

INTRODUCTION

1. This document contains the text of model hull and cargo insurance clauses. It is issued pursuant to resolution 60 (XII) of the Committee on Shipping which recommended to the Trade and Development Board to endorse the UNCTAD non-mandatory Model Clauses on Marine Hull and Cargo Insurance, and to instruct the UNCTAD secretariat to circulate them to the commercial parties concerned. The clauses are intended as a guide to insurance markets, particularly those in developing countries, wishing to produce their own standard marine insurance clauses. The clauses deal fully with the scope of cover to be offered under standard marine policies, but do not address certain questions relating to domestic law and underwriting practice which tend to vary from country to country. Nevertheless, comparatively few additions are needed for the clauses to be turned into a complete policy document.

2. These clauses were drafted by the UNCTAD Working Group on International Shipping Legislation at a series of meetings between 1979 and 1984. These meetings were attended by representatives of governments, the insurance industry and its customers from most of the world's leading marine insurance markets and from many developing country markets.

3. In these meetings the Working Group produced a core of model marine insurance clauses suitable as a basis for insurance markets - particularly in developing countries - to draw up their own marine insurance policies. By building on the basis of these clauses, it will be possible to ensure that the main provisions of those policies remain identical to those of other markets using the UNCTAD Model Clauses, and indeed that they will be closely comparable with the cover provided in international centres of marine insurance. At the same time, they will be able to reflect local needs rather more effectively than if wordings were taken unamended from those centres. The clauses should not lead to any difficulty in obtaining reinsurance cover, as the war and strikes exclusions are compatible with those of the world's principal reinsurers.

Hull clauses

4. Two important points must be borne in mind by markets wishing to use the hull clauses as the basis for their own standard policy. Firstly, where the text contains alternatives, only one should be selected for inclusion in the standard policy wording; and secondly, certain specific additional clauses may need to be added to take account of domestic legal and underwriting considerations.

5. Where alternative clauses are provided, the choice to be made by each market will depend on local traditions and expertise, particularly with regard to collision and contact risks, and on compatibility with the local legal framework.

6. Among the legal points to be addressed are whether the local legal framework is automatically incorporated into the conditions, and even if this is the case, whether it is still necessary to stipulate the governing law and practice.

7. Additional underwriting provisions might address change of ownership or class, navigating limits and deductibles, disbursements and special arrangements for returns of premium. In general, it should be possible to cater for these points through slight adaptation of existing policy wordings.

8. The cover provided by the two sets of hull clauses is broadly comparable, but they reflect two somewhat different approaches, both found in the world's major international markets. The "named perils" version provides cover against a list of named perils; to succeed in a claim, the assured must demonstrate that loss has been caused by a peril insured against, unless the insurer can then show that one of the exclusions applies. The "all risks" version has a wider basic cover clause but this is balanced by additional exclusions, so the cover remains comparable with the named perils version. With this version, however, the burden of proof is on the insurer to show that one of the exclusions applies if he wishes to reject a claim.

9. Each version also has an annex, which should not be included in the basic policy wording. This extends cover to perils not normally considered appropriate unless the assured and his record are well known to the insurer.

Cargo clauses

10. Two important points must be borne in mind by markets wishing to use the cargo clauses as the basis for their own standard policy. Firstly, where the text contains alternatives, only one should be selected for inclusion in the standard policy wording; and secondly, certain specific additional clauses may need to be added to take account of domestic legal and underwriting matters.

11. Where alternative clauses are provided, the choice to be made by each market will depend on its local traditions and expertise, on compatibility with the local legal framework and on the needs of local traders in respect of cover after discharge.

12. Among the legal points to be addressed are whether the local legal framework is automatically incorporated into the conditions, and even if this is the case, whether it is still necessary to stipulate the governing law and practice.

13. Additional underwriting provisions might address classification of carrying vessels, change of voyage, and questions relating to open covers. In general it should be possible to cater for these points through slight adaptation of existing policy wordings.

14. The three sets of cargo clauses offer three different levels of cover: an "all risks", an "intermediate" and a "restricted" cover version.

These correspond to levels found in the world's more commonly used cargo clauses and are compatible with the war and strikes clauses that accompany them. Under the widest version, the "all risks" cover, the burden of proof is on the insurer to show that one of the exclusions applies if he wishes to reject a claim. The other two levels of cover are on a "named perils" basis, where to succeed in a claim the assured must demonstrate that loss has been caused by a peril insured against, unless the insurer can then show that one of the exclusions applies.

The "restricted" cover gives minimum protection, largely confined to serious accidents such as fire, sinking or collision; the "intermediate" level provides similar cover but with the addition of heavy weather damage and loss of packages in loading or unloading.

MARINE HULL INSURANCE All Risks Cover

A. COVERAGE

1. This insurance covers all risks of physical loss of or damage to the insured vessel, unless the insurer proves that one of the exclusions in Part B applies.

2. This insurance also covers loss of or damage to the insured vessel caused by any act of any governmental authority to prevent or minimize pollution resulting from damage to the vessel for which the insurer is liable under this insurance, provided such act of governmental authority has not resulted from want of due diligence by the assured; owners or managers to prevent or minimize such pollution.

