expenses reasonably incurred in salvaging or attempting to salvage the Vessel and other property to the extent that such expenses shall be regarded as having been incurred in respect of the Vessel.

**COLLISION LIABILITY**

And it is further agreed that:

(a) if the Vessel shall come into collision with any other ship or vessel, and the Assured or the Surety in consequence of the Vessel being at fault shall become liable to pay and shall pay by way of damages to any other person or persons any sum or sums in respect of such collision, the Underwriters will pay the Assured or the Surety, whichever shall have paid, such proportion of such sum or sums as their respective subscriptions hereeto bear to the Agreed Value, provided always that their liability in respect to any one such collision shall not exceed their proportionate part of the Agreed Value;

(b) in cases where, with the consent in writing of a majority (in amount) of Hull Underwriters, the liability of the Vessel has been contested, or proceedings have been taken to limit liability, the Underwriters will also pay a like proportion of the costs which the Assured shall thereby incur or be compelled to pay.

When both vessels are to blame, then, unless the liability of the owners or charterers of one or both such vessels becomes limited by law, claims under the Collision Liability clause shall be settled on the principle of Cross-Liabilities as if the owners or charterers of each vessel had been compelled to pay to the owners or charterers of the other of such vessels such one-half or other proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Assured in consequence of such collision.

The principles involved in this clause shall apply to the case where both vessels are the property, in part or in whole, of the same owners or charterers, all questions of responsibility and amount of liability as between the two vessels being left to the decision of a single Arbitrator, if the parties can agree upon a single Arbitrator, or failing such agreement, to the decision of Arbitrators, one to be appointed by the Assured and one to be appointed by the majority (in amount) of Hull Underwriters interested; the two Arbitrators chosen to choose a third Arbitrator before entering upon the reference, and the decision of such single Arbitrator, or of any two of such three Arbitrators, appointed as above, to be final and binding.

Provided always that this clause shall in no case extend to any sum which the Assured or the Surety may become liable to pay or shall pay in consequence of, or with respect to:

(a) removal or disposal of obstructions, wrecks or their cargoes under statutory powers or otherwise pursuant to law;

(b) injury to real or personal property of every description;

(c) the discharge, spillage, emission or leakage of oil, petroleum products, chemicals or other substances of any kind or description whatsoever;

(d) cargo or other property on or the engagements of the Vessel;
(e) loss of life, personal injury or illness.

Provided further that exclusions (b) and (c) above shall not apply to injury to other vessels or property thereon except to the extent that such injury arises out of any action taken to avoid, minimize or remove any discharge, spillage, emission or leakage described in (c) above.

PILOTAGE AND TOWAGE

This insurance shall not be prejudiced by reason of any contract limiting in whole or in part the liability of pilots, tugs, towboats, or their owners when the Assured or the agent of the Assured accepts such contract in accordance with established local practice.

Where in accordance with such practice, pilotage or towage services are provided under contracts requiring the Assured or the agent of the Assured:

(a) to assume liability for damage resulting from collision of the Vessel insured with any other ship or vessel, including the towing vessel, or

(b) to indemnify those providing the pilotage or towage services against loss or liability for any such damages,

it is agreed that amounts paid by the Assured or Surety pursuant to such assumed obligations shall be deemed payments “by way of damages to any other person or persons” and to have been paid “in consequence of the Vessel being at fault” within the meaning of the Collision Liability clause in this Policy to the extent that such payments would have been covered if the Vessel had been legally responsible in the absence of any agreement. Provided always that in no event shall the aggregate amount of liability of the Underwriters under the Collision Liability clause, including this clause, be greater than the amount of any statutory limitation of liability to which owners are entitled or would be entitled if liability under any contractual obligation referred to in this clause were included among the liabilities subject to such statutory limitations.

CHANGE OF OWNERSHIP

In the event of any change, voluntary or otherwise, in the ownership or flag of the Vessel, or if the Vessel be placed under new management, or be chartered on a bareboat basis or requisitioned on that basis, or if the Classification Society of the Vessel or her class therein be changed, cancelled, or withdrawn, then, unless the Underwriters agree thereto in writing, this Policy shall automatically terminate at the time of such change of ownership, flag, management, charter, requisition or classification; provided, however, that:

(a) if the Vessel has cargo on board and has already sailed from her loading port, or is at sea in ballast, such automatic termination shall, if required, be deferred until arrival at final port of discharge if with cargo, or at port of destination if in ballast;

(b) in the event of an involuntary temporary transfer by requisition or otherwise, without the prior execution of a written agreement by the Assured, such automatic termination shall occur fifteen days after such transfer.

This insurance shall not insure to the benefit of any transferee or charterer of the Vessel and, if a loss payable hereunder should occur between the time of change or transfer and any deferred automatic termination, the Underwriters shall be subrogated to all of the rights of the Assured against the transferee or charterer in respect of all or part of such loss as is recoverable from the transferee or charterer, and in the proportion which the amount insured hereunder bears to the Agreed Value.

The term “new management” as used above refers only to the transfer of the management of the Vessel from one firm of corporation to another, and it shall not apply to any internal changes within the offices of the Assured.

ADDITIONAL INSURANCES

It is a condition of this Policy that no additional insurance against the risk of Total Loss of the Vessel shall be effected to operate during the currency of this Policy by or for account of the Assured, Owners, Managers, Operators or Mortgagees except on the interests and up to the amounts enumerated in the following Sections (a) to (g), inclusive, and no such insurance shall be subject to P.P.I., F.I.A. or other like term on any interests whatever excepting those enumerated in Section (a); provided always and notwithstanding the limitation on recovery in the Assured clause a breach of this condition shall not afford the Underwriters any defense to a claim by a Mortgagee who has accepted this Policy without knowledge of such breach:

(a) DISBURSEMENTS, MANAGERS’ COMMISSIONS, PROFITS OR EXCESS OR INCREASED VALUE OF HULL AND MACHINERY, AND/OR SIMILAR INTERESTS HOWEVER DESCRIBED, AND FREIGHT (INCLUDING CHARTERED FREIGHT OR ANTICIPATED FREIGHT) INSURED FOR TIME. An amount not exceeding in the aggregate 25% of the Agreed Value.

(b) FREIGHT OR HIRE, UNDER CONTRACTS FOR VOYAGE. An amount not exceeding the gross freight or hire for the current cargo passage and next succeeding cargo passage (such insurance to include, if required, a preliminary and an intermediate ballast passage) plus the charges of insurance. In the case of a voyage charter where payment is made on a time basis, the amount shall be calculated on the estimated duration of the voyage, subject to the limitation of two cargo passages as laid down herein. Any amount permitted under this Section shall be reduced, as the freight or hire is earned, by the gross amount so earned. Any freight or hire to be earned under the form of Charters described in (d) below shall not be permitted under this Section (b) if any part thereof is insured as permitted under said Section (d).

(c) ANTICIPATED FREIGHT IF THE VESSEL SAILS IN BALLAST AND NOT UNDER CHARTER. An amount not exceeding the anticipated gross freight on next cargo passage, such amount to be reasonably estimated on the basis of the current rate of freight at time of insurance, plus the charges of insurance. Provided, however, that no insurance shall be permitted by this Section if any insurance is effected as permitted under Section (b).

(d) TIME CHARTER HIRE OR CHARTER HIRE FOR SERIES OF VOYAGES. An amount not exceeding 50% of the gross hire which is to be earned under the charter in a period not exceeding 18 months. Any amount permitted under this Section shall be reduced as the hire is earned under the charter by 50% of the gross amount so earned but, where the charter is for a period exceeding 18 months, the amount insured need not be reduced while it does not exceed 50% of the gross hire still to be earned under the charter. An insurance permitted by this Section may begin on the signing of the charter.

(e) PREMIUMS. An amount not exceeding the actual premiums of all interest insured for a period not exceeding 12 months (excluding premiums insured as permitted under the foregoing Sections but including, if required, the premium or estimated calls on any Protection and Indemnity or War Risks and Strikes insurance) reducing pro rata monthly.

(f) RETURNS OF PREMIUM. An amount not exceeding the actual returns which are recoverable subject to “and arrival” or equivalent provision under any policy of insurance.
(g) INSURANCE IRRESPECTIVE OF AMOUNT AGAINST: Risks excluded by War, Strikes and Related Exclusions clause; risks enumerated in the American Institute War Risks and Strikes Clauses; and General Average and Salvage Disbursements.

WAR STRIKES AND RELATED EXCLUSIONS

The following conditions shall be paramount and shall supersede and nullify any contrary provisions of the Policy.

This Policy does not cover any loss, damage or expense caused by, resulting from, or incurred as a consequence of:

(a) Capture, seizure, arrest, restraint, detainment, confiscation or expropriation or any attempt thereof; or

(b) Any taking of the Vessel, by requisition or otherwise, whether in time of peace or war and whether lawful or otherwise; or

(c) Any mine, bomb or torpedo not carried as cargo on board the Vessel; or

(d) Any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; or

(e) Civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or piracy; or

(f) Strikes, lockouts, political or labor disturbances, civil commotions, riots, martial law, military or usurped power; or

(g) Any act perpetrated by terrorists or any act carried out by any person or persons acting primarily from a political, religious or ideological motive; or

(h) Any threat of terrorist activity, actual or perceived, including closure of ports or blockage of waterways resulting therefrom; or

(i) Malicious acts or vandalism, unless committed by the Master or Mariners and not excluded elsewhere under this War Strikes and Related Exclusions clause; or

(j) Hostilities or warlike operations (whether there be a declaration of war or not) but this subparagraph (j) not to exclude collision or contact with aircraft, rockets or similar missiles, or with any fixed or floating object, or stranding, heavy weather, fire or explosion unless caused directly by a hostile act by or against a belligerent power, which act is independent of the nature of the voyage or service which the Vessel concerned or, in the case of a collision, any other vessel involved therein, is performing. As used herein, “power” includes any authority maintaining naval, military or air forces in association with a power.

If war risks or other risks excluded by this clause are hereafter insured by endorsement on this Policy, such endorsement shall supersede the above conditions only to the extent that the terms of such endorsement are inconsistent therewith and only while such endorsement remains in force.
APPENDIX D

Canadian Hulls (Pacific) Clauses
CANADIAN HULLS (PACIFIC) CLAUSES

1. Touching the Adventures and Perils which we, the Underwriters, are contented to bear and take upon us, they are of the Sea, Men-of-
War, Fire, Enemies, Pirates, Rovers, Thieves, Letters of Mast and Counter-Mast, Surprisals, Takings at Sea, Arrests, Restraints and
Detainments of all Kings, Princes and Peoples, of what nation,
condition or quality soever, Barratry of the Master and Mariner and of
all other like Perils, Losses and Misfortunes that have or shall come to
the Hurt, Detriment or Damage of the subject matter insured
(hereinafter the "Vessel") or any part thereof, excepting, however, such of
the foregoing Perils as may be excluded by provision elsewhere in
these clauses or by or endorsement.

2. It is the duty of the Assured, their servants, agents or assigns, in
case of loss or misfortune to take such measures as may be reasonable
for the purpose of averting or minimizing a loss which would be
recoverable under this insurance. For the purpose of this insurance,
such measures shall be designated as Sue and Labour.

3. The reasonable charges therefor will be reimbursed by
Underwriters in accordance with their rateable proportion as provided
for herein.

4. It is expressly agreed that no acts of Underwriters or the Assured
in recovering, saving or preserving the Vessel shall be considered as
either a waiver or acceptance of abandonment or otherwise prejudice
the rights of either party.

5. When expenses are incurred pursuant to this clause, the liability
under this insurance shall not exceed the proportion of such expenses
that the amount insured hereunder bears to the value of the Vessel as
stated herein, or to the sound value of the Vessel at the time of the
occurrence giving rise to the expenditure if the sound value exceeds
that value. Where the Underwriters have admitted a claim for total
loss and subject matter insured by this insurance is saved, the foregoing
provisions shall not apply unless the expenses of saving and labouring
exceed the value of such property saved and then shall apply only to the
amount of the expenses which is in excess of such value.

6. When a claim for total loss of the Vessel is admitted under this
insurance and expenses have been reasonably incurred in salvaging or
attempting to save the Vessel and other property and there are no
proceeds, or the expenses exceed the proceeds, then this insurance
shall bear its pro rata share of such proportion of the expenses, or of
the expenses in excess of the proceeds, as the case may be, as may
reasonably be regarded as having been incurred in respect of the Vessel;
but if the Vessel be insured for less than its sound value at the time of
the occurrence giving rise to the expenditure, the amount recoverable
under this clause shall be reduced in proportion to the under-
insurance.

7. The sum recoverable under this clause shall be in addition to the loss
otherwise recoverable under this insurance but shall in no
circumstances exceed the amount insured under this insurance in
respect of the Vessel.

8. This insurance includes loss or damage to the Vessel directly
caused by:-

(a) Accidents in loading, discharging or shifting cargo or fuel
(b) Explosions on shipboard or elsewhere
(c) Breakdown of or accident to nuclear installations or reactors
on shipboard or elsewhere
(d) Burning of boilers, breakage of shafts or any latent defect in
the machinery or hull
(e) Negligence of Master, Charterers other than an Assured,
Officers, Crew or Pilots
(f) Negligence of repairers provided such repairers are not
Assured(s) hereunder; but this exclusion shall not apply to
loss or damage resulting from the operation by the Assured of
a commercial repair division or facility
(b) Contact with aircraft or similar objects, or objects falling
therefrom
(c) Contact with any land conveyance, dock or harbour
equipment or installation
(d) Earthquake, volcanic eruption or lightning
(e) Provided such loss or damage has not resulted from want of due
diligence by the Assured, Owners or Managers.
(f) Masters, Officers, Crew or Pilots not to be considered as part
owners within the meaning of this clause should they hold shares in
the Vessel.
(g) The Vessel is covered subject to the provisions of this insurance at
all times and has leave to sail or navigate with or without pilots, to go on
trial trips and to assist and tow vessels or craft in distress, but it is
warranted that the Vessel shall not otherwise tow or be towed, except as
is customary or to the first safe port or place when in need of assistance.
(h) The Vessel is covered in case of any breach of warranty as to
cargo, employment, towage, salvage services or date of sailing, provided
notice be given to the Underwriters immediately after receipt of advices
and any amended terms of cover and any additional premium required
by them be agreed.
(i) The sum of $5 AS PER DECLARATION shall be deducted from the
total of all claims arising out of one accident or occurrence (including
claims under the Running Down Clause). Nevertheless, the expense of
sighting the bottom after standing, if reasonably incurred specially
for that purpose, shall be paid in full even if no damage be found.
This paragraph shall not apply to Sue and Labour, Salvage Expenses,
General Average nor to a claim for Total or Constructive Total Loss.
Claims for damage by heavy weather (which includes contact with
floating ice) occurring during a single sea passage between two
successive ports shall be treated as being due to one accident. In the
case of such heavy weather extending over a period not wholly covered
by this insurance, the deductible to be applied to the claim recoverable
hereunder shall be the proportion of the above deductible that the
number of days of such heavy weather falling within the period of this
insurance bores to the number of days of heavy weather during the
single sea passage.

