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**Name of the Clause:** Institute Time Clauses – Hulls - Disbursements And Increased Value  
(Total Loss Only, Including Excess Liabilities)

**Subject of the Clause:**

**Category :** General Conditions

**Number:** Cl 290 **Date:** 1/11/1995

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**(FOR USE ONLY WITH THE CURRENT MAR POLICY FORM)**

**INSTITUTE TIME CLAUSES - HULLS  
DISBURSEMENTS AND INCREASED VALUE**

**(Total Loss only, including Excess Liabilities)**

This insurance is subject to English law and practice

## **1. NAVIGATION**

**1.1 The subject-matter insured is covered subject to the provisions of this insurance at all times and the vessel 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**

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Owners and/or Managers and/or Charterers. This Clause 1.1 shall not exclude customary towage in connection with loading and discharging.

1.2 This insurance shall not be prejudiced by reason of the Assured entering 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 when the Assured or their agents accept or are compelled to accept such contracts in accordance with established local law or practice.

1.3 The practice of engaging helicopters for the transportation of personnel, supplies and equipment to and/or from the vessel shall not prejudice this insurance.

1.4 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 in respect of loss of or damage to the subject-matter insured or for 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.

1.5 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, no claim shall be recoverable under this insurance in respect of loss or damage to the vessel occurring subsequent to such sailing unless previous notice has been given to the Underwriters and any amendments to the terms of cover, amount insured and premium required by them have been agreed.

## **2. CONTINUATION**

Should the vessel at the expiration of this insurance be at sea and in distress or missing, she shall, provided notice be given to the Underwriters prior to the expiration of this insurance, 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.

## **3. BREACH OF WARRANTY**

Held covered in case of any breach of warranty as to cargo, locality, trade, 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. CLASSIFICATION**

4.1 It is the duty of the Assured, Owners and Managers at the inception of and throughout the period of this insurance to ensure that

4.1.1 the vessel is classed with a Classification Society agreed by the Underwriters and that her class within that Society is maintained,

4.1.2 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 are complied with by the dates required by that Society.

4.2 In the event of any breach of the duties set out in Clause 4.1 above, unless the Underwriters agree to the contrary in writing, they will be discharged from liability under this insurance as from the date of the breach provided that if the vessel is at sea at such date the Underwriters discharge from liability is deferred until arrival at her next port.

4.3 Any incident condition or damage in respect of which the vessel's Classification Society might make recommendations as to repairs or other action to be taken by the Assured, Owners or Managers must be promptly reported to the Classification Society.

4.4 Should the Underwriters wish to approach the Classification Society directly for information and/or documents, the Assured will provide the necessary authorization.

## **5. TERMINATION**

This Clause 5 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

5.1 change of the Classification Society of the vessel, or change, suspension, discontinuance, withdrawal or expiry of her Class therein, or any of the Classification Society's periodic surveys becoming overdue unless an extension of time for such surveys be agreed by the Classification Society, 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 or where a periodic survey becoming overdue 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 Time Clauses-Hulls or 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 or in the case of a periodic survey becoming overdue without the Classification Society having agreed an extension of time for such survey,

5.2 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 provided that 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.

## **6. PERILS**

6.1 This insurance covers total loss (actual or constructive) of 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 contact with land conveyance, dock or harbour equipment or installation

6.1.7 earthquake volcanic eruption or lightning

6.1.8 accidents in loading discharging or shifting cargo or fuel.

6.2 This insurance covers total loss (actual or constructive) of the subject-matter insured caused by

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

6.2.2 negligence of Master Officers Crew or Pilots

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

6.2.4 barratry of Master Officers or Crew

6.2.5 contact with aircraft, helicopters or similar objects, or objects falling therefrom

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

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.

6.4 This insurance covers:

6.4.1 General Average, Salvage and Salvage Charges recoverable under the insurances on hull and machinery but not recoverable in full by reason of the difference between the insured value of the vessel as stated therein (or any reduced value arising from the deduction therefrom in process of adjustment of any claim which law or practice or the terms of the insurances covering hull and machinery may have required) and the value of the vessel adopted for the purpose of contribution to general average, salvage or salvage charges, the liability under this insurance being for such proportion of the amount not recoverable as the amount insured hereunder bears to the said difference or to the total sum insured against excess liabilities if it exceed such difference.