3. In so far as masters, officers, crew or pilots act in their capacity as such, they are not to be considered as assured, owners or managers within the meaning of clause 2 of this Part A, clause 4.4 of Part B and clause 9.1 of Part E, even if they should hold shares in the vessel.

B. GENERAL EXCLUSIONS

4. This insurance does not cover:

4.1 loss, damage, liability or expense caused by:

4.1.1 war, hostilities or warlike acts;

4.1.2 civil war, revolution, rebellion, insurrection, or civil strife arising therefrom=

4.1.3 mines, torpedoes, bombs or other weapons of war;

4.1.4 capture, seizure other than by pirates, masters, officers or crew, arrest, restraint or detainment, and the consequences thereof or any attempt thereat;

4.1.5 sabotage or terrorism committed from a political motives

4.1.6 detonation of an explosive caused by any person acting maliciously or from a political motive;

4.1.7 strikes, lock-outs or other similar labour disturbances;

4.1.8 civil commotions, riots or other similar events; or

4.1.9 confiscation, requisition, or other similar measures taken or attempted by any government or other similar organization assuming or wielding power;

4.2 loss, damage, liability or expense caused by unseaworthiness of the vessel, including not being properly manned, equipped or loaded, where the assured knew, or should have known, of such unseaworthiness when the vessel was sent to sea

4.3 loss, damage, liability or expense resulting from the personal act or omission of the assured done with the intent to cause such loss, damage, liability or expense, or recklessly and with knowledge that such loss, damage, liability or expense would probably result

4.4 loss, damage, liability or expense caused by:

4.4.1 error or fault in design, construction or repair, or defect in materials

4.4.2 ordinary wear and tears or

4.4.3 corrosion, rottenness or insufficient upkeep;
which the assured, owners or managers exercising due diligence should have discovered;

4.5 replacement or repair of a part which is not in a proper condition as a result of:

4.5.1 error or fault in design, construction or repair, or defect in material;

4.5.2 wear and tear; or

4.5.3 corrosion, rottenness or insufficient upkeep;

4.6 loss, damage, liability or expense arising directly or indirectly from or in connection with nuclear, radioactive or similar material or from the use of or accidents in nuclear installations or reactors.

Alternatives to 4.6 if expressly agreed:

Alternative A

loss, damage, liability or expense arising directly or indirectly from or in connection with the carriage of nuclear, radioactive or similar material on board the insured vessel.

Alternative B

No exclusion.

4.7 Additional exclusion clause (if expressly agreed by the parties): loss, damage, liability or expense caused by piracy.

C. ADDITIONAL COVERAGE

5. Collision Liability Clause or Collision and Contact Liability Clause

Alternative A

Collision Liability Clause

5.1 This insurance also covers (THREE-FOURTHS OF)¹ _*/ the liability incurred by the assured as a consequence of the insured vessel coming into collision with another vessel, in respect of :

5.1.1 loss of or damage to any other vessel or property on any other vessel;

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

5.1.3 expenses of any such other vessel or property thereon in respect of general average or salvage, provided that such collision was not caused by a peril excluded in Part B except clause 4.4 of that part.

5.2 However, this clause does not cover any liabilities in respect of:

5.2.1 loss of life, personal injury or illness;

5.2.2 cargo or other property on the insured vessel;

5.2.3 contractual engagements of the insured vessel;

5.2.4 pollution or contamination of any property or thing whatsoever (including cost of preventive measures and clean-up operations), except of other vessels with which the insured vessel is in collision or property on such other vessels;

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

¹ The words in parentheses in 5.1, 5.4 and 5.7 to be deleted if four-fourths collision cover is agreed

Alternative B
Collision and Contact Liability Clause

5.1 This insurance also covers liability incurred by the assured as a consequence of the insured vessel coming into collision or contact with another vessel or any object, fixed, floating or otherwise] provided that such collision or contact was not caused by a peril excluded in part B, except clause 4.4 of that part.

5.2 However, this clause does not cover any liabilities in respect of:

5.2.1 loss of life, personal injury or illness;

5.2.2 cargo or other property on the insured vessel;

5.2.3 contractual engagements of the insured vessel;

5.2.4 pollution or contamination of any property or thing whatsoever (including cost of preventive measures and clean-up operations), except of other vessels with which the insured vessel is in collision or property on such other vessels;

5.2.5 alternative wreck removal exclusions:

Alternative A

removal of the wreck of the insured vessel or its cargo;

Alternative B

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

5.2.6 consequential loss or delay to any vessel or object not physically damaged as a result of the occurrence.

(Alternative A continued)

5.3 The insurer only has a duty to pay the indemnity under this clause when and in so far as the assured has paid the injured party. However, nothing in this clause shall deprive the injured party of any right of direct action against the insurer provided by applicable law.