10. Unless the Assured and Underwriters shall have agreed in writing
prior to commencement of suit to participate jointly in recoveries and
concomitant legal costs, then net recoveries (excluding interest
comprised therein) made against any claim subject to the above
deductible, or any other deductions by reason of the difference
between the insured and sound values, shall first be credited to the
Underwriters up to the amount of the claim paid by them and then to
the Assured.

11. Interest comprised in recoveries shall be apportioned between the
Assured and the Underwriters, taking into account the sums paid by
Underwriters and the dates when such payments were made.

12. Unless this insurance otherwise provides, claims for partial loss
recoverable hereunder shall not be subject to depreciation.

13. From the cost of cleaning and painting the bottom of the Vessel
(exclusive of dry dock charges) recoverable hereunder shall be
deducted one-twelfth for every month since the Vessel was last painted,
but no allowance shall be made for cleaning and painting on account
of exposure to air unless the Vessel has been more than twenty four
hours out of the water.
121. Notwithstanding the foregoing, no claim in respect of bottom painting shall be receivable hereunder unless evidence is provided to show date of the last bottom painting prior to the loss.

124. 10. General Average, Salvage and Special Charges payable as provided in the contract of affreightment, or failing such provision, or there be no contract of affreightment, payable in accordance with the York-Antwerp Rules. Provided always that when an adjustment according to the laws and usage of the port of destination is properly demanded by the owners of the cargo General Average shall be paid in accordance with same.

131. When the Vessel sails in ballast, not under charter, the provisions of the York-Antwerp Rules, 1974 (excluding Rules XX and XXI) shall be applicable, and the voyage for this purpose shall be deemed to continue from the port or place of departure until the arrival of the Vessel at the first port or place thereafter other than a port or place of refuge or a port or place of call for bunkering only. If at any such intermediate port or place there is an abandonment of the adventure originally contemplated, the voyage shall thereupon be deemed to be terminated.

140. When the contributory value of the Vessel is greater than the valuation herein, the liability of these Underwriters for General Average contribution (except in respect to amount made good to the Vessel) or Salvage shall not exceed that proportion of the total contribution due from the Vessel that the amount insured hereunder bears to the contributory value. If because of damage for which these Underwriters are liable as partial loss, the value of the Vessel has been reduced for the purpose of contribution, the net amount of the partial loss under this insurance shall be deducted from the amount insured hereunder and the Underwriters shall be liable only for the proportion which such net amount bears to the contributory value.

151. 11. In ascertaining whether the Vessel is a constructive total loss, the insured value shall be taken as the repaired value and nothing in respect of the damaged or break-up value of the Vessel or wreck shall be taken into account.

155. No claim for constructive total loss based upon the cost of recovery and/or repair of the Vessel shall be receivable hereunder unless such cost would exceed the insured value. In making this determination, only the cost relating to a single accident or sequence of damages arising from the same accident shall be taken into account.

160. 12. In the event of total or constructive total loss, no claim to be made by the Underwriters for freight whether notice of abandonment has been given or not.

163. 13. In no case shall Underwriters be liable for unrepaired damage in addition to a subsequent total loss sustained from any cause during the term covered by this insurance or extension thereof.

166. 14. It is further agreed that if the Vessel shall come into collision with any other vessel and the Assured shall in consequence thereof become liable to pay to any other person or persons any sum or sums in respect of such collision for:

170. (i) loss of or damage to any other vessel or property on any other vessel, or

171. (ii) loss of or damage to any such other vessel or property thereon, or

174. (iii) general average of, salvage of, or salvage under contract of any such other vessel or property thereon,

176. the Underwriters will pay the Assured such proportion of such sum or sums as their respective subscriptions hereto bear to the insured value of the Vessel provided always that their liability in respect of any one such collision shall not exceed their proportionate part of the insured value of the Vessel, and in cases in which, with the prior consent in writing of the Underwriters, the liability of the Vessel has been contested or proceedings have been taken to limit the liability, they will also pay a like proportion of the costs which the Assured shall thereby incur. But when both vessels are to blame then, unless the liability of the Owners of one or both of such vessels becomes limited by law, claims under this clause shall be settled on the principle of cross-liabilities as if the Owners of each vessel had been compelled to pay to the Owners of the other such vessels such proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Assured in consequence of such collision.

181. Provided always that this clause shall in no case extend to any sum which the Assured may become liable to pay for or in respect of:

189. (a) removal or disposal of obstructions, wrecks, cargo or any other thing whatsoever,

190. (b) any real or personal property or things whatsoever except other vessels or property on other vessels,

191. (c) pollution or contamination of any real or personal property or thing whatsoever (except other vessels with which the insured Vessel is in collision or property on such other vessels),

192. (d) striking up or other property cost or the engagements of the assured Vessel,

193. (e) loss of Life, personal injury or illness.

203. 15. Should the Vessel come into collision with or receive salvage services from another vessel belonging wholly or in part to the same Owners or under the same management, the Assured shall have the same rights under this insurance as they would have were the other vessel entirely the property of Owners not interested in the Vessel; but in such cases the liability for the collision or the amount payable for the services rendered shall be referred to a sole arbitrator to be agreed upon between the Underwriters and the Assured.

211. 16. This insurance covers loss of or damage to the Vessel directly caused by any governmental authority acting under the powers vested in them to prevent or mitigate a pollution hazard, or threat thereof, resulting directly from the damage to the Vessel for which the Underwriters are liable under this insurance, provided such act of governmental authority has not resulted from want of due diligence by the Assured, the Owners or Managers of the Vessel or any of them to prevent or mitigate such hazard or threat. Masters, Officers, Crew or Pilots not to be considered Owners within the meaning of this clause should they hold shares in the Vessel.

221. 17. This insurance also covers loss of or damage to the Vessel caused by strikers, lockout workmen or persons taking part in labour disturbances, riots or civil commotions; also destruction of or damage to the Vessel caused by persons acting maliciously.

225. 18. In the event of accident whereby loss or damage may result in a claim under this insurance, notice shall be given in writing to the Underwriters, where practicable, prior to survey, so that they may appoint their own surveyor if they so desire. The Underwriters shall be entitled to decide the port to which the Vessel shall proceed for docking or repairing the actual additional expense of the voyage arising from compliance with Underwriters' requirements being refunded to the Assured. The majority of Underwriters (in amount) shall also have a right of veto in connection with the place of repair or repairing firm proposed and may take, or may require to be taken, tenders for the repair of such damage.

236. In the event of failure to comply with the conditions of this clause pertaining to the repair of the Vessel, 15 percent shall be deducted from the amount of the ascertained claim.

239. 19. Unless the Underwriters agree to the contrary in writing, this insurance shall be cancelled automatically at the time of the Vessel being sold or transferred voluntarily or otherwise to new management or chartered on a bareboat basis.

243. However, if the Vessel has cargo on board and has already sailed from her loading port or is at sea in ballast than such cancellation shall, if required, be suspended until arrival at final port of discharge if with cargo, or at port of destination if in ballast. A pro rata daily return of premium shall be made.

248. 20. For the purposes of this clause, arrest shall not be considered a transfer to new management.

250. This clause shall prevail notwithstanding any provision whether written, typed or printed in this insurance inconsistent therewith.

252. 21. If payment of premium is not made by the Assured within thirty (30) days after attachment of this insurance or, in the event
254. Underwriters shall have agreed to accept deferred payments, if any
255. payment of any premium is not made on the day agreed, this insurance
256. may be cancelled at any time thereafter by Underwriters giving to the
257. Assured named herein, and to third party payee or payees (if any)
258. named in this insurance, five (5) days' notice of such cancellation.
259. Such notice may be given by Underwriters or on their behalf by
260. an authorized Agent or by the Agent or Broker effecting this insurance.
261. Such cancellation shall be without prejudice to the premiums
262. earned and due for the period the insurance was in force.
263. In the event of total loss sustained from any cause occurring prior
264. to cancellation, full annual premium shall be deemed earned.
265. 21. Underwriters will return TBA percent (net) for every thirty
266. days of unexpired time if it be mutually agreed to cancel this insurance,
267. but there shall be no cancellation or return of premium in event the
268. Vessel is lost from any cause.
269. At expiration, Underwriters will return NIL 1 percent (net)
270. for every thirty consecutive days the Vessel was laid up in port out of
271. commission with no cargo on board and not under repair for
272. Underwriters' account.
273. In the event of the Vessel being laid-up in port for a period of
274. thirty consecutive days, a part only of which attaches to this insurance,
275. it is hereby agreed that the laying up period in which either the
276. commencing or ending date of this insurance falls shall be deemed to
277. run from the first day on which the Vessel is laid-up and that on this
278. basis Underwriters shall pay such proportion of the return due in
279. respect of a full period of thirty days as the number of days attaching
280. thereto bear to thirty.
281. 22. Additional insurances as follows are permitted:
282. (a) DISBURSEMENTS, MANAGERS' COMMISSIONS,
283. PROFITS OR EXCESS OR INCREASED VALUE OF HULL
284. AND MACHINERY AND/OR SIMILAR INTERESTS
285. HOWEVER DESCRIBED, AND FREIGHT (INCLUDING
286. CHARTERED FREIGHT OR ANTICIPATED FREIGHT)
287. INSURED FOR TIME. A sum not exceeding in the
288. aggregate 25 percent of the insured value of the vessel.
289. (b) FREIGHT OR HIRE, UNDER CONTRACTS FOR VOYAGE,
290. A sum not exceeding the gross freight or hire for the
291. current cargo passage and next succeeding cargo passage
292. (such insurance to include, if required, a preliminary and
293. an intermediate ballot passage) plus the charges of
294. insurance. In the case of a voyage charter where payment is
295. made on the basis of the sum permitted for insurance shall
296. be calculated on the estimated duration of the voyage
297. subject to the limitation of two cargo passages as laid down
298. herein. Any sum insured under this Section shall be reduced
299. as the freight or hire is earned by the gross amount so
300. earned.
301. (c) ANTICIPATED FREIGHT IF THE VESSEL SAILS IN
302. BALLAST AND NOT UNDER CHARTER. A sum not
303. exceeding the anticipated gross freight on next cargo
304. passage, such sum to be reasonably estimated on the basis of
305. the current rate of freight at time of insurance, plus the
306. charges of insurance. Provided, however, that no insurance
307. shall be permitted under this Section if any insurance is
308. effected under Section (6).
309. (d) TIME CHARTER HIRE OR CHARTER HIRE FOR SERIES
310. OF VOYAGES. A sum not exceeding 50% of the gross hire
311. which is to be earned under the charter in a period not
312. exceeding 18 months. Any sum insured under this Section
313. shall be reduced as the hire is earned under the charter by
314. 50% of the gross amount so earned but where the charter is
315. for a period exceeding 18 months the sum insured need not
316. be reduced while it does not exceed 50% of the gross hire
317. still to be earned under the charter. An insurance under this
318. Section may begin on the signing of the charter.
319. (e) PREMIUMS. A sum not exceeding the actual premiums of
320. all interests insured for a period not exceeding 12 months
321. (excluding premiums insured under the foregoing Sections
322. but including if required the premium or estimated value on
323. any Protection and Indemnity or War etc. Risk insurance)
324. reducing pro rata monthly.
325. (f) RETURNS OF PREMIUM. A sum not exceeding the actual
326. returns which are allowable under any insurance but which
327. would not be recoverable hereunder in the event of a total
328. loss of the Vessel, whether by insured peril or otherwise.
329. (g) INSURANCE IRRESPECTIVE OF AMOUNT AGAINST-
330. (h) Risks excluded by Clause 24 herein; and
331. (i) General Average and Salvage Disbursements.
332. It is a condition precedent to the recovery of any claims
333. hereunder that no insurance on any interests enumerated in the
334. foregoing Sections (a) to (f), inclusive, in excess of the amounts
335. permitted herein and no insurance subject to P.P.I., F.I.A. or other like
336. terms, on any interests whatever excepting those enumerated in Section
337. (a), is or shall be effected to operate during the currency of this
338. insurance by or for account of the Assured, Owners, Managers or
339. Mortgagees. Provided always that a breach of this condition precedent
340. shall not affect Underwriters any defense to a claim by a Mortgagee
341. who has accepted this insurance without knowledge of such breach.
342. 23. Should the Vessel at the expiration of this insurance be at sea, or
343. in distress, or at a port of refuge or of call, she shall provided previous
344. notice be given to the Underwriters, be held covered at a pro rata
345. monthly premium, to her port of destination.
346. 24. THIS CLAUSE SHALL BE PARAMOUNT AND SHALL
347. OVERRIDE ANYTHING CONTAINED IN THIS INSURANCE
348. INCONSISTENT THEREWITH.
349. (a) In no case shall this insurance cover loss, damage, liability or
350. expense directly caused by
351. (i) war, civil war, revolution, rebellion, insurrection, or
352. civil strife arising therefrom, or any hostile act by or
353. against a belligerent power
354. (ii) capture, seizure, arrest, restraint or detainment
355. (b) (b) In no case shall this insurance cover loss, damage, liability or
356. expense arising from
357. (i) the drying out or an explosive
358. (ii) any weapon of war
359. and caused by any terrorist or any person acting from
360. a political motive.
361. (c) In no case shall this insurance cover loss, damage, liability or
362. expense arising from any weapon of war employing atomic
363. or nuclear fission and/or fusion or other like reaction or
364. radioactive force or matter.
365. 25. This insurance is subject to Canadian law and usage as to liability
366. for and settlement of any and all claims.