6.4.2 Sue and labour Charges recoverable under the insurances on hull and machinery but not recoverable in full by reason of the difference between the insured value of the vessel as stated therein and the value of the vessel adopted for the purpose of ascertaining the amount recoverable under the insurances on hull and machinery, the liability under this insurance being for such proportion of the amount not recoverable as the amount insured hereunder bears to the said difference or to the total sum insured against excess liabilities if it exceed such difference.

6.4.3 Collision Liability (three-fourths) recoverable under the Institute 3/4ths Collision Liability and Sistership Clauses in the insurances on hull and machinery but not recoverable in full by reason of such three-fourths liability exceeding three-fourths of the insured value of the vessel as stated therein, in which case the amount recoverable under this insurance shall be such proportion of the difference so arising as the amount insured hereunder bears to the total sum insured against excess liabilities.

6.5 The Underwriters' liability under 6.4.1, 6.4.2 and 6.4.3 separately, in respect of any one claim, shall not exceed the amount insured hereunder.

## **7. POLLUTION HAZARD**

This insurance covers total loss (actual or constructive) of 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 caused by a peril covered by 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 threat thereof. 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. NOTICE OF CLAIM**

In the event of accident whereby loss or damage may result in a claim under this insurance, notice must be given to the Underwriters promptly after the date on which the Assured, Owners or Managers becomes or should have become aware of the loss or damage and prior to survey so that a surveyor may be appointed if the Underwriters so desire.

If notice is not given to the Underwriters within twelve months of that date unless the Underwriters agree to the contrary in writing, the Underwriters will be automatically

discharged from liability for any claim under this insurance in respect of or arising out of such loss or damage.

## **9. CONSTRUCTIVE TOTAL LOSS**

9.1 In ascertaining whether the vessel is a constructive total loss, the insured value in the insurances on hull and machinery 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.

9.2 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 the insurances on hull and machinery. 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.

9.3 Provided that the Constructive Total Loss Clause in the current Institute Time Clauses Hulls or a clause having a similar effect is contained in the insurances on hull and machinery, the settlement of a claim for constructive total loss thereunder shall be accepted as proof of the constructive total loss of the vessel.

9.4 Should the vessel be a constructive total loss but the claim on the insurances on hull and machinery be settled as a claim for partial loss, no payment shall be due under this Clause 9.

## **10. COMPROMISED TOTAL LOSS**

In the event of a claim for total loss or constructive total loss being settled on the insurances on hull and machinery as a compromised total loss the amount payable hereunder shall be the same percentage of the amount insured as is paid on the said insurances.

## **11. 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.

## **12. RETURNS FOR LAY-UP AND CANCELLATION**

12.1 To return as follows:

12.1.1 pro rata monthly net for each uncommenced month if this insurance be cancelled by agreement.

12.1.2 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

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

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

12.1.3 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 any repairs following loss or damage to the vessel or involving structural alterations, whether covered by this insurance or otherwise shall be considered as under repair.

12.1.4 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 12.1.2 (a) and (b) respectively.

## **12.2 PROVIDED ALWAYS THAT**

12.2.1 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

12.2.2 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

12.2.3 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 lightering purposes

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

12.2.5 in the event of any return recoverable under this Clause 12 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 12.1.2 (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 12.1.2 (a) or (b) above.

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

## **13. WAR EXCLUSION**

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

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

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

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

#### **14. STRIKES EXCLUSION**

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

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

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

#### **15. MALICIOUS ACTS EXCLUSION**

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

15.1 the detonation of an explosive

15.2 any weapon of war

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

#### **16. RADIOACTIVE CONTAMINATION EXCLUSION CLAUSE**

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

16.1 ionising radiations from or contaminations by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel

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

16.3 any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

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