5.4 The amount payable under this clause is in addition to any amount payable under the other provisions of this insurance, but shall not, unless otherwise expressly agreed, exceed (THREE-FOURTHS OF)² an amount equal to the sum insured in respect of each separate occurrence.

5.5 In the event of a collision of the insured vessel with another vessel wholly or partially owned by the assured, the insurer shall be liable under this clause as if the other vessel were owned by a third party. In such cases, the determination of liabilities and the assessment of damages shall be made by a sole arbitrator agreed by the insurer and the assured.

5.6 Alternative cross-liability clauses:

Alternative A

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

² See note n°1

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.

Alternative B

Where the assured has incurred a liability covered by this clause and he can claim damages against the injured party for loss which he himself has suffered on the same occasion, the settlement of the claim, as between the assured and the insurer, is to be effected on the basis of the calculated gross liabilities before any set-off has been made. This applies even if, in the settlement between the assured and the injured party, one or both of the said liabilities are limited by law. Where the limitation is applied to the balance between the assured's and the injured party's liabilities, the largest calculated gross liability shall, in the settlement between the assured and the insurer, be reduced by the same amount by which such balance has been reduced.

(Alternative B continued)

5.3 The insurer only has a duty to pay the indemnity under this clause when and in so far as the assured has paid the injured party. However, nothing in this clause shall deprive the injured party of any right of direct action against the insurer provided by applicable law.

5.4 The amount payable under this clause is in addition to any amount payable under the other provisions of this insurance, but shall not, unless otherwise expressly agreed, exceed an amount equal to the sum insured in respect of each separate occurrence.

5.5 In the event of a collision or contact of the insured vessel with another vessel or object wholly or partially owned by the assured, the insurer shall be liable under this clause as if the other vessel or object were owned by a third party. In such cases, the determination of liabilities and the assessment of damages shall be made by a sole arbitrator agreed by the insurer and the assured.

5.6 Alternative cross-liability clauses:

Alternative A

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 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. This principle, as far as applicable, also applies when the insured vessel comes into contact with an object.

Alternative B

Where the assured has incurred a liability covered by this clause and he can claim damages against the injured party for loss which he himself has suffered on the same occasion, the settlement of the claim, as between the assured and the insurer, is to be effected on the basis of the calculated gross liabilities before any set-off has been made. This applies even if, in the settlement between the assured and the injured party, one or both of the said liabilities are limited by law. Where the limitation is applied to the balance between the assured's and the injured party's liabilities, the largest calculated gross liability shall, in the settlement between the assured and the insurer, be reduced by the same amount by which such balance has been reduced.

(Alternative A continued)

5.7 In addition to the amount referred to in 5.4, the insurer shall also pay (THREE-FOURTHS OF)³the legal costs incurred by or awarded against the assured, in respect of contesting liability covered

under this clause or taking proceedings to limit such liability, provided that the insurer's prior written consent has been obtained or, where the insurer cannot be contacted, that written consent is obtained as soon as possible. Such consent shall not be unreasonably withheld.

5.8 If requested by the assured to assist in obtaining a guarantee in order to release or avoid the arrest of the insured vessel, or another vessel wholly or partially owned by the assured, in respect of any occurrence covered by this clause, the insurer shall use his best endeavours to provide a counter-guarantee or counter-letter of undertaking restricted to his proportion of the insurance and to the terms and limits of this insurance. However, the insurer is under no obligation to provide security in respect of the assured's liability covered under this clause.

(Alternative B continued)

5.7 In addition to the amount referred to in 5.4, the insurer shall also pay the legal costs incurred by or awarded against the assured, in respect of contesting liability covered under this clause or taking proceedings to limit such liability, provided that the insurer's prior written consent has been obtained or, where the insurer cannot be contacted, that written consent is obtained as soon as possible. Such consent shall not be unreasonably withheld.

5.8 If requested by the assured to assist in obtaining a guarantee in order to release or avoid the arrest of the insured vessel, or another vessel wholly or partially owned by the assured, in respect of an occurrence covered by this clause, the insurer shall use his best endeavours to provide a counter-guarantee or counter-letter of undertaking restricted to his proportion of the insurance and to the terms and limits of this insurance. However, the insurer is under no obligation to provide security in respect of the assured's liability covered under this clause.

6. General average and salvage clause

6.1 This insurance also covers the insured vessel's proportion of general average, salvage and/or salvage charges. In case of general average sacrifice of the vessel, the assured has the right to recover in respect of the whole of such loss without first enforcing his rights of contribution from other parties.

6.2 The general average adjustment shall be according to the applicable law and practice. However, where the contract of carriage or affreightment so provides, the adjustment shall be according to the York-Antwerp Rules 1974 or similar provisions of other rules.

6.3.1 When the vessel sails in ballast, and where there are no other contributing interests, the provisions of the York-Antwerp Rules, 1974 (excluding XX and XXI), or similar provisions of other rules if expressly agreed, shall be applied and the insurer shall pay the vessel's proportion as so calculated. 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 or 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.