(Marine Insurance Association of British Columbia)

2005
APPENDIX E

Canadian Board Great Lakes Hulls Clauses
CANADIAN BOARD OF MARINE UNDERWRITERS
GREAT LAKES HULL CLAUSES
September 1, 1971

To be attached to and form a part of Policy No.

The terms and conditions of the following clauses are to be regarded as substituted for those of the policy form to which they
are attached, the latter being hereby waived, except provisions required by law to be inserted in the Policy. All captions are
inserted only for purposes of reference and shall not be used to interpret the clauses to which they apply.

ASSURED
This Policy insures ..........................................................as attached..........................................................
...........................................................................................................................................................................
...........................................................................................................................................................................
If claim is made under this Policy by anyone other than the Owner of the Vessel, such person shall not be entitled to recover
to a greater extent than would the Owner, had claim been made by the Owner as an Assured named in this Policy.
Underwriters waive any right of subrogation against affiliated, subsidiary or interrelated companies of the Assured, provided
that such waiver shall not apply in the event of a collision between the Vessel and any vessel owned, demilse chartered or other-
wise controlled by any of the aforesaid companies, or with respect to any loss, damage or expense against which such companies
are insured.

LOSS PAYEE
Loss, if any, (excepting claims required to be paid to others under the Collision Liability clause), payable to........as attached............
...........................................................................................................................................................................
...........................................................................................................................................................................
...........................................................................................................................................................................
or order.

VEssel
The Subject Matter of this insurance is the Vessel called the..........................as attached..........................
or by whatsoever name or names the said Vessel is or shall be called, which for purposes of this insurance shall consist of and be
limited to her hull, launches, lifeboats, rafts, furniture, bunkers, stores, supplies, tackle, fittings, equipment, apparatus, machinery,
boilers, refrigerating machinery, insulation, motor generators and other electrical machinery.
In the event any such equipment or apparatus not owned by the Assured is installed for use on board the Vessel and the
Assured has assumed responsibility therefor, it shall also be considered part of the Subject Matter and the aggregate value thereof
shall be included in the Agreed Value.
Notwithstanding the foregoing, cargo containers, barges and lighters shall not be considered a part of the Subject Matter
of this insurance.

DURATION OF RISK
From the....................day of..........................................19..................................................as attached...............C.S.T.
to the....................day of..........................................19..................................................as attached...............C.S.T.
In the event of payment by the Underwriters for Total Loss of the Vessel this Policy shall thereupon automatically terminate.

AGREED VALUE
The Vessel, for so much as concerns the Assured, by agreement between the Assured and the Underwriters in this Policy, is
and shall be valued at ..........................................................................................................................as attached.............Dollars.

EASTERN LIMIT OF NAVIGATION (line 76)
AMOUNT INSURED HEREUNDER
..............................................................................................................................................................as attached...............Dollars.

DEDUCTIBLE
Notwithstanding anything in this Policy to the contrary, there shall be deducted from the aggregate of all claims (including
claims under the Collision Liability clause) arising out of each separate accident, the sum of $ ..................as attached.............., unless the accident
results in a Total Loss or Constructive Total Loss of the Vessel in which case this clause shall not apply. A recovery from other
interests, however, shall not operate to exclude claims under this Policy provided the aggregate of such claims arising out of one
separate accident if unreduced by such recovery exceeds that sum. For the purpose of this clause each accident shall be treated
separately, but it is agreed that (a) a sequence of damages arising from the same accident shall be treated as due to that accident
and (b) all heavy weather damage which occurs during a single sea passage between two successive ports shall be treated as
though due to one accident. Also there shall be no deductible average applied to claims arising under the Sue and Labor Clause,
nor claims for salvage expenses, or general average.
PROVIDED, however, that claims arising from damage by ice, (excepting claim for Total or Constructive Total Loss), shall be
subject to a deductible of $50,000. or 10% of the insured value of the entire Vessel as stated herein, whichever is less, in respect of
each accident as defined herein, but in no case less than the deductible stated in line 30 above. Also there shall be no deductible
average applied to claims arising under the Sue and Labor Clause, nor claims for salvage expenses, or general average.
In the event of a claim for loss or damage to any boiler, shaft, machinery or associated equipment, arising from any of the
causes enumerated in the ADDITIONAL PERILS (INCIDENTS) clause, lines 108 to 115 hereunder, attributable in part in or whole
to negligence of Master Officers or Crew and recoverable under this Insurance only by reason of the said Clause, then the Assured
shall, in addition to the deductible, also bear in respect of each accident or occurrence an amount equal to 10% of the balance
of such claim, but not to exceed a further $50,000. This clause shall not apply to a claim for total or constructive total loss of the
Vessel.
PREMIUM

The Underwriters to be paid in consideration of this insurance as attached. Dollars

being at the rate of as attached... per cent. as attached... payable in cash, and in case the said premium shall not be paid to these Underwriters within sixty days after the date of attachment of navigating insurance in force under this Policy, or before November first next succeeding the date of attachment if there be less than sixty days between the date of attachment and such November first, this Policy shall automatically terminate upon such sixteenth day, at noon, or upon November first at noon, as the case may be. Such proportional part of the premium, however, as shall have been earned up to the line of such termination shall thereupon remain and become immediately due and payable.

Additional premiums, if any, shall be due at commencement of the risk for which such additional premiums have been assessed.

For premium (Port Risk, Navigating for the entire Season of Navigation and any additional premium due) shall be considered earned in the event the Vessel becomes a Total Loss during the term of this Policy.

UNDERWRITERS’ SURVEYOR

RETURNS OF PREMIUM

Port Risk and/or Navigating premium returnable as follows:

- Pro rata monthly not for uncommitted month if it be mutually agreed to cancel this Policy;
- Pro rata daily net of the navigating rate for each period of 15 consecutive days between March 31st – December 15th;
- Midnight C.S.T. that the Vessel may be laid up in port not under repair and for which Navigating premium has been paid;

provided always that:

(a) a Total Loss of the Vessel has not occurred during the currency of this Policy;
(b) in no case shall a return for lay-up be allowed when the Vessel is lying in exposed or unprotected waters or in any location not approved by the Underwriters;
(c) in no case shall a return be allowed when the Vessel is used for lightering purposes.

If, for account of the Assured, the Vessel is laid up for a period of 15 consecutive days, a part only of which attaches under this Policy, the Underwriters shall pay such proportion of the return due in respect of a full period of 15 days as the number of days attaching hereto bears to 15. Should the lay up period exceed 15 consecutive days, the Assured shall have the option to elect the period of 15 consecutive days for which a return is recoverable.

TRADING WARRANTY AND SEASON OF NAVIGATION

Warranted that the vessel shall be confined to the waters, bays, harbors, rivers, canals and other tributaries of the Great Lakes, not east of the point specified in line 27 above and shall engage in navigation only between March 31st, Midnight and December 15th, Midnight. C.S.T. (referred to in this Policy as the Season of Navigation).

Navigation prior to March 31st, Midnight, C.S.T. and subsequent to December 15th, Midnight, C.S.T. is held covered provided:

(a) prompt notice is given to the Underwriters (b) any amended terms of cover and any additional premium required by the Underwriters are agreed to by the Assured and (c) prior approval of each sailing is obtained from Underwriter’s Surveyor.

The Vessel may discharge inward cargo, take in outward cargo, retain cargo on board, and move in port during the period she is in Winter lay-up. For purposes of this provision such of the following places as are designated by a single numeral shall be deemed one port: (1) Duluth -- Superior (2) Detroit -- Dearborn -- River Rouge -- Ecorse -- Wyandotte -- Windsor (3) Kingston -- Portsmouth.

Permission is hereby granted for the Vessel to carry grain without shifting boards on the Great Lakes. This privilege also applies to navigation on the St. Lawrence River as far as permitted hereunder, but not East of 65°West Longitude.

WINTER MOORINGS

Warranted that the Vessel be properly moored in a safe place and under conditions satisfactory to the Underwriter’s Surveyor during the period the Vessel is in Winter lay-up.

ADVENTURE

Beginning the adventure upon the Vessel, as above, and so shall continue and endure, subject to the terms and conditions of this Policy, as employment may offer, in port or at sea, in docks and graving docks, and on ways, gridrons and pontoons, at all times, in all places, and on all occasions, services and trades; with leave to sail or navigate with or without pilots, to go on trial trips and to assist and tow vessels or craft in distress, but the Vessel may not be towed, except as is customary or when in need of assistance, nor shall the Vessel render assistance or undertake towing or salvage services under contract previously arranged by the Assured, the Owners, the Managers or the Charterers of the Vessel.

The Vessel is held covered in case of any breach of conditions as to towing or salvage activities, provided (a) notice is given to the Underwriters immediately following receipt of knowledge thereof by the Assured, and (b) any amended terms of cover and any additional premium required by the Underwriters are agreed to by the Assured.

PERILS

Touching the Adventures and Perils which the Underwriters are contented to bear and take upon themselves, they are of the Seas, Men-of-War, Fire, Lightning, Earthquake, Eclipses, Pirates, Rovers, Assailing Thieves, Jettisons, Letters of Mart and Counter-Mart, Surprisals, Takings at Sea, Arrests, Restraints and Detainments of all Kings, Princes and Peoples, of what nation, condition or quality soever, Barratry of the Master and Mariners and of all other like Perils, Losses and Misfortunes that have or shall come to the Hurt, Destruction or Damage of the Vessel, or any part thereof, excepting, however, such of the foregoing perils as may be excluded by provisions elsewhere in the Policy or by endorsement thereon.
ADDITIONAL PERILS (INCHMAREE)

Subject to the conditions of this Policy, this insurance also covers loss of or damage to the Vessel directly caused by the following:

- Accidents in loading, discharging or handling cargo, or in bunkering;
- Accidents in going on or off, or while on dry docks, graving docks, ways, gridirons or pontoons;
- Explosions on shipboard or elsewhere;
- Breakdown of motor generators or other electrical machinery and electrical connections thereto, bursting of boilers, breakage of shafts, or any latent defect in the machinery or hull, (excluding the cost and expense of replacing or repairing the defective part);
- Breakdown of or accidents to nuclear installations or reactors not on board the Insured Vessel;
- Contact with aircraft, rockets or similar missiles, or with any land conveyance;
- Negligence of Charterers and/or Repairers, provided such Charterers and/or Repairers are not an Assured hereunder;
- Negligence of Master, Officers, Crew or Pilots;
- provided such loss or damage has not resulted from want of due diligence by the Assured, the Owners or Managers of the Vessel, or any of them. Masters, Officers, Crew or Pilots are not to be considered Owners within the meaning of this clause should they hold shares in the Vessel.

CLAIMS (GENERAL PROVISIONS)

In the event of any accident or occurrence which could give rise to a claim under this Policy, prompt notice thereof shall be given to the Underwriters, and:

(a) where practicable, the Underwriters shall be advised prior to survey, so that they may appoint their own surveyor, if they so desire;

(b) the Underwriters shall be entitled to decide where the Vessel shall proceed for docking and/or repair (allowance to be made to the Assured for the actual additional expense of the voyage arising from compliance with the Underwriters' requirement);

(c) the Underwriters shall have the right of veto in connection with any repair firm proposed;

(d) the Underwriters may take tenders or may require tenders to be taken for the repair of the Vessel, in which event, upon acceptance of a tender with the approval of the Underwriters, an allowance shall be made at the rate of 30 per cent. per annum on the amount insured, for each day or pro rata for part of a day, for time lost between the issuance of invitations to tender and the acceptance of a tender, to the extent that such time is lost solely as the result of tenders having been taken and provided the tender is accepted without delay after receipt of the Underwriters' approval.

Due credit shall be given against the allowances in (b) and (d) above for any amount recovered:

- in respect of fuel, stores, and wages and maintenance of the Master, Officers and Crew members allowed in General or Particular Average;
- from third parties in respect of damages for detention and/or loss of profit and/or running expenses;
- for the period covered by the allowances or any part thereof.

- Claim shall be allowed in Particular Average for wages and maintenance of the Master, Officers and Crew, except when the Crew are employed in lieu of shore or other labour with the view to minimizing expense or when incurred solely for the necessary removal of the vessel from one port to another for average repairs or for trial trips to test average repairs, in which cases wages and maintenance will be allowed only while the vessel is under way.

- General and Particular Average shall be payable without deduction, new for old.

- Claims hereunder to be adjusted in accordance with the Rules of Practice for the Great Lakes of the Association of Average Adjusters of Canada so far as they may be applicable.

- The expense of sighting the bottom after stranding shall be paid, if reasonably incurred especially for that purpose, even if no damage be found.

- If repairs have not been executed within 15 months from the date of the accident, Underwriters are not to be liable for any increased cost of repairs which may be incurred by reason of such repairs being executed after 15 months from the date of the accident.

- No claim shall in any case be allowed in respect of scrapping or painting the Vessel's bottom.

- In the event of failure to comply with the conditions of this clause 15 per cent. shall be deducted from the amount of the ascertained claim.

- In the event of loss or damage to equipment or apparatus as covered hereunder not owned by the Assured but installed for use on board the Vessel and for which the Assured has assumed responsibility, claim shall not exceed (1) the amount the Underwriters would pay if the Assured were owner of such equipment or apparatus, or (2) the contractual responsibility assumed by the Assured to the owners or lessors thereof, whichever shall be less.

- It is understood and agreed that the fees of the Assured, his Superintendent, and the Assured's Officers, Manager and/or other servants are not deductible under this Policy, except that in the event of loss or damage, where the Assured chooses not to employ an Owner's surveyor and uses his own Marine Superintendent, a reasonable fee will be allowed.

GENERAL AVERAGE AND SALVAGE

General Average and Salvage shall be payable as provided in the contract of affreightment, or failing such provision or there be no contract of affreightment payable in accordance with the Rules of Practice for the Great Lakes of the Association of Average Adjusters of Canada. Provided always that when an adjustment according to the laws and usages of the port of destination is properly demanded by the owners of the cargo, General Average shall be paid accordingly.