³ See note n°1

6.3.2 Where all the contributing interests are owned by the assured, the provisions of the York-Antwerp Rules, 1974, or similar provisions of other rules if expressly agreed, shall be applied as if the interests were owned by different persons, and the insurer shall pay the vessel's proportion as so calculated.

6.4 Where the insured vessel receives salvage services from another vessel wholly or partially owned by the assured, or under the same management, the insurer shall be liable under this clause as if the other vessel were owned by a third party. In such cases, the amount payable for the services rendered shall be determined by a sole arbitrator agreed by the insurer and the assured.

6.5 Where extraordinary expenditure has been reasonably incurred in an unsuccessful attempt to save both the vessel and other property involved in a common maritime adventure, and a claim for total loss of the vessel is admitted under this insurance, the insurer shall, in addition to the total loss, pay such proportion of such expenditure in excess of the proceeds, if any, as may reasonably be regarded as having been incurred in respect of the vessel.

6.6 No claim under this clause shall in any case be allowed unless the general average act or salvage was undertaken to avoid, or in connection with the avoidance of, a peril insured against.

7. Sue and labour clause

7.1 Where there has been loss of or damage to the vessel from a peril insured against, or where the vessel is in danger from such a peril, and as a result reasonable expenditure is incurred by the assured in order to avert or minimize a loss which would be recoverable under this insurance, the insurer shall pay to the assured the expenditure incurred. This clause shall not apply to general average, salvage or salvage charges or to expenditure otherwise provided for in this insurance.

7.2 The insurer's liability under this clause is in addition to his liability under the other provisions of this insurance, but shall not exceed an amount equal to the sum insured in respect of the vessel.

D. PERIOD OF COVERAGE

8. Continuation Clause

This insurance may be extended at a pro rata daily/monthly⁴/ premium provided previous notice be given to the insurer, if at expiry

8.1 the vessel is at sea or in distress or at a port of refuge or of call, until its arrival at its port of destination,

8.2 the vessel is in port carrying out repairs which affect its seaworthiness and which are covered under the insurance, until completion of those repairs.

E. DUTIES OF THE ASSURED

9. 9.1 It is the duty of the assured at all times to act as a diligent owner in respect of the insured vessel and to take all reasonable measures to prevent or minimize loss, damage, liability or expense. However, nothing in this clause shall alter the rights and obligations of the assured which are provided for elsewhere in this insurance, unless otherwise directed by applicable law.

⁴ Strike out whichever is not applicable.

9.2.1 Where there has been loss of or damage to the vessel from a peril insured against, or where the vessel is in danger from such a peril, it shall be the duty of the assured, owners and managers to take all reasonable measures to avert or minimize loss which would be recoverable under this insurance.

9.2.2 Measures taken by the assured or insurer to prevent or minimize loss recoverable under this insurance shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.

Alternative A

9.2.3 Where the failure to give such notice as required by the Notice Clause (Part G clause 14) or to take such measures as required by 9.2.1 above is the result of a lack of due diligence by the assured, owners or managers, the claim recoverable under this insurance shall be reduced to the extent that the loss, damage, liability or expense has not been minimized, or has been aggravated, as the case may be.

Alternative B

No provision.

F. MEASURE OF INDEMNITY

10. General Rules

10.1 Agreed and insurable value

10.1.1 Where an agreed value is stated in this insurance, this agreed value shall be conclusive between the assured and the insurer as to the value of the insured vessel in the absence of fraud.

10.1.2 Where there is no agreed value, the insurable value of the vessel is its actual market value at the time the risk attaches, unless otherwise directed by applicable law.

10.1.3 Where there is no agreed value and the term "agreed value" is used in other provisions of this insurance, this term shall be deemed also to cover the insurable value, as defined in 10.1.2 above.

10.2 Sum insured

The insurer's liability in respect of each separate occurrence covered under clauses 1 and 2 of Part A and clause 6 (except 6.5) of Part C shall be limited to the sum insured. In addition the insurer shall be liable for claims under clauses 5, 6.5 and 7 of Part C (the Collision Liability, Unsuccessful General Average and Sue and Labour Clauses) as provided therein.

10.3 Under- and over-insurance

10.3.1 Where the sum insured is less than the agreed value, the insurer is only liable to pay that proportion of any loss covered by this insurance that the sum insured bears to the agreed value.

10.3.2 Where the sum insured is higher than the agreed value, the assured may not recover more than the agreed value.

10.4 Under-valuation

Alternative A

The indemnity payable under this insurance shall not be reduced by reason of the agreed value being less than the actual or contributory value of the insured vessel.

Alternative B

10.4.1.1 Where the assured has a claim under Part C clause 6 (except 6.5) of this insurance other than for general average sacrifice of the vessel and the agreed value is less than the full contributory value of the vessel, the insurer shall only pay such proportion of general average, salvage and salvage charges as the agreed value bears to the full contributory value.

10.4.1.2 Where the vessel has suffered damage covered by this insurance and such damage constitutes a deduction from the contributory value, the same amount must be deducted from the agreed value when determining whether the agreed value is less than the contributory value.