In the event of salvage, towage or other assistance being rendered to the Vessel by any vessel belonging in part or in whole to the same Owners or Charterers, the value of such services (without regard to the common ownership or control of the vessels) shall be ascertained by arbitration in the manner provided for under the Collision Liability clause in this Policy, and the amount so awarded so far as applicable to the Interest hereby Insured shall constitute a charge under this Policy.

When the contributory value of the Vessel is greater than the Agreeable Value herein, the liability of the Underwriters for General Average contribution (except in respect to amounts made good to the Vessel), or Salvage, shall not exceed that proportion of the total contribution due from the Vessel which the amount insured hereunder bears to the contributory value; and if, because of damage for which the Underwriters are liable as Particular Average, the value of the Vessel has been reduced for the purpose of contribution, the amount of such Particular Average damage recoverable under this Policy shall first be deducted from the amount insured hereunder, and the Underwriters shall then be liable only for the proportion which such net amount bears to the contributory value.
TOTAL LOSS

There shall be no recovery for a constructive Total Loss hereunder unless the expense of recovering and repairing the Vessel shall exceed the Agreed Value. In making this determination, only expenses incurred by reason of a single accident or a sequence of damages arising from the same accident shall be taken into account.

In ascertaining whether the Vessel is a constructive Total Loss the Agreed Value shall be taken as the repaired value and nothing in respect of the damaged or break-up value of the Vessel or wreck shall be taken into account.

In the event of Total Loss (actual or constructive), no claim to be made by the Underwriters for freight, whether notice of abandonment has been given or not. In no case shall the Underwriters be liable for unrepaired damage in addition to a subsequent Total Loss sustained during the period covered by this Policy.

SUE AND LABOR

And in case of any Loss or Misfortune, it shall be lawful and necessary for the Assured, their Factors, Servants and Assigns, to sue, labor and travel for, in, and about the defense, safeguard and recovery of the Vessel, or any part thereof, without prejudice to the insurance, to the charges whereof the Underwriters will contribute their proportion as provided below. And it is expressly declared and agreed that no acts of the Underwriters or Assured in recovering, saving or preserving the Vessel shall be considered as a waiver or acceptance of abandonment.

In the event of expenditure under the Sue and Labor clause, the Underwriters shall pay the proportion of such expenses that the amount insured hereunder bears to the Agreed Value, or that the amount insured hereunder, less loss and/or damage payable under this Policy, bears to the actual value of the salvaged property; whichever proportion shall be less.

If claim for Total Loss is admitted under this Policy and sue and labor expenses have been reasonably incurred in excess of any proceeds realized or value recovered, the amount payable under this Policy will be the proportion of such excess that the amount insured hereunder (without deduction for loss or damage) bears to the Agreed Value or to the sound value of the Vessel at the time of the accident, whichever value was greater. The foregoing shall also apply to expenses reasonably incurred in salving or attempting to save the Vessel and other property to the extent that such expenses shall be regarded as having been incurred in respect of the Vessel.

COLLISION LIABILITY

And it is further agreed that:

(a) if the Vessel shall come into collision with any other ship or vessel, and the Assured or the Surety in consequence of the Vessel being at fault shall become liable to pay and shall pay by way of damages to any other person or persons any sum or sums in respect of such collision, the Underwriters will pay the Assured or the Surety, whichever shall have paid, such proportion of such sum or sums so paid as their respective subscriptions hereto bear to the Agreed Value, provided always that their liability in respect to any one such collision shall not exceed their proportionate part of the Agreed Value;

(b) in cases where, with the consent in writing of a majority (in amount) of Hull Underwriters, the liability of the Vessel has been contested, or proceedings have been taken to limit liability, the Underwriters will also pay a like proportion of the costs which the Assured shall thereby incur or be compelled to pay.

When both vessels are to blame, then, unless the liability of the owners or charterers of one or both such vessels becomes limited by law, claims under the Collision Liability clause shall be settled on the principle of Cross Liabilities as if the owners or charterers of each vessel had been compelled to pay to the owners or charterers of the other of such vessels such one-half or other proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Assured in consequence of such collision.

The principles involved in this clause shall apply to the case where both vessels are the property, in part or in whole, of the same owners or charterers, all questions of responsibility and amount of liability as between the two vessels being left to the decision of a single Arbitrator, if the parties can agree upon a single Arbitrator, or failing such agreement, to the decision of Arbitrators, one to be appointed by the Assured and one to be appointed by the majority (in amount) of Hull Underwriters interested; the two Arbitrators chosen to choose a third Arbitrator before entering upon the reference, and the decision of such single Arbitrator, or of any two of such three Arbitrators, appointed as above, to be final and binding.

Provided always that this clause or any other provision of this policy shall in no case extend to any sum which the Assured or the Surety may become liable to pay or shall pay in consequence of, or with respect to:

(a) removal or disposal of obstructions, wrecks, cargoes, or any other thing whatsoever under statutory powers or otherwise pursuant to law;

(b) injury to real or personal property of every description;

(c) the discharge, spillage, emission or leakage of oil, petroleum products, chemicals or other substances of any kind or description whatsoever;

(d) cargo or other property on or the engagements of the Vessel;

(e) loss of life, personal injury or illness.

Provided further that exclusions (b) and (c) above shall not apply to injury to other vessels or property thereon except to the extent that such injury arises out of any action taken to avoid, minimize or remove any discharge, spillage, emission or leakage described in (c).
CHANGE OF OWNERSHIP

In the event of any change, voluntary or otherwise, in the ownership or flag of the Vessel, or if the Vessel be placed under new management, or be chartered on a bareboat basis or requisitioned on that basis, or if the Classification Society of the Vessel or her class therein be changed, cancelled or withdrawn, then, unless the Underwriters agree thereto in writing, this Policy shall automatically terminate at the time of such change of ownership, flag, management, charter, requisition or classification; provided, however, that:

(a) if the Vessel has cargo on board and has already sailed from her loading port, or is at sea in ballast, such automatic termination shall, if required, be deferred until arrival at final port of discharge if with cargo, or at port of destination if in ballast;

(b) in the event of an involuntary temporary transfer by requisition or otherwise, without the prior execution of a written agreement by the Assured, such automatic termination shall occur fifteen days after such transfer.

This insurance shall not inure to the benefit of any transferee or charterer of the Vessel and, if a loss payable hereunder should occur between the time of change or transfer and any deferred automatic termination, the Underwriters shall be subrogated to all of the rights of the Assured against the transferee or charterer in respect of all or part of such loss as is recoverable from the transferee or charterer, and in the proportion which the amount insured hereunder bears to the Agreed Value.

The term "new management" as used above also refers only to the transfer of the management of the Vessel from one firm or corporation to another, and it shall not apply to any internal changes within the offices of the Assured.

ADDITIONAL INSURANCES

It is a condition of this Policy that no additional insurance against the risk of Total Loss of the Vessel shall be effected to operate during the currency of this Policy by or for account of the Assured, Owners, Managers, Operators or Mortgagors except on the interests and up to the amount enumerated in the following Sections (a) to (g), inclusive, and no such insurance shall be subject to P.P.L., F.I.A. or other like term on any interests whatever excepting those enumerated in Section (a); provided always and notwithstanding the limitation on recovery in the Assured clause a breach of this condition shall not afford the Underwriters any defense to a claim by a Mortgagor who has accepted this Policy without knowledge of such breach.

(a) DISBURSEMENTS, MANAGERS' COMMISSIONS, PROFITS OR EXCESS OR INCREASED VALUE OF HULL AND MACHINERY AND/OR SIMILAR INTERESTS HOWEVER DESCRIBED, AND FREIGHT (INCLUDING CHARTERED FREIGHT OR ANTICIPATED FREIGHT) INSURED FOR TIME. An amount not exceeding the aggregate 25% of the Agreed Value.

(b) FREIGHT OR HIRE, UNDER CONTRACTS FOR VOYAGE: An amount not exceeding the gross freight or hire for the current cargo passage and next succeeding cargo passage (such insurance to include, if required, a preliminary and an intermediate ballast passage) plus the charges of insurance. In the case of a voyage charter where payment is made on a time basis, the amount shall be calculated on the estimated duration of the voyage, subject to the limitation of two cargo passages as laid down herein. Any amount permitted under this Section shall be reduced, as the freight or hire is earned by the gross amount so earned. Any freight or hire to be earned under the form of Charters described in (d) below shall not be permitted under this Section (b) if any part thereof is insured as permitted under said Section (d).

(c) ANTICIPATED FREIGHT IF THE VESSEL SAILS IN BALLAST AND NOT UNDER CHARTER. An amount not exceeding 25% of the anticipated gross freight on next cargo passage, such amount to be reasonably estimated on the basis of the current rate of freight and time of insurance, plus the charges of insurance. Provided, however, that no insurance shall be permitted by this Section if any insurance is effected as permitted under Section (b).

(d) TIME CHARTER HIRE OR CHARTER HIRE FOR SERIES OF VOYAGES. An amount not exceeding 50% of the gross hire which is to be earned under the charter in a period not exceeding 12 months. Any amount permitted under this Section shall be reduced as the hire is earned under the charter by 50% of the gross amount so earned but, where the charter is for a period exceeding 18 months, the amount insured need not be reduced while it does not exceed 50% of the gross hire still to be earned under the charter. An insurance permitted by this Section may begin on the signing of the charter.

(e) PREMIUMS. An amount not exceeding the actual premiums of all interests insured for a period not exceeding 12 months (excluding premiums insured as permitted under the foregoing Sections but including, if required, the estimated calls or premium on any Protection and Indemnity or War Risks and Strikes Insurance) reducing pro rata monthly.

(f) RETURNS OF PREMIUM. An amount not exceeding the actual returns which are recoverable subject to "and arrival" or equivalent provisions under any policy of insurance.

(g) INSURANCE IRRESPECTIVE OF AMOUNT AGAINST: -- Risks excluded by the War, Strikes and Related Exclusions clause; risks enumerated in the American Institute War Risks and Strikes Clauses; and General Average and Salvage Disbursements.

WAR STRIKES AND RELATED EXCLUSIONS

The following conditions shall be paramount and shall supersede and nullify any contrary provisions of the Policy.

This Policy does not cover any loss, damage or expense caused by, resulting from, or incurred as a consequence of:

(a) Capture, seizure, arrest, restraint or detention, or any attempt thereat; or

(b) Any taking of the Vessel, by requisition or otherwise, whether in time of peace or war and whether lawful or otherwise; or

(c) Any mine, bomb or torpedo not carried as cargo on board the Vessel; or

(d) Any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; or

(e) Civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or piracy; or

(f) Strikes, lockouts, political or labor disturbances, civil commotions, riots, martial law, military or usurped power, malicious acts or vandalism; or

(g) Hostilities or warlike operations (whether there be a declaration of war or not) but this subparagraph (g) not to exclude collision or contact with aircraft, rockets or similar missiles, or with any fixed or floating object, or stranding, heavy weather, fire or explosion unless caused directly by a hostile act by or against a belligerent power which act is independent of the nature of the voyage or service which the Vessel concerned or, in the case of a collision, any other vessel involved therein, is performing. As used herein, "power" includes any authority maintaining naval, military or air forces in association with a power.

If war risks or other risks excluded by this clause are hereafter insured by endorsement on this Policy, such endorsement shall supersede the above conditions only to the extent that the terms of such endorsement are inconsistent therewith and only while such endorsement remains in force.
APPENDIX F

Institute Cargo Clauses (A)
INSTITUTE CARGO CLAUSES (A)
CL382 01/01/2009

RISKS COVERED

Risks
1. This insurance covers all risks of loss or damage to the subject-matter insured except as excluded by the provisions of Clauses 4, 5, 6 and 7 below.

General Average
2. This insurance covers general average and salvage charges, adjusted or determined according to the contract of carriage and/or the governing law and practice, incurred to avoid or in connection with the avoidance of loss from any cause except those excluded in Clauses 4, 5, 6 and 7 below.

"Both to Blame Collision Clause"
3. This insurance indemnifies the Assured, in respect of any risk insured herein, against liability incurred under any Both to Blame Collision Clause in the contract of carriage. In the event of any claim by carriers under the said Clause, the Assured agrees to notify the Insurers who shall have the right, at their own cost and expense, to defend the Assured against such claim.

EXCLUSIONS

4. In no case shall this insurance cover
4.1 loss damage or expense attributable to wilful misconduct of the Assured
4.2 ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the subject-matter insured
4.3 loss damage or expense caused by insufficiency or unsuitability of packing or preparation of the subject-matter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by the Assured or their employees or prior to the attachment of this insurance (for the purpose of these Clauses "packing" shall be deemed to include stowage in a container and "employees" shall not include independent contractors)
4.4 loss damage or expense caused by inherent vice or nature of the subject-matter insured
4.5 loss damage or expense caused by delay, even though the delay be caused by a risk insured against (except expenses payable under Clause 2 above)
4.6 loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the vessel where, at the time of loading of the subject-matter insured on board the vessel, the Assured are aware, or in the ordinary course of business should be aware, that such insolvency or financial default could prevent the normal prosecution of the voyage

This exclusion shall not apply where the contract of insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the subject-matter insured in good faith under a binding contract
4.7 loss damage or expense directly or indirectly caused by or arising from the use of any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

5. In no case shall this insurance cover loss damage or expense arising from
5.1.1 unseaworthiness of vessel or craft or unfitness of vessel or craft for the safe carriage of the subject-matter insured, where the Assured are privy to such unseaworthiness or unfitness, at the time the subject-matter insured is loaded therein
5.1.2 unfitness of container or conveyance for the safe carriage of the subject-matter insured, where loading therein or thereon is carried out prior to attachment of this insurance or by the Assured or their employees and they are privy to such unfitness at the time of loading.

5.2 Exclusion 5.1.1 above shall not apply where the contract of insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the subject-matter insured in good faith under a binding contract.
5.3 The Insurers waive any breach of the implied warranties of seaworthiness of the ship and fitness of the ship to carry the subject-matter insured to destination.
6. In no case shall this insurance cover loss damage or expense caused by

6.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power

6.2 capture seizure arrest restraint or detainment (piracy excepted), and the consequences thereof or any attempt thereof

6.3 derelict mines torpedoes bombs or other derelict weapons of war.

7. In no case shall this insurance cover loss damage or expense

7.1 caused by strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions

7.2 resulting from strikes, lock-outs, labour disturbances, riots or civil commotions

7.3 caused by any act of terrorism being an act of any person acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of any government whether or not legally constituted

7.4 caused by any person acting from a political, ideological or religious motive.

DURATION

Transit Clause

8. 8.1 Subject to Clause 11 below, this insurance attaches from the time the subject-matter insured is first moved in the warehouse or at the place of storage (at the place named in the contract of insurance) for the purpose of the immediate loading into or onto the carrying vehicle or other conveyance for the commencement of transit, continues during the ordinary course of transit and terminates either:

8.1.1 on completion of unloading from the carrying vehicle or other conveyance in or at the final warehouse or place of storage at the destination named in the contract of insurance,

8.1.2 on completion of unloading from the carrying vehicle or other conveyance in or at any other warehouse or place of storage, whether prior to or at the destination named in the contract of insurance, which the Assured or their employees elect to use either for storage other than in the ordinary course of transit or for allocation or distribution, or

8.1.3 when the Assured or their employees elect to use any carrying vehicle or other conveyance or any container for storage other than in the ordinary course of transit or

8.1.4 on the expiry of 60 days after completion of discharge overside of the subject-matter insured from the overseas vessel at the final port of discharge, whichever shall first occur.

8.2 If, after discharge overside from the overseas vessel at the final port of discharge, but prior to termination of this insurance, the subject-matter insured is to be forwarded to a destination other than that to which it is insured, this insurance, whilst remaining subject to termination as provided in Clauses 8.1.1 to 8.1.4, shall not extend beyond the time the subject-matter insured is first moved for the purpose of the commencement of transit to such other destination.

8.3 This insurance shall remain in force (subject to termination as provided for in Clauses 8.1.1 to 8.1.4 above and to the provisions of Clause 9 below) during delay beyond the control of the Assured, any deviation, forced discharge, reshipment or transshipment and during any variation of the adventure arising from the exercise of a liberty granted to carriers under the contract of carriage.

Termination of Contract of Carriage

9. If owing to circumstances beyond the control of the Assured either the contract of carriage is terminated at a port or place other than the destination named therein or the transit is otherwise terminated before unloading of the subject-matter insured as provided for in Clause 8 above, then this insurance shall also terminate unless prompt notice is given to the insurers and continuation of cover is requested when this insurance shall remain in force, subject to an additional premium if required by the insurers, either

9.1 until the subject-matter insured is sold and delivered at such port or place, or, unless otherwise specially agreed, until the expiry of 60 days after arrival of the subject-matter insured at such port or place, whichever shall first occur,

or
9.2 If the subject-matter insured is forwarded within the said period of 60 days (or any agreed extension thereof) to the destination named in the contract of insurance or to any other destination, until terminated in accordance with the provisions of Clause 8 above.

Change of Voyage

10. 10.1 Where, after attachment of this insurance, the destination is changed by the Assured, this must be notified promptly to insurers for rates and terms to be agreed. Should a loss occur prior to such agreement being obtained, cover may be provided but only if cover would have been available at a reasonable commercial market rate on reasonable market terms.

10.2 Where the subject-matter insured commences the transit contemplated by this insurance (in accordance with Clause 8.1), but, without the knowledge of the Assured or their employees the ship sails for another destination, this insurance will nevertheless be deemed to have attached at commencement of such transit.

CLAIMS

Insurable Interest

11. 11.1 In order to recover under this insurance the Assured must have an insurable interest in the subject-matter insured at the time of the loss.

11.2 Subject to Clause 11.1 above, the Assured shall be entitled to recover for insured loss occurring during the period covered by this insurance, notwithstanding that the loss occurred before the contract of insurance was concluded, unless the Assured were aware of the loss and the Insurers were not.

Forwarding Charges

12. Where, as a result of the operation of a risk covered by this insurance, the insured transit is terminated at a port or place other than that to which the subject-matter insured is covered under this insurance, the Insurers will reimburse the Assured for any extra charges properly and reasonably incurred in unloading storing and forwarding the subject-matter insured to the destination to which it is insured.

This Clause 12, which does not apply to general average or salvage charges, shall be subject to the exclusions contained in Clauses 4, 5, 6 and 7 above, and shall not include charges arising from the fault negligence insolvency or financial default of the Assured or their employees.

Constructive Total Loss

13. No claim for Constructive Total Loss shall be recoverable hereunder unless the subject-matter insured is reasonably abandoned either on account of its actual total loss appearing to be unavoidable or because the cost of recovering, reconditioning and forwarding the subject-matter insured to the destination to which it is insured would exceed its value on arrival.

Increased Value

14. 14.1 If any increased value insurance is effected by the Assured on the subject-matter insured under this insurance the agreed value of the subject-matter insured shall be deemed to be increased to the total amount insured under this insurance and all increased value insurances covering the loss, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

In the event of claim the Assured shall provide the Insurers with evidence of the amounts insured under all other insurances.

14.2 Where this insurance is on increased value the following clause shall apply:

The agreed value of the subject-matter insured shall be deemed to be equal to the total amount insured under the primary insurance and all increased value insurances covering the loss and effected on the subject-matter insured by the Assured, and liability under this insurance shall be in such proportion as the sum insured under this insurance bears to such total amount insured.

In the event of claim the Assured shall provide the Insurers with evidence of the amounts insured under all other insurances.

BENEFIT OF INSURANCE

15. This insurance

15.1 covers the Assured which includes the person claiming indemnity either as the person by or on whose behalf the contract of insurance was effected or as an assignee,
15.2 shall not extend to or otherwise benefit the carrier or other bailee.

MINIMISING LOSSES

Duty of Assured

16. It is the duty of the Assured and their employees and agents in respect of loss recoverable hereunder

16.1 to take such measures as may be reasonable for the purpose of averting or minimising such loss,

and

16.2 to ensure that all rights against carriers, bailees or other third parties are properly preserved and exercised and the Insurers will, in addition to any loss recoverable hereunder, reimburse the Assured for any charges properly and reasonably incurred in pursuance of these duties.

Waiver

17. Measures taken by the Assured or the Insurers with the object of saving, protecting or recovering the subject-matter insured shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.

AVOIDANCE OF DELAY

18. It is a condition of this insurance that the Assured shall act with reasonable despatch in all circumstances within their control.

LAW AND PRACTICE

19. This insurance is subject to English law and practice.

NOTE:- Where a continuation of cover is requested under Clause 9, or a change of destination is notified under Clause 10, there is an obligation to give prompt notice to the Insurers and the right to such cover is dependent upon compliance with this obligation.

01/01/2009
CL362
APPENDIX G

UK P&I Club Rules (2010)
Foreword

The Rules

(Effective on and from noon Greenwich Mean Time on 20th February, 2010).

The UK P&I Club is a mutual protection and indemnity association, which operates through two legal entities: The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited and The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited.

In the case of The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited these Rules were adopted in accordance with the powers conferred by The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited Consolidation & Amendment Act 1993 and the Bye-Laws of The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited, which said Bye-Laws provide for the alteration, abrogation of or addition to the Rules by Resolution of the Association.

In the case of The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited these Rules were adopted in accordance with the powers conferred by the articles of association of The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited, which provide for the alteration, abrogation of or addition to the Rules by Resolution of The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited.

These Rules shall be the Rules of The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited and the Rules of The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited respectively, provided that the latter shall be read subject to and in accordance with the following:

1 References to "the Association" shall be references to The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited save for the references in the definitions of "Directors" and "Member" in Rule 44, where references to the Association shall remain references to The United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited.

2 References to "the Act" shall be references to the Memorandum of Association of The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited.

3 References to the "Bye-Laws" shall be references to the Articles of Association of The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited.
4 For the avoidance of doubt for the purpose of Rule 14 no contract of insurance or reinsurance with The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited shall entitle any person to be or become a member of The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited.

The notes to the Rules are for guidance only and do not form part of the Rules.
Rule 1

Introductory

1 The standard cover afforded by the Association to an Owner who has entered his ship in the Association is set out in Rule 2.

2 The risks specified in Rule 2 are always subject to the conditions, exceptions, limitations and other terms set out in Rule 5 and in the remainder of these Rules.

3 The cover set out in these Rules may be excluded, limited, modified or otherwise altered by any special terms which have been agreed in writing between an Owner and the Managers.

4 By virtue of Rules 3 and 4 an Owner may be insured against risks other than those set out in Rule 2 where such special terms have been agreed in writing between the Owner and the Managers. Unless otherwise expressly agreed such special insurance shall be subject to the conditions, exceptions, limitations and other terms set out in Rule 5 and in the remainder of these Rules.

5 An Owner is only insured against loss, damage, liability or expense incurred by him which arises:
   i out of events occurring during the period of entry of a ship in the Association;
   ii in respect of the Owner's interest in the entered ship; and
   iii in connection with the operation of the ship by or on behalf of the Owner.

6 An Owner who has entered his ship in the Association for insurance against any of the aforesaid risks is bound (subject to (7) below) to pay Calls to the Association in accordance with Rules 8 and 19 to 23 ("Call Entries").

7 By virtue of Rule 9 an Owner may be insured on the special terms that he is liable to pay a fixed premium to the Association ("Fixed Premium Entries"), provided that this has been expressly agreed in writing between the Owner and the Managers.

8 Save as provided in Rule 1(9), the cover provided by the Association as set out in these Rules is solely for the benefit of the Owner, and any Joint Owner, Group Affiliate, other association or insurer, or permitted assign, to the extent allowed by Rules 10, 11, 13 and 15. It is not intended, save as provided in Rule 1(9), that rights should be acquired by any third party, through the operation of the Contracts (Rights of Third Parties) Act 1999 of the United Kingdom or similar legislation.

9 Notwithstanding the provisions of Rule 5A, where an Owner has failed to discharge a legal liability to pay damages or compensation for illness,
personal injury or death of a seaman, the Association shall discharge or pay such claim on the Owner's behalf directly to such seaman or dependent thereof

PROVIDED ALWAYS that

i) the seaman or dependent has no enforceable right of recovery against any other party and would otherwise be uncompensated,

ii) subject to (iii) below, the amount payable by the Association shall under no circumstances exceed the amount which the Owner would otherwise have been able to recover from the Association under the Rules and the Owner's terms of entry,

iii) where the Association is under no liability to the Owner in respect of such claim in accordance with Rule 31(B)(ii)(a) and (d) by reason of cancellation for non-payment of amounts due to the Association, the Association shall nevertheless discharge or pay that claim to the extent only that it arises from an event occurring prior to the date of cancellation, but as agent only of the Owner, and the Owner shall be liable to reimburse the Association for the full amount of such claim.

10 The Associations shall, as far as possible and save as provided in the Rules or as the Directors shall in their discretion determine, be run on a unified basis and as one association.
Rule 2

Risks covered

Unless otherwise agreed between an Owner and the Managers, the risks covered by the Association are as set out in Sections 1 to 26 below, PROVIDED ALWAYS that:

i Unless and to the extent that the Directors otherwise decide, an Owner is only insured in respect of such sums as he has paid to discharge the liabilities or to pay the losses, costs or expenses referred to in those sections;

ii The maximum amount recoverable by an Owner in respect of any one event may be limited by virtue of the limits set out in Rule 5(B), or by virtue of a resolution of the Directors made before the commencement of the relevant policy year;

iii Unless otherwise agreed between an Owner and the Managers, an Owner's recovery from the Association shall be subject to the deductibles set out in Appendix B to this Rule.

Section 1

Liability to persons other than seamen

A Liability to pay damages or compensation for personal injury, illness or death of any person (other than the persons specified in paragraphs (B) and (C) of this Section and in Sections 2 and 3) and hospital, medical or funeral expenses incurred in relation to such injury, illness or death.

B Liability to pay damages or compensation for personal injury, illness or death of any person engaged to handle the cargo of an entered ship. PROVIDED ALWAYS that:

a Cover under paragraphs (A) and (B) of this Section is limited to liabilities arising out of a negligent act or omission on board or in relation to an entered ship or in relation to the handling of her cargo from the time of receipt of that cargo from the shipper or pre-carrier at the port of shipment until delivery of that cargo to consignee or onward carrier at the port of discharge.

b Where the liability arises under the terms of any contract or indemnity and would not have arisen but for those terms, that liability is not covered under this Section but may be covered under and in accordance with Section 14 of this Rule.

c Where the liability is in respect of a person on another ship, and arises out of a collision between that ship and the entered ship, that liability is not covered under this Section but may be recoverable under and in accordance with Section 10(B) of this Rule.

C Liability to pay damages or compensation:

i for personal injury, illness or death of any passenger and hospital, medical or funeral expenses incurred in relation to such injury, illness or death;

ii to passengers on board an entered ship arising as a consequence of a casualty to that ship while they are on board, including the cost of forwarding passengers to destination or return to port of embarkation.
Rule 2 continued

...and of maintenance of passengers ashore;
ii for loss of or damage to the effects of any passenger.

PROVIDED ALWAYS that:

a The terms of the passage ticket or other contract between the passenger and the Owner have been approved by the Managers in writing and cover for the liabilities set out in this paragraph (C) has been agreed between the Owner and the Managers on such terms as the Managers may require.

b There shall be no recovery from the Association under this paragraph (C) in respect of liabilities for personal injury or death, or loss of or damage to property, delay or any other consequential loss sustained by any passenger by reason of carriage by air, except where such liability occurs either
i during repatriation by air of injured or sick passengers or of passengers following a casualty to the entered ship; or
ii subject always to proviso (c) of this paragraph (C), during an excursion from the entered ship.

c There shall be no recovery from the Association under this paragraph (C) in respect of the contractual liability of an Owner for death or injury to a passenger whilst on an excursion from the entered ship in circumstances where either:

i a separate contract has been entered into by the passenger for the excursion, whether or not with the Owner; or

ii the Owner has waived any or all of his rights of recourse against any sub-contractor or other third party in respect of the excursion.

d Unless and to the extent that the Owner has obtained appropriate special cover by agreement with the Managers, there shall be no recovery from the Association in respect of claims relating to cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature.

e For the purpose of this paragraph (C), 'casualty' means 'an incident involving either: (i) collision, stranding, explosion, fire, or any other cause affecting the physical condition of the entered ship so as to render it incapable of safe navigation to its intended destination; or (ii) a threat to the life, health or safety of passengers in general'.