10.4.2 Where the assured has a claim under Part C clauses 6.5 and 7 of this insurance and the agreed value is less than the sound value of the vessel at the time of the occurrence which made such measures necessary, the insurer shall only pay such proportion of the claim as the agreed value bears to the sound value. When a total loss of the vessel has been admitted under this insurance, this provision shall only be applied to expenditure in excess of the value of any part of the insured vessel which may be recovered.

10.5 Co-insurance

Where two or more insurers are liable under this insurance,

10.5.1 each insurer is liable only for his proportion of the claim, which is the proportion that his subscription bears to the sum insured, and shall on no account be held jointly liable with his co-insurers.

10.5.2 Alternative A

each insurer agrees to be subject to the jurisdiction of the courts applicable to the leading insurer for all disputes under this insurance. The leading insurer is authorized by his co-insurers to accept and conduct legal proceedings on their behalf.

Alternative B

No provision.

11. Total Losses

11.1 A claim for loss by a peril insured against may be for a total loss, as herein defined, or otherwise for a partial loss.

11.2 Actual total loss occurs where the insured vessel is destroyed or so damaged as to cease to be a thing of the kind insured or where the assured is irretrievably deprived of the vessel.

11.3 Presumed total loss occurs where the insured vessel is missing and no news of the vessel has been received for a reasonable time but not to exceed ... months..

11.4 Constructive total loss occurs:

11.4.1 where the assured has been deprived of the free use and disposal of the vessel and

11.4.1.1 it is unlikely that he will be able to recover it within a reasonable time but not to exceed ... months; or

11.4.1.2 he could not recover it without incurring an expenditure in excess of the agreed value;

11.4.2 where the vessel is so damaged that the estimated reasonable cost of repairs would exceed the agreed value. In estimating the reasonable cost of repairs the following items shall be added where applicable :

11.4.2.1 the vessel's proportion of the costs of salvage and recovery, but excluding any expenditure which is to be claimed separately under this insurance;

11.4.2.2 general average contributions to which the vessel would be liable, if repaired.

General average contributions to the cost of repairs payable by other interests are to be disregarded.

11.5 Where there is a valid claim for a total loss recoverable under this insurance, the amount payable by the insurer is the sum insured in respect of the vessel.

11.6 Where there has been a total loss, the insurer shall not claim any freight earned by the insured vessel.

12. Abandonment

12.1 Where the assured elects to claim for a constructive total loss rather than for a partial loss, or where there is a presumed total loss, the assured shall with reasonable diligence notify the insurer that he wishes to abandon what remains of the vessel to the insurer.

12.2 Unless otherwise directed by applicable law, no notice of abandonment need be given if, at the time when the assured receives reliable information of the loss, there would be no possibility of benefit to the insurer if notice were given to him or where the insurer has expressly waived the need for such notice.

12.3 Notice of abandonment may be expressed in any terms which indicate the intention of the assured unconditionally to abandon his interest in the vessel to the insurer. The insurer shall advise the assured whether he accepts or rejects the notice of abandonment within a reasonable time from the date on which the notice is tendered.

12.4 Where notice of abandonment is given as provided herein, the rights of the assured shall not be prejudiced by the refusal of the insurer to accept the abandonment.

12.5 Where notice of abandonment is accepted, the abandonment is irrevocable and the acceptance of the notice of abandonment conclusively admits liability for the loss and sufficiency of the notice. Upon acceptance of abandonment, the insurer may, if he so wishes, take over whatever may remain of the vessel, with all the rights and obligations attached thereto but excluding freight.

13. Partial losses

13.1 Cost of repairs

13.1.1 General principles

Where a vessel is damaged and repairs are carried out, the insurer shall indemnify the assured for the reasonable cost of repairing the damage covered by this insurance. The reasonable cost of repairs is the amount of such expenses as are necessary to make good the damage sustained.

13.1.2 Deferred repairs

If repairs are unreasonably deferred without the insurer's consent, he shall not be liable for any increase in the cost of repairs that arises therefrom.

13.1.3 Deduction new for old

Claims shall be payable without deduction new for old.

13.1.4 Removal expenses

13.1.4.1 Necessary expenses incurred

13.1.4.1.1 in moving the vessel to a port of repair from a port where permanent repairs cannot be effected prudently, and

13.1.4.1.2 in returning the vessel immediately after repair to the port or place from which it was removed, shall be allowed as part of the reasonable cost of repairs.

13.1.4.2 Where the removal or the return of the vessel is a voyage in which freight is earned, the insurer is liable only for that part of the necessary expenses which exceeds the ordinary running expenses.

13.1.4.3 Where, by moving the vessel to or from the port of repair, expenses are saved in relation to the current voyage of the vessel, such savings shall be deducted from the expenses of removal.

13.1.5 Temporary repairs

The cost of temporary repairs shall be borne by the insurer where

13.1.5.1 the vessel is in a port or place where permanent repairs cannot be prudently effected and temporary repairs are required to enable the vessel to reach a port or place where they can be so effected;

13.1.5.2 they are carried out in order to effect a saving in the total cost of the repairs.

13.1.6 Simultaneous repairs

13.1.6.1 Where the vessel must be placed in dry dock for the repair of damage covered by this insurance, the insurer's liability for the costs of docking shall not be reduced should the assured have surveys or other work carried out while the vessel is in dock, provided the work for the assured's account does not prolong the period in dock or in other ways increase the costs of docking.

13.1.6.2 Notwithstanding 13.1.6.1 above, where the repairs covered by this insurance are carried out concurrently with repairs for the assured's account which are necessary to make the vessel seaworthy or with a routine drydocking, the costs of entering and leaving dock and the dock dues

for the time spent in dock shall be divided equally, unless they can be attributed to only one of these categories of work.

13.1.7 Costs incurred to expedite repairs

Where, in order to avoid unreasonable delay in repairs, greater expenses are incurred in dispatching parts for repairs by one means of transport rather than another, such expenses will be allowed as part of the reasonable cost of repairs.

13.1.8 Cost of surveyors and superintendents

Fees of surveyors and superintendents of repairs necessitated by loss covered by this insurance are calculated as part of the reasonable cost of repairs.

13.1.9 Agency commission

No sum shall 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 company or person acting on behalf of the assured to perform such services.

13.2 Unrepaired damage

Alternative A

Where the vessel is sold and damage covered by this insurance has not been repaired, the assured is entitled to be indemnified for the unrepaired damage to the extent that the sale price is reduced by the existence of such unrepaired damage. However, the insurer's liability as determined by this clause shall in no case exceed the reasonable cost of repairs of such unrepaired damage, as calculated at the first reasonable opportunity to effect such repairs.

Alternative B

Where the vessel has been damaged and repairs to the whole or part of the damage covered by this insurance have not been carried out at the expiry of this insurance, then, if the assured elects not to repair but to claim for unrepaired damage, the insurer shall indemnify him in respect of that unrepaired damage for the estimated reasonable cost of repairs, not exceeding the reasonable depreciation of the vessel, both calculated at the expiry of this insurance.

Where the vessel is sold before the expiry of this insurance, and damage covered by this insurance has not been repaired, the assured is entitled to be indemnified for the depreciation caused by such unrepaired damage at the date of sale. However, the insurer's liability as determined by this clause shall in no case exceed the reasonable cost of repairs of the unrepaired damage as calculated at the date of sale.

The reasonable depreciation shall be considered to be the difference between the market value of the vessel without such unrepaired damage and the vessel's damaged value.

The assured shall not be entitled to claim for any unrepaired damage existing at the time the vessel becomes a total loss during the period covered by this insurance.

13.3 Wages and maintenance

Wages and maintenance of the master, officers and crew shall not be allowed in the cost of repairs. However, this provision shall not apply:

13.3.1 to the vessel's proportion of general average,

13.3.2 to such expenses which are recoverable as removal expenses under 13.1.4, or which are incurred on trial trips related to repair of recoverable damage.

G. CLAIMS SETTLEMENT

14. Notice

In the event of an occurrence which may result in a claim under this insurance, the assured shall, without undue delay, give notice thereof to the insurer.

15. Tender clause

15.1 In the event of an occurrence which may result in a claim under this insurance, the assured shall, without undue delay:

15.1.1 enable the insurer to arrange for survey of the damage. The assured also has the right to appoint his own surveyor if he so wishes;

15.1.2 take such measures and obtain such tenders as a diligent uninsured owner would take to obtain the most favourable offer to carry out repairs.

15.2 The insurer may also take tenders or may require additional tenders to be taken for the repair of the vessel, in which case an allowance shall be payable to the assured at the rate of 25 per cent per annum on the agreed value of the insured vessel for the time lost to the extent that such time is lost solely as a result of such tenders being taken.

15.3 The assured may decide to which port or place to proceed for docking or repair and which tender to accept. However, if the assured in taking such decisions does not act as a diligent uninsured owner, the insurer shall not be liable for any increased costs resulting therefrom.

16. Payment on account

16.1 Where the assured, before the claims statement has been issued, has made or will have to make disbursements recoverable under this insurance, he may for this purpose require one or more payments on account from the insurer. The insurer shall use his best endeavours to make such payments to the assured without undue delay.

16.2 Where on reasonable grounds the insurer does not admit liability for the claim, he may refuse to make any payment on account or, in the event that he admits liability for some of the disbursements, limit his payment on account to such disbursements as he admits.

16.3 The insurer may require that the assured consent to have the payment made on his behalf to a third party.

16.4 A payment on account by the insurer shall in no way prejudice the question of his liability to the assured.

ANNEX OF ADDITIONAL COVERAGE WHICH MAY BE AVAILABLE UNDER ALL RISKS COVER

Extended Cover Clause

1. If expressly agreed by the parties, and subject to payment of an agreed additional premium, the exclusions contained in Part B clause 4.5 shall not apply to the cost of repairing or replacing:

1.1 any boiler which bursts or any shaft which breaks, and which was not in a proper condition as a result of:

1.1.1 error or fault in design, construction or repair or defect in material,

1.1.2 wear and tear, or

1.1.3 corrosion, rottenness or insufficient upkeep, or

1.2 any other part of the machinery or hull not in a proper condition as a result of a latent defect in material, and which has caused loss or damage covered by this insurance.

2. Nothing in this Extended Cover Clause shall allow any claim in respect of the mere discovery of a defect or of a fault or error in design, construction or repair, wear and tear, corrosion, rottenness or insufficient upkeep.

3. The extended cover provided by this clause shall not apply if the loss or damage has resulted from lack of due diligence of the assured, owners or managers.

4. In so far as masters, officers, crew or pilots act in their capacity as such, they are not to be considered as assured, owners or managers within the meaning of this clause, even if they should hold shares in the vessel.

MARINE HULL INSURANCE

Named Perils Cover

A. COVERAGE

1. Perils clause

1.1 This insurance covers loss of or damage to the insured vessel caused by

1.1.1 perils of the seas;

1.1.2 collision or contact with any object, fixed, floating or otherwise;

1.1.3 fire or explosion;

1.1.4 jettison;

1.1.5 earthquake, volcanic eruption, lightning or similar natural calamities;

1.1.6 violent theft by persons from outside the vessel or piracy;

1.1.7 breakdown of or accident to nuclear installations or reactors.

1.2 This insurance also covers loss of or damage to the insured vessel caused by:

1.2.1 accidents in loading, discharging or shifting cargo or fuel;

1.2.2 bursting of boilers, breakage of shafts or any latent defect in the material of the machinery or hull howsoever arising;

1.2.3 wrongful acts wilfully committed by the master, officers or crew to the prejudice of the assured;

1.2.4 negligence of master, officers, crew or pilots;

1.2.5 negligence of repairers, provided such repairers are not assured hereunder; provided such loss or damage has not resulted from want of due diligence by the assured, owners or managers.

2. This insurance also covers loss of or damage to the insured vessel caused by any act of any governmental authority to prevent or minimize pollution resulting from damage to the vessel for which the insurer is liable under this insurance, provided such act of governmental authority has not resulted from want of due diligence by the assured, owners or managers, to prevent or minimize such pollution.

3. In so far as masters, officers, crew or pilots act in their capacity as such, they are not to be considered as assured, owners or managers within the meaning of clauses 1.2 and 2 of this Part A even if they should hold shares in the vessel.

B. GENERAL EXCLUSIONS

4. This insurance does not cover:

4.1 loss, damage, liability or expense caused by:

4.1.1 war, hostilities or warlike acts;

4.1.2 civil war, revolution, rebellion, insurrection, or civil strife arising therefrom;

4.1.3 mines, torpedoes, bombs or other weapons of war;

4.1.4 capture, seizure, other than by pirates, masters, officers or crew, arrest, restraint or detention and the consequences thereof or any attempt thereat;

4.1.5 sabotage or terrorism committed from a political motive;

4.1.6 detonation of an explosive caused by any person acting maliciously or from a political motive;

4.1.7 strikes, lock-outs or other similar labour disturbances;

4.1.8 civil commotions, riots or other similar events; or

4.1.9 confiscation, requisition or other similar measures taken or attempted by any Government or other similar organization assuming or wielding power;

4.2 loss, damage, liability or expense caused by unseaworthiness of the vessel, including not being properly manned, equipped or loaded, where the assured knew, or should have known, of such unseaworthiness when the vessel was sent to sea;

4.3 loss, damage, liability or expense resulting from the personal act or omission of the assured done with the intent to cause such loss, damage, liability or expense or recklessly and with knowledge that such loss, damage, liability or expense would probably result.

4.4 Additional exclusion clause (if expressly agreed by the parties):
loss, damage, liability or expense caused by piracy.

C. ADDITIONAL COVERAGE

5. Collision Liability Clause or collision and Contact Liability Clause

Alternative A

Collision Liability Clause

5.1 This insurance also covers (THREE-FOURTHS OF)⁵ the liability incurred by the assured as a consequence of the insured vessel coming into collision with another vessel, in respect of:

5.1.1 loss of or damage to any other vessel or property on any other vessels

⁵ The words in parentheses in 5.1, 5.4 and 5.7 to be deleted if four-fourths collision cover is agreed.

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

5.1.3 expenses of any such other vessel or property thereon in respect of general average or salvage, provided that such collision was not caused by a peril excluded in Part B.

5.2 However, this clause does not cover any liabilities in respect of:

5.2.1 loss of life, personal injury or illness;

5.2.2 cargo or other property on the insured vessel;

5.2.3 contractual engagements of the insured vessel;

5.2.4 pollution or contamination of any property or thing whatsoever (including cost of preventive measures and clean-up operations), except of other vessels with which the insured vessel is in collision or property on such other vessels;

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

Alternative B

Collision and Contact Liability Clause

5.1 This insurance also covers liability incurred by the assured as a consequence of the insured vessel coming into collision or contact with another vessel or any object, fixed, floating or otherwise; Provided that such collision or contact was not caused by a peril excluded in Part B.