Section 2
Injury and death of seamen

Liability to pay damages or compensation for personal injury or death of any seaman, and hospital, medical, funeral and other expenses necessarily incurred in relation to such injury or death, including expenses of repatriating the seaman and sending abroad a substitute to replace him.

PROVIDED ALWAYS that:

Where the liability arises or the costs or expenses are incurred under the terms of a crew agreement or other contract of service or employment and would not have arisen but for those terms, that liability is not covered by the Association unless and to the extent that those terms shall have been previously approved by the Managers in writing.
Rule 2 continued

Section 3
Illness and death of seamen

Liability to pay damages or compensation for illness and death resulting from illness of any seaman, and hospital, medical, funeral or other expenses necessarily incurred in relation to such illness or such death including expenses of repatriating the seaman and sending abroad a substitute to replace him.

PROVIDED ALWAYS that:
Where the liability arises or the costs or expenses are incurred under the terms of a crew agreement or other contract of service or employment and would not have arisen but for those terms, that liability is not covered by the Association unless and to the extent that those terms shall have been previously approved by the Managers in writing.

Section 4
Repatriation and substitute expenses

Repatriation and substitute expenses which are not recoverable under Sections 2 and 3 of this Rule and which are incurred in sending abroad a substitute to replace a seaman of an entered ship who has been left ashore, or incurred under statutory obligation in repatriating any seaman of the entered ship.

PROVIDED ALWAYS that:
This Section does not cover expenses which arise out of or are the consequence of (i) the expiry of a seaman’s period of service on the entered ship either in accordance with the terms of a crew agreement or other contract of service or employment or by mutual consent of the parties to it, or (ii) breach by the Owner of any agreement or other contract of service or employment, or (iii) sale of the ship, or (iv) any other act of the Owner in respect of the entered ship.

Section 5
Loss of and damage to the effects of seamen and others

Liability to pay damages or compensation for loss of or damage to the effects of:

A Any seaman,

B Any other person, on board an entered ship (other than the persons specified in paragraph (C) of Section 1).

PROVIDED ALWAYS that:
a Unless and to the extent that the Owner has obtained appropriate special cover by agreement with the Managers, there shall be no recovery from the Association in respect of claims relating to cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature.
Rule 2 continued

b Where the liability arises under the terms of a contract and would not have arisen but for those terms, that liability is not covered by the Association unless and to the extent that those terms shall have been previously approved by the Managers in writing.

Section 6
Shipwreck unemployment indemnity

Liability to compensate any seaman for the loss of his employment caused in consequence of the actual or constructive total loss of an entered ship, where the wages or compensation are payable under statutory or other legal obligation or under the terms of any crew agreement or other contract of service or employment if and to the extent that those terms have previously been approved by the Managers.

Section 7
Diversion expenses

Expenses of diversion of an entered ship where and to the extent that those expenses (i) represent the net loss to the Owner (over and above such expenses as would have been incurred but for the diversion) in respect of the cost of fuel, insurance, wages, stores, provisions and port charges and (ii) are incurred solely for the purpose of securing treatment for an injured or sick person or while awaiting a substitute for such person or for the purpose of landing stowaways or refugees, or for the purpose of saving life at sea.

Section 8
Stowaways and refugees

Expenses, other than those covered under Section 7 of this Rule, incurred by the Owner in discharging his obligations towards or making necessary arrangements for stowaways or refugees, but only if and to the extent that the Owner is legally liable for the expenses or they are incurred with the approval and agreement of the Managers.

Section 9
Life salvage

Sums legally due to third parties by reason of the fact that they have saved or attempted to save the life of any person on or from an entered ship but only if and to the extent that such payments are not recoverable under the Hull Policies of the entered ship or from cargo owners or underwriters.
Rule 2 (continued)

Section 10
Collision with other ships

The liabilities, set out in paragraphs (A), (B) and (C) below, to pay costs and
damages to any other person as a consequence of a collision between an
entered ship and any other ship, but only if and to the extent that such
liabilities are not recoverable under the collision liability clause contained in
the Hull Policies of the entered ship:

A One fourth, or such other proportion as may have been agreed in writing
by the Managers, of the liabilities arising out of the collision other than the
liabilities listed in paragraph (B) of this Section.

B Four fourths of the liabilities arising out of the collision for or relating to
i removal or disposal of obstructions, wrecks, cargoes or any other thing
whatsoever,
ii any real or personal property or any thing whatsoever except other
ships or property on other ships,
iii the cargo or other property on the entered ship, or general average
contributions, special charges or salvage paid by the owners of that
cargo or property,
iv loss of life, personal injury, illness, repatriation or substitute expenses,
v an escape or discharge (other than from the entered ship), of oil or any
other substance, or the threat thereof, but excluding damage to other
ships with which the entered ship is in collision and property on such
other ships.
vi remuneration paid, pursuant to the Special Compensation P&I Club
(SCOPIC) Clause, or any revision thereof, in respect of the salvage of
a ship with which the entered ship is in collision.

C That part of the Owner's liabilities arising out of the collision, other than
the liabilities listed in paragraphs (A) and (B) of this Section, which
exceeds the sum recoverable under the Hull Policies of the entered ship
solely by reason of the fact that the sum of the liabilities arising out of the
collision exceeds the valuation of the ship in those policies.

PROVIDED ALWAYS that:

a Unless and to the extent that the Directors in their discretion otherwise
decide, recovery from the Association under paragraph (C) of this
Section shall be limited to the excess (if any) of the amount which
would have been recoverable under the Hull Policies of the entered
ship if that ship had been insured thereunder at the proper value in
accordance with Rule 5(D).

b Unless otherwise agreed by the Managers at the time of entry or of
subsequent annual renewal, an Owner shall not be entitled to recover
from the Association any franchise or deductible borne by him under
the Hull Policies of the entered ship.

c If a claim arises under this Section in respect of a collision involving
two ships belonging wholly or partly to the same Owner, he shall be
entitled to recover from the Association, and the Association shall have the same rights, as if the ships had belonged to different owners.

d Unless otherwise agreed between the Owner and the Managers as a term of the ship's entry in the Association, if both ships are to blame, then where the liability of either or both of the ships in collision becomes limited by law, claims under this Section shall be settled upon the principle of single liability, but in all other cases claims under this Section shall be settled upon the principle of cross-liabilities, as if the owner of each ship had been compelled to pay the owner of the other ship such proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Owner of the entered ship in consequence of the collision.

Note: Any oil pollution element in a claim under this Section 10 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.

Section 11
Loss or damage to property
Liability to pay damages or compensation for any loss of or damage to any property (including infringement of rights) whether on land or water and whether fixed or moveable.
PROVIDED ALWAYS that:

a There shall be no recovery by an Owner under this Section in respect of:
   i Liability which arises under the terms of any contract or indemnity to the extent that it would not have arisen but for those terms.
   ii Liability which is within the scope of the following Sections of this Rule, or within any proviso, limit, exclusion or deductible applicable to those Sections:
      Section 1(C) Liability to persons other than seamen.
      Section 5 The effects of seamen and others.
      Section 10 Collision with other ships.
      Section 12 Pollution risks.
      Section 13 Liability arising out of towage of or by an entered ship.
      Section 15 Wreck liabilities.
      Section 17 Cargo liabilities.
      Section 18 Property on the entered ship.
   iii Any franchise or deductible borne by the Owner under the Hull Policies of the entered ship.

b If an entered ship causes loss or damage to property or infringes rights belonging wholly or in part to the Owner of the entered ship, the Owner shall have the same rights of recovery from the Association as if such property or rights belonged wholly to different owners.

Note: Any oil pollution element in a claim under this Section 11 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.
Rule 2 (continued)

Section 12
Pollution risks

The liabilities, losses, damages, costs and expenses set out in paragraphs (A) to (E) below when and to the extent that they are caused by or incurred in consequence of the discharge or escape from an entered ship of oil or any other substance, or the threat of such discharge or escape:

PROVIDED ALWAYS that

a There shall be no recovery in respect of any liability, loss, damage, cost or expense arising as a consequence of the presence in, or the escape or discharge or threat of escape or discharge from, any land-based dump, storage or disposal facility, of any substance previously carried on the entered ship, whether or not as cargo, fuel, stores or waste, except to the extent that the Directors in their discretion, and without having to give any reasons for their decision, otherwise determine.

b Unless and to the extent that special cover has been agreed in writing by the Managers, the Association shall not reimburse any liability, loss, cost or expense which would have been recoverable in general average if the cargo of the entered ship had been carried on terms no less favourable to the Owner than those of the York-Antwerp Rules 1994.

c Unless the Managers otherwise agree in writing, the Owner of an entered ship which is a "relevant ship" as defined in the Small Tanker Oil Pollution Indemnification Agreement 2006 (STOPIA 2006) shall during the currency of that Agreement be a party to STOPIA 2006 for the period of entry of such ship in the Association and, unless the Directors otherwise determine, shall not be entitled to any recovery under this Rule 2, Section 12 in respect of such ship in relation to any casualty, event or matter occurring during a period when the Owner is not a party to STOPIA 2006.

d Unless the Managers otherwise agree in writing, the Owner of an entered ship which is a "relevant ship" as defined in the Tanker Oil Pollution Indemnification Agreement (TOPIA) shall during the currency of that Agreement be a party to TOPIA for the period of entry of such ship in the Association and, unless the Directors otherwise determine, shall not be entitled to any recovery under this Rule 2, Section 12 in respect of such ship in relation to any casualty, event or matter occurring during a period when the Owner is not a party to TOPIA.

A Liability for loss, damage or contamination.

B Any loss, damage or expense which the Owner incurs, or for which he is liable, as a party to any agreement approved by the Directors, including the costs and expenses incurred by the Owner in performing his obligations under such agreements.

C The costs of any measures reasonably taken for the purpose of avoiding or minimizing pollution or any resulting loss or damage together with any liability for loss of or damage to property caused by measures so taken.
Rule 2 (continued)

D The costs of any measures reasonably taken to prevent an imminent
danger of the discharge or escape from the entered ship of oil or any
substance which may cause pollution.

E The costs or liabilities incurred as a result of compliance with any order or
direction given by any government or authority, for the purpose of
preventing or reducing pollution or the risk of pollution, provided always
that:
a such compliance is not a requirement for the normal operation or
salvage or repair of the entered ship; and
b such costs or liabilities are not recoverable under the Hull Policies of
the entered ship.

Note: Oil pollution claims under this Section 12 will be subject to the
limitation set out in Rule 5(B) and in the corresponding note.

Section 13
Liability arising out of towage of or by an entered ship

A Customary towage of an entered ship
Liability, other than for the cost of the contracted services, under the terms
of a contract for the customary towage of an entered ship, that is to say:
i towage for the purpose of entering or leaving port or manoeuvring
within the port during the ordinary course of trading, or
ii towage of such entered ships as are habitually towed in the ordinary
course of trading from port to port or from place to place, to the extent
that the Owner is not insured against such liability under the Hull
Policies of the entered ship.

B Towage of an entered ship other than customary towage
Liability under the terms of a contract for towage of an entered ship other
than the customary towage covered under paragraph (A) of this Section
but only if and to the extent that cover for such liability has been agreed
with the Managers upon such terms as the Managers may require.

C Towage by an entered ship
Liability arising out of the towage of another ship or object by an entered
ship but only if and to the extent that:
i cover for such liability has been agreed with the Managers upon such
terms as the Managers may require, or
ii the Directors shall in their discretion decide that having regard to all
the circumstances the claim falls within the scope of the Association
and that the Owner should be reimbursed.

Note: Any oil pollution element in a claim under this Section 13 will be
subject to the limitation set out in Rule 5(B) and in the corresponding note.
Rule 2 (continued)

Section 14
Liability arising under certain indemnities and contracts

Liability for loss of life, personal injury or illness, or for loss of or damage to property, arising under the terms of an indemnity or contract given or made by or on behalf of the Owner relating to facilities or services provided or to be provided to or in connection with an entered ship, but only if and to the extent that:

i. the terms have previously been approved by the Managers and cover for the liability has been agreed between the Owner and the Managers on such terms as the Managers may require, or

ii. the Directors in their discretion decide that the Owner should be reimbursed.

Note: Any oil pollution element in a claim under this Section 14 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.

Section 15
Wreck liabilities

A Costs or expenses relating to the raising, removal, destruction, lighting or marking of the wreck of an entered ship, when such raising, removal, destruction, lighting or marking is compulsory by law or the costs thereof are legally recoverable from the Owner.

B Costs or expenses relating to the raising, removal or destruction of any property being carried or having been carried on an entered ship, not being oil or any other substance within the scope of Section 12 of this Rule, when such raising, removal or destruction is compulsory by law or the costs thereof are legally recoverable from the Owner but only if and to the extent that:

i. such property does not form part of the entered ship and is not owned or leased by the Owner or by any company associated with or under the same management as the Owner; and

ii. the Owner is unable to recover such costs or expenses from the owner or insurer of such property, or from any other party.

C Liabilities incurred by an Owner as the result of any such raising, removal or destruction of the wreck of an entered ship or any property as is referred to in paragraphs (A) and (B) of this Section, or any attempt thereat.

D Liabilities incurred by an Owner as the result of the presence or involuntary shifting of the wreck of an entered ship or as a result of his failure to remove, destroy, light or mark such wreck, including liability arising from the discharge or escape from such wreck of oil or any other substance.

PROVIDED ALWAYS that:

a. The entered ship became a wreck as the result of a casualty or event occurring during the period of that ship’s entry in the Association, in which case the Association shall continue to be liable for the claim notwithstanding that in other respects the liability of the Association shall have terminated pursuant to Rule 29(C).
Rule 2 (continued)

b In respect of a claim under paragraph (A) of this Section, the value of all stores and materials saved, as well as the wreck itself, shall first be deducted from such costs or expenses and only the balance thereof, if any, shall be recoverable from the Association.

c Nothing shall be recoverable from the Association under this section if the Owner shall, without the consent of the Managers in writing, have transferred his interest in the wreck, otherwise than by abandonment, prior to the raising, removal, destruction, lighting or marking of the wreck or prior to the incident giving rise to the liabilities, costs and expenses referred to in this Section.

d Where the liability arises under the terms of an indemnity or contract, and would not have arisen but for those terms, such costs and expenses are only recoverable under this Section if and to the extent that

(i) the terms of the indemnity or contract have previously been approved by the Managers and cover has been agreed between the Owner and the Managers on such terms as the Managers may require, or

(ii) the Directors in their discretion decide that the Owner should be reimbursed.

Note: Any oil pollution element in a claim under this Section 15 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.

Section 16
Quarantine expenses

Additional expenses incurred by the Owner of an entered ship as a direct consequence of an outbreak of infectious disease on that ship, including quarantine and disinfection expenses and the net loss to the Owner (over and above such expenses as would have been incurred but for the outbreak) in respect of the cost of fuel, insurance, wages, stores, provisions and port charges.

Section 17
Cargo liabilities

The liabilities and costs set out in paragraphs (A) to (D) below when and to the extent that they relate to cargo intended to be or being or having been carried in an entered ship:

A Loss, shortage, damage or other responsibility

Liability for loss, shortage, damage or other responsibility arising out of any breach by the Owner, or by any person for whose acts, neglect or default he may be legally liable, of his obligation properly to load, handle, stow, carry, keep, care for, discharge or deliver the cargo or out of seaworthiness or unfitness of the entered ship.
Rule 2 (continued)

B Disposing of damaged cargo or sound cargo from a damaged ship
The additional costs (over and above those which would have been incurred by him if the cargo or the entered ship had not been damaged) incurred by the Owner in discharging or disposing of damaged cargo or sound cargo following damage to an entered ship, but only if and to the extent that the Owner has no recourse to recover those costs from any other party.

C Failure of consignee to remove cargo
The liabilities and additional costs (over and above the costs which would have been incurred by him if the cargo had been collected or removed) incurred by an Owner solely by reason of the total failure of a consignee to collect or remove cargo at the port of discharge or place of delivery, but only if and to the extent that such liabilities or costs exceed the proceeds of sale of the cargo and the Owner has no recourse to recover those liabilities or costs from any other party.

D Through or transhipment bills of lading
Liability for loss, shortage, damage or other responsibility in respect of cargo carried by a means of transport other than the entered ship, when the liability arises under a through or transhipment bill of lading, or other form of contract, approved by the managers, providing for carriage partly to be performed by the entered ship.

Note: By Resolution passed on 22nd January, 1981, the Directors decided that there shall be no recovery from the Association for loss or damage to cargo carried under Through Bills of Lading from ports in the Rivers Paraguay and Parana, and arising prior to shipment in the entered ship unless the Owner shall have given prior notice of such carriage to the Managers, and have agreed with them special cover on such terms as they may think appropriate.

Note: For the purpose of paragraph D, a contract is deemed to be approved if it incorporates the ICC Rules or the internationally accepted conventions such as CMR 1956 (Convention relative au Contrat de transport international de Marchandises par Route), CIM 1980 (Les règles uniformes concernant le Contrat de transport International ferroviaire de Marchandises), or the Warsaw Convention 1929 or 1955, as appropriate.

PROVIDED ALWAYS that:

a Standard Terms of Contracts of Carriage
Unless and to the extent that the Directors in their discretion otherwise decide, or special cover has been agreed in writing by the Managers, there shall be no recovery from the Association in respect of liabilities which would not have been incurred or sums which would not have been payable by the Owner if the cargo (including cargo on deck) had been carried under a contract incorporating terms no less favourable to the Owner than the Association's recommended standard terms of carriage which shall be the Hague Visby Rules and/or such other rules and/or conventions as the Directors may from time to time determine.
Rule 2 (continued)

Note: For the 2010 policy year the Standard Terms of Contracts of Carriage are the Hague Visby Rules, i.e. the Rules contained in the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on 25th August, 1924, as amended by the Protocol to that Convention signed at Brussels on 23rd February, 1968.

b Deviation
Unless and to the extent that the Directors in their discretion otherwise decide, or cover has been confirmed in writing by the Managers prior to the deviation, there shall be no recovery from the Association in respect of liabilities costs and expenses which arise out of or which are incurred as a consequence of a deviation, in the sense of a departure from the contractually agreed voyage or adventure which deprives the Owner of the right to rely on defences or rights of limitation which would otherwise have been available to him on the basis of the standard terms of carriage referred to in proviso (a) above to reduce or eliminate his liability.

c Claims payable only at the discretion of the Directors
Unless and to the extent that the Directors in their discretion otherwise decide there shall be no recovery from the Association in respect of liabilities, costs or expenses arising out of:

i Discharge of cargo at a port or place other than the port or place provided in the contract of carriage;

ii Delivery of cargo carried under a non-negotiable bill of lading, waybill or similar document without production of such document by the person to whom delivery is made, where such production is required by the express terms of that document or the law to which that document, or the contract of carriage contained in or evidenced by it, is subject, except where the Owner is required by any other law to which the carrier is subject to deliver, or relinquish custody or control of, the cargo, without production of such document.

iii Delivery of cargo carried under a negotiable bill of lading or similar document of title without production of that bill of lading or document by the person to whom delivery is made, except where cargo has been carried on the entered ship under the terms of a non-negotiable bill of lading, waybill or other non-negotiable document, and has been properly delivered as required by that document, notwithstanding that the Owner of that entered ship may be liable under the terms of a negotiable bill of lading or other similar document of title issued by or on behalf of a party other than that Owner providing for carriage partly by a means of transport other than the entered ship;

iv The issue of an ante dated or post dated bill of lading, waybill or other document containing or evidencing the contract of carriage, that is to say a bill of lading, waybill or other document recording the loading or shipment or receipt for shipment on a date prior or subsequent to the date on which the cargo was in fact loaded, shipped or received as the case may be;
Rule 2 (continued)

v  A bill of lading, waybill or other document containing or evidencing the contract of carriage, issued with the knowledge of the Owner or the Master of the entered ship with an incorrect description of the cargo or its quantity or its condition;

vi Either the failure to arrive or late arrival of the entered ship at a port of loading, or the failure to load any particular cargo or cargoes in an entered ship other than liabilities, loss and expenses arising under a bill of lading already issued.

d Ad Valorem Bills of Lading
Unless and to the extent that special cover has been agreed in writing by the Managers, the Association shall not be liable for payments to cargo claimants of amounts exceeding whichever is the higher of US$2,500 per unit, piece or package or the limitation per unit, piece or package specified in the standard terms of carriage, in respect of shipments of goods carried under an ad valorem bill of lading, waybill or other document containing or evidencing the contract of carriage in which the value of the relevant unit, piece or package has been stated to be in excess of US$2,500.

e Rare and valuable cargo
Unless and to the extent that special cover has been agreed in writing by the Managers, there shall be no recovery from the Association in respect of claims relating to the carriage of specie, bullion, precious or rare metals or stone, plate or other objects of a rare or precious nature, bank notes or other forms of currency, bonds or other negotiable instruments.

f Property of the Owner
In the event that any cargo lost or damaged on board the entered ship shall be the property of the Owner, such Owner shall be entitled to recover from the Association the same amount as would have been recoverable from him if the cargo had belonged to a third party and that third party had concluded a contract of carriage of the cargo with the Owner on the terms of the Association's recommended standard terms of carriage.

Section 18
Property on the entered ship

Liability of an Owner for loss of or damage to any containers, equipment, fuel or other property on board the entered ship.

PROVIDED ALWAYS that:

a Such property is not within the scope of Section 1(C) or Section 5 of this Rule (the effects of passengers, seamen and others) or Section 17 of this Rule (cargo liabilities) or within any proviso, exclusion, limit or deductible applicable to those Sections;

b Such property does not form part of the entered ship and is not owned or leased by the Owner or by any company associated with or under the same management as the Owner; and
Rule 2 (continued)

c Unless and to the extent that the Owner has obtained appropriate special cover by agreement with the Managers, the Association shall not reimburse an Owner to the extent that any liability arises under a contract or indemnity entered into by the Owner and would not have arisen but for such contract or indemnity.

Section 19
Unrecoverable general average contributions

The proportion of general average, special charges or salvage which an Owner may be entitled to claim from cargo or from some other party to the marine adventure and which is not legally recoverable solely by reason of a breach of the contract of carriage.

PROVIDED ALWAYS that:

Proviso (a) (Standard terms of carriage), Proviso (b) (Deviation) and Proviso (c) (Claims payable only at the discretion of the Directors) of Section 17 of this Rule shall apply to any claim under this Section.

Section 20
Ship's proportion of general average

The entered ship's proportion of general average, special charges or salvage not recoverable under the Hull Policies by reason of the value of the ship being assessed for contribution to general average or salvage at a sound value in excess of the insured value under the Hull Policies.

PROVIDED ALWAYS that:

Unless and to the extent that the Directors in their discretion otherwise decide, recovery from the Association under this Section shall be limited to the amount (if any) of the ship's proportion which would not have been recoverable under the Hull Policies if the ship had been insured thereunder at the proper value in accordance with Rule 5(D).

Section 21
Special compensation to salvors

Liability of an Owner to pay special compensation to a salver of an entered ship, but only to the extent that such liability:

i is imposed on the Owner pursuant to Article 14 of the International Convention on Salvage, 1989, or is assumed by the Owner under the terms of a standard form of salvage agreement approved by the Directors, and

ii is not payable by those interested in the salved property.

Note: Any oil pollution element in a claim under this Section 21 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.

Note: At 20th February 2010, the Directors have approved (a) Lloyd's Standard Forms of Salvage Agreement LOF 90, LOF 95 and
Rule 2 (continued)

LOF 2000, and any other standard form of salvage contract incorporating the provisions of the International Convention on Salvage 1989, to the extent of the liability of the owner to pay special compensation pursuant to Article 14 of the Convention or to pay remuneration pursuant to the Special Compensation P&I Clause (SCOPIC) or its revision (SCOPIC 2000), if incorporated in such contract, and

(b) Lloyd's Standard Form of Salvage Agreement, 1980, to the extent of the liability of the owner of a tanker to reimburse a salvor for his "reasonably incurred expenses" (together with any increment awarded thereon) under the exception to the principle of "No cure-no pay" contained in clause 1(a) of that Agreement.

Section 22

Fines

A  Fines as set out in paragraphs (B) to (F) below when and to the extent that they are imposed in respect of an entered ship by any court, tribunal or authority and are imposed:
   i  upon the Owner, or
   ii upon any person whom the Owner may be legally liable to reimburse (other than under the terms of a contract or indemnity) or reasonably reimburses with the approval of the Managers, or
   iii upon any person whom the Owner may be legally liable to reimburse under the terms of a contract or indemnity, but only if and to the extent that such terms have previously been approved by the Managers in writing.

B  Fines for short or overlanding or over delivery of cargo, or for failure to comply with regulations relating to declaration of goods or to documentation of the entered ship in respect of her cargo;

C  Fines for smuggling or for any infringement of any customs law or customs regulation relating to the construction, adaptation, alteration or fitment of the entered ship;

D  Fines for contravention of any law or regulation relating to immigration;

E  Fines in respect of an accidental discharge or escape of oil or other substance, or the threat thereof;

PROVIDED ALWAYS that:
There shall be no recovery from the Association in respect of fines arising out of
a  the overloading of an entered ship or
b  infringements or violations of or non-compliance with the provisions regarding construction, adaptation and equipment of ships contained in the International Convention for the Prevention of Pollution from Ships, 1973, as modified or amended by the Protocol of 1978 and any subsequent Protocol, or such
Rule 2 (continued)

of those aforesaid provisions as are contained in the laws of any State giving effect to that Convention or to such Protocol.

F Any fine to the extent that (i) the Owner has satisfied the Directors that he took such steps as appear to the Directors to be reasonable to avoid the event giving rise to such fine and (ii) the Directors in their discretion and without having to give any reasons for their decision, decide that the Owner should recover.

G Notwithstanding the terms of Rule 5(G)(i), the Directors in their discretion may authorise the payment, in whole or in part, of an Owner’s claim for loss of an entered ship following confiscation of the ship by any legally empowered court, tribunal or authority by reason of the infringement of any customs law or customs regulation: PROVIDED ALWAYS that:
   a the amount recoverable from the Association shall under no circumstances exceed the market value of the ship without commitment at the date of the confiscation;
   b the Owner shall have satisfied the Directors that he took such steps as appear to the Directors to be reasonable to prevent the infringement of the customs law or regulation giving rise to the confiscation;
   c any amount claimed under this paragraph (G) of Section 22 shall be recoverable to such extent only as the Directors in their discretion may determine without having to give any reasons for their decision.

Note: Claims relating to oil pollution fines under this Section 22 will be subject to the limitation set out in Rule 5(B) and in the corresponding note.

Section 23
Enquiry expenses

Costs and expenses incurred by an Owner in defending himself or in protecting his interests before a formal enquiry into the loss of or into a casually involving the entered ship but only to the extent and on such conditions as the Directors in their discretion may determine.

Section 24
Expenses incidental to the operation of ships

Liabilities, costs and expenses incidental to the business of owning, operating or managing ships which in the opinion of the Directors fall within the scope of the Association;

PROVIDED ALWAYS that:
   a Subject to paragraph (b) of this proviso there shall be no recovery under this Section in respect of liabilities, costs and expenses, which are expressly excluded by other provisions of these Rules;
Rule 2 (continued)

b The Directors may authorise payment of claims which are excluded by Rule 5(G) of these Rules but only if a majority of three-quarters of those Directors present when the claim is considered so decides;

c Any amount claimed under this Section shall be recoverable to such extent only as the Directors in their discretion may determine without having to give any reasons for their decision.

Section 25
Sue and labour and legal costs

A Extraordinary costs and expenses (other than those set out in paragraph (B) of this Section) reasonably incurred on or after the occurrence of any casualty, event or matter liable to give rise to a claim upon the Association and incurred solely for the purpose of avoiding or minimizing any liability or expenditure against which the Owner is wholly or, by reason of a deductible, partly insured by the Association, but only to the extent that those costs and expenses have been incurred with the agreement of the Managers or to the extent that the Directors in their discretion decide that the Owner should recover from the Association.