5.2 However, this clause does not cover any liabilities in respect of:

5.2.1 loss of life, personal injury or illness;

5.2.2 cargo or other property on the insured vessel;

5.2.3 contractual engagements of the insured vessel;

5.2.4 pollution or contamination of any property or thing whatsoever (including cost of preventive measures and clean-up operations), except of other vessels with which the insured vessel is in collision or property on such other vessels;

5.2.5 alternative wreck removal exclusions:

Alternative A

removal of the wreck of the insured vessel or its cargo

Alternative B

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

5.2.6 consequential loss or delay to any vessel or object not physically damaged as a result of the occurrence.

(Alternative A continued)

5.3 The insurer only has a duty to pay the indemnity under this clause when and in so far as the assured has paid the injured party. However, nothing in this clause shall deprive the injured party of any right of direct action against the insurer provided by applicable law.

5.4 The amount payable under this clause is in addition to any amount payable under the other provisions of this insurance, but shall not, unless otherwise expressly agreed, exceed (THREE-FOURTHS OF)⁶ an amount equal to the sum insured in respect of each separate occurrence.

5.5 In the event of a collision of the insured vessel with another vessel wholly or partially owned by the assured, the insurer shall be liable under this clause as if the other vessel were owned by a third party. In such cases, the determination of liabilities and the assessment of damages shall be made by a sole arbitrator agreed by the insurer and the assured.

5.6 Alternative cross-liability clauses:

Alternative A

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 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 of sum payable by or to the assured in consequence of the collision.

Alternative B

Where the assured has incurred a liability covered by this clause and he can claim damages against the injured party for loss which he himself has suffered on the same occasion, the settlement of the claim, as between the assured and the insurer, is to be effected on the basis of the calculated gross liabilities before any set-off has been made. This applies even if, in the settlement between the assured and the injured party, one or both of the said liabilities are limited by law. Where the limitation is applied to the balance between the assured's and the injured party's liabilities, the largest calculated gross liability shall, in the settlement between the assured and the insurer, be reduced by the same amount by which such balance has been reduced.

(Alternative B continued)

5.3 The insurer only has a duty to pay the indemnity under this clause when and in so far as the assured has paid the injured party. However, nothing in this clause shall deprive the injured party of any right of direct action against the insurer provided by applicable law.

5.4 The amount payable under this clause is in addition to any amount payable under the other provisions of this insurance, but shall not, unless otherwise expressly agreed, exceed an Amount equal to the sum insured in respect of each separate occurrence.

5.5 In the event of a collision or contact of the insured vessel with another vessel or object wholly or partially owned by the assured, the insurer shall be liable under this clause as if the other vessel or object were owned by a third party. In such cases, the determination of liabilities and the assessment of damages shall be made by a sole arbitrator agreed by the insurer and the assured.

5.6 Alternative cross-liability clauses:

⁶ See previous note

Alternative A

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 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. This principle, as far as applicable, also applies when the insured vessel comes into contact with an object.

Alternative B

Where the assured has incurred a liability covered by this clause and he can claim damages against the injured party for loss which he himself has suffered on the same occasion, the settlement of the claim, as between the assured and the insurer, is to be effected on the basis of the calculated gross liabilities before any set-off has been made. This applies even if, in the settlement between the assured and the injured party, one or both of the said liabilities are limited by law. Where the limitation is applied to the balance between the assured's and the injured party's liabilities, the largest calculated gross liability shall, in the settlement between the assured and the insurer, be reduced by the same amount by which such balance has been reduced.

(Alternative A continued)

5.7 In addition to the amount referred to in 5.4, the insurer shall also pay (THREE-FOURTHS OF)⁷ the legal costs incurred by or awarded against the assured, in respect of contesting liability covered

under this clause or taking proceedings to limit such liability, provided that the insurer's prior written consent has been obtained or, where the insurer cannot be contacted, that written consent is obtained as soon as possible. Such consent shall not be unreasonably withheld.

5.8 If requested by the assured to assist in obtaining a guarantee in order to release or avoid the arrest of the insured vessel, or another vessel wholly or partially owned by the assured, in respect of an occurrence covered by this clause, the insurer shall use his best endeavours to provide a counter-guarantee or counter-letter of undertaking restricted to his proportion of the insurance and to the terms and limits of this insurance. However, the insurer is under no obligation to provide security in respect of the assured's liability covered under this clause.

(Alternative B continued)

5.7 In addition to the amount referred to in 5.4, the insurer shall also pay the legal costs incurred by or awarded against the assured, in respect of contesting liability covered under this clause or taking proceedings to limit such liability, provided that the insurer's prior consent has been obtained or, where the insurer cannot be contacted, that written consent is obtained as soon as possible. Such consent shall not be unreasonably withheld.

5.8 If requested by the assured to assist in obtaining a guarantee in order to release or avoid the arrest of the insured vessel, or another vessel wholly or partially owned by the assured, in respect of an occurrence covered by this clause, the insurer shall use his best endeavours to provide a counter-guarantee