B Legal costs and expenses relating to any liability or expenditure against which the Owner is wholly, or, by reason of a deductible, partly insured by the Association, but only to the extent that those costs and expenses have been incurred with the agreement of the Managers or to the extent that the Directors in their discretion decide that the Owner should recover from the Association.

Section 26
Expenses incurred by direction of the Association

Costs, expenses and loss which an Owner may incur either (i) by reason of a special direction of the Directors in cases in which the Directors decide that it is in the interests of the Association that the direction be given, or (ii), in the absence of such special direction, as a result of action which he has taken or refrained from taking if the Directors in their discretion decide that such action was in the interests of the Association and that the Owner should recover from the Association.
Appendix A to Rule 2
Association’s liability for oil pollution claims

A The Association’s liability for claims in respect of or relating to an escape or discharge of oil (other than for loss of or damage to such oil), howsoever arising, whether under Section 12 or any other Section or combination of Sections of Rule 2, shall be limited to such sum or sums as the Directors may determine pursuant to Rule 5(B)(ii) and shall be subject to such terms and conditions as the Directors may from time to time determine.

B Without prejudice to the generality of paragraph A of this Appendix the Directors may determine prior to the commencement of the policy year that cover in respect of oil pollution liabilities, whether arising under any convention, statute, law, agreement or otherwise and whether arising in any geographical area or trade or otherwise shall be excluded, restricted or afforded only on terms that an additional premium is payable in respect of such cover, in which event such additional premium shall be payable in such amount and on such terms as the Directors may determine or as may be agreed between the Owner and the Managers.

Note: For the 2010 policy year the Directors have determined that the Owners of ships carrying persistent oil as cargo to or from any port or place in the Exclusive Economic Zone of the United States of America shall pay an additional premium in respect of oil pollution risks. The terms and conditions applying to cover for oil pollution risks in the United States are set out in the Association’s U.S. Oil Pollution Clause 20/2/2009.

Appendix B to Rule 2
Deductibles

Unless otherwise agreed between the Owner and the Managers as part of the terms upon which the ship is entered in the Association, the Owner’s recovery from the Association for liabilities, losses, costs and expenses shall be subject to such deductibles as the Directors shall decide before each policy year commences.
Rule 3

Special cover

A Subject to the Act, the Managers may accept entries of ships on terms which afford cover to an Owner against any special or additional risks not set out in Rule 2. The nature and extent of the risks and the terms of the cover shall be as agreed in writing between the Owners and the Managers.

B Notwithstanding Rule 1(5), an Owner may be insured on the special term that the risks insured may arise otherwise than in respect of the entered ship or otherwise than in connection with the operation of the entered ship provided always that this shall have been expressly agreed in writing between the Owners and the Managers.

C Without prejudice to the generality of Rule 13C, the Managers may reinsure in whole or in part the risk or risks of the Association insured under this Rule 3, or under Rule 4, and where such reinsurance is arranged the Owner shall be entitled to recover only the net amount actually recovered under such reinsurance arrangements, together with that portion (if any) of the risk or risks retained by the Association.
Rule 4

Special Cover for Charterers, Specialist Operations and Passenger Ships

Without prejudice to the generality of Rule 3, an Owner may be insured against such of the risks set out below as may be appropriate to his interest in an entered ship or to his operations as an Owner, but only by special agreement in writing with the Managers and upon such terms and conditions as the Managers may require.

Section 1
Charterers

Where the entry of a ship in the Association is in the name of or on behalf of a charterer, the following liabilities, losses, costs and expenses may be covered on such terms and conditions as may be agreed by the Managers in writing:

A Liability of the charterer, together with costs and expenses incidental thereto, to indemnify the owner or disponent owner of the entered ship in respect of the risks set out in Rule 2.

B Notwithstanding the provisions of sub-paragraphs (i), (ii) and (iii) of Rule 5(G) the charterer's liability, together with costs and expenses incidental thereto, for loss of or damage to the entered ship.

C Notwithstanding the provisions of sub-paragraph (i) of Rule 5(G) the loss incurred by the charterer as a result of loss of or damage to bunkers, fuel or other property of the charterer onboard the entered ship.

Section 2
Specialist operations

An Owner may be insured against any of the liabilities, fines, losses, costs or expenses which arise out of or during any of those operations in respect of which cover is excluded or restricted either under Rule 5(H) or otherwise under these Rules upon such terms and conditions as may be expressly agreed in writing between the Owner and the Managers.

Note: The terms and conditions which the Managers will normally require to be agreed in respect of the risks referred to in this section are set out in a separate document, available from the Managers, entitled "Standard Terms and Conditions of Cover under Rule 4 Section 2".

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Rule 4 (continued)

Section 3
Passenger ships

The Owner of a passenger ship may be insured against any of the following risks upon such terms and conditions as may be agreed by the Managers in writing:

A Liability for loss of or damage to the effects of any passenger or personal injury, illness or death of any passenger and hospital, medical or funeral expenses incurred in connection therewith to the extent that such liability, costs or expenses are not recoverable under Section 1(C) of Rule 2.

B Notwithstanding the provisions of sub-paragraph (vi) of Rule 5(G) liability to pay damages or compensation to passengers intended to be carried on board an entered ship arising as a consequence of a casualty to that ship, including the costs of travel and maintenance.

C Liability to pay damages or compensation to passengers for breach of contract or warranty in respect of failure to provide facilities on board or in connection with a voyage on board an entered ship in accordance with the Owner's legal obligations.
Conditions, Exceptions and Limitations

A Payment first by the Owner
Unless the Directors in their discretion otherwise decide, it is a condition precedent of an Owner's right to recover from the funds of the Association in respect of any liabilities, costs or expenses that he shall first have discharged or paid the same out of funds belonging to him unconditionally and not by way of loan or otherwise.

B Limitation of the Association's liability
   i General
   Subject to these Rules and to any special terms and conditions upon which a ship may be entered, the Association insures the liability of the Owner in respect of an entered ship as this liability may be determined and fixed by law including any laws pertaining to limitation of liability. The Association shall in no circumstances be liable for any sum in excess of such legal liability. If less than the full tonnage of a ship is entered in the Association, the Owner shall, unless the entry of the ship has been accepted on special terms which otherwise provide, be entitled only to recover such proportion of his claim as the entered tonnage bears to the full tonnage. Such proportion shall, if the Owner's claim is subject to any other limits under these Rules, be applied after the application of such limits.

   ii Oil Pollution
   For the purpose of this sub-paragraph and the provisions thereto, and without prejudice to anything elsewhere contained in these Rules, a "claim in respect of oil pollution" shall mean a liability, cost, loss or expense, howsoever incurred, in respect of or relating to an escape or discharge of oil or any threat or consequence of such escape or discharge, but excluding liability for loss of or damage to such oil.

   Unless otherwise limited to a lesser sum, the Association's liability for any and all claims in respect of oil pollution shall be limited to such sum or sums as the Directors may from time to time determine.

   Such limit shall, unless the Directors otherwise decide, apply in respect of any one entered ship each event and shall apply irrespective of whether the event involves the escape or threatened escape of oil from one or more than one ship and to all claims in respect of oil pollution brought by the Owner or Joint Owners of the entered ship whether under one Section or more than one Section of Rule 2. If the aggregate of such claims exceeds that limit, the liability of the Association for each claim shall be limited to such proportion of that limit as such claim bears to the aggregate of all such claims.

   PROVIDED ALWAYS that:
   a Where the entered ship provides salvage or other assistance to another ship following a casualty, a claim by the Owner of the entered ship in respect of oil pollution arising out of the salvage, the assistance or the
Rule 5 (continued)

casualty shall be aggregated with any liabilities or costs incurred in respect of oil pollution by any other ship similarly engaged in connection with the same casualty when such other ships are insured for oil pollution risks by the Association or by any other insurer which participates in the Pooling Agreement. In these circumstances the limit of the Association's liability shall be such proportion of the limit determined by the Directors pursuant to sub-paragraph (ii) of this Rule 5(B) as the claim of the Owner bears to the aggregate of the said claims.

b Where a ship entered in the Association by or on behalf of any person (except a charterer other than a demise or bareboat charterer) is also separately insured in the name of or on behalf of the same or any other such person by the Association or by any other insurer which is a party to the Pooling Agreement for claims in respect of oil pollution, the aggregate recovery in respect of all such claims arising out of any one event shall not exceed the limit determined by the Directors pursuant to sub-paragraph (ii) of this Rule 5(B) and the liability of the Association to each such person insured by the Association shall be limited to such proportion of that limit as the maximum claim otherwise recoverable by such person from the Association bears to the aggregate of all such claims otherwise recoverable from the Association and from all such insurers.

c If and to the extent that the Owner has, in relation to any claim in respect of oil pollution, other insurance not being solely in excess of the limit determined by the Directors pursuant to this sub-paragraph (ii) of Rule 5(B) nor being a quota share arrangement agreed in advance with the Association in writing, then (1) the amount of the said limit shall, as applied to such claim, be reduced by the amount of the stated limit of such other insurance and (2) the Association shall not pay such claim to the extent that it does not exceed the stated limit of such other insurance.

Note: For the 2010 policy year, the Directors have determined that the sums to which the Association’s aggregate liability for any and all claims in respect of oil pollution shall be limited are: US$1000 million each event in respect of each ship entered by or on behalf of an Owner not being a charterer other than a demise or bareboat charterer.

ii Passenger/Seaman

For the purpose of this sub-paragraph and the provisos thereto, and without prejudice to anything elsewhere contained in the Rules, a "Passenger" shall mean a person carried onboard a ship under a contract of carriage or who, with the consent of the carrier, is accompanying a vehicle or live animals covered by a contract for the carriage of goods and a "Seaman" shall mean any other person onboard a ship who is not a Passenger.

Unless otherwise limited to a lesser sum, the Association’s aggregate liability for any and all claims arising out of any one event shall not exceed (1) in respect of liability to Passengers US$2,000 million; and
Rule 5 (continued)

(2) in respect of liability to Passengers and Seamen US$3,000 million, for each ship entered by or on behalf of an Owner not being a charterer other than a demise or bareboat charterer.

PROVIDED ALWAYS that:
Where a ship entered in the Association by or on behalf of any person (except a charterer other than a demise or bareboat charterer) is also separately insured in the name of or on behalf of the same or any other such person by the Association or by any other insurer which is a party to the Pooling Agreement
a. the aggregate of claims in respect of liability to Passengers recoverable from the Association and/or such other insurers shall not exceed US$2,000 million any one event and the liability of the Association shall be limited to such proportion of that sum as the claims recoverable by such persons from the Association bears to the aggregate of all such claims otherwise recoverable from the Association and all such insurers;
b. the aggregate of all claims in respect of liability to Passengers and Seamen recoverable from the Association and/or such other insurers shall not exceed US$3,000 million any one event and the liability of the Association shall be limited:
i.) where claims in respect of liability to Passengers have been limited to US$2,000 million in accordance with proviso (a) to such proportion of the balance of US$1,000 million as the claims recoverable by such persons in respect of liability to Seamen bear to the aggregate of all such claims otherwise recoverable from the Association and all such insurers; and
ii.) in all other cases, to such proportion of US$3,000 million as the claims recoverable by such persons in respect of liability to Passengers and Seamen bear to the aggregate of all such claims otherwise recoverable from the Association and all such insurers.

C Set-off
Without prejudice to anything elsewhere contained in these Rules the Association shall be entitled to set off any amount due from an Owner against any amount due to such Owner from the Association.

D Exclusion of sums insurable under hull policies
Unless and to the extent that the Directors in their discretion otherwise decide, or the Managers agree in writing as a term of entry, the Association shall not indemnify the Owner of an entered ship against any liabilities, costs or expenses against which that Owner would have been insured if at the time of the incident giving rise to those liabilities, costs or expenses the ship had been fully insured for its proper value under Hull Policies on terms equivalent to those of the Lloyd's Marine Policy MAR form 1/1/82 with the Institute Time Clauses Hulls 1/10/83 attached. For the purposes of these Rules “proper value” shall mean the market value of the ship, without commitment, at the date of the incident referred to above.

Note: When considering the proper value for which an entered ship should be insured or deemed to be insured for the purposes of claims under Rule 2 Sections 10 and 20, the Directors will require to be satisfied that the hull and/
Rule 5 (continued)

or excess liability policies of the Owner concerned have been the subject of periodic review as market conditions may require, so that the total amount of liability coverage contained in those policies is maintained at levels approximating to the market value of the ship without commitment. Owners are recommended to consult their brokers and/or shipvaluers to assess periodically in the light of the above, the proper amount for which insurances should be effected to cover against collision and general average or salvage liabilities. Provided the necessary insurances are placed on the basis of the advice received, the Directors will give every consideration to a claim if, as may transpire, the values and amounts upon which the insurances have been placed are lower than the values which may have been assessed by a Court or Tribunal for general average or salvage purposes.

E Exclusion of War Risks
The Association shall not indemnify an Owner against any liabilities, costs or expenses (irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Owner or on the part of the Owner's servants or agents) when the loss or damage, injury, illness or death or other accident in respect of which such liability arises or cost or expense is incurred, was caused by:

i War, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power, or any act of terrorism.

ii Capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat;

iii Mines, torpedoes, bombs, rockets, shells, explosives or other similar weapons of war (save for those liabilities, costs or expenses which arise solely by reason of the transport of any such weapons whether on board the entered ship or not), provided always that this exclusion shall not apply to the use of such weapons either as a result of government order or with the written agreement of the Directors or the Managers where the reason for such use is the avoidance or mitigation of liabilities, costs or expenses which would otherwise fall within the cover given by the Association.

PROVIDED ALWAYS that:

a) In the event of any dispute as to whether or not an act constitutes an act of terrorism, the decision of the Directors shall be final.

b) The Directors may resolve that special cover be provided to the Owner against any or all of the risks set out in Rule 2 notwithstanding that those liabilities, costs or expenses would otherwise be excluded by this paragraph (E) and that such special cover should be limited to such sum or sums and be subject to such terms and conditions as the Directors may from time to time determine.

F Exclusion of nuclear risks
The Association shall not indemnify an Owner against any liabilities, costs or expenses (irrespective of whether a contributory cause of the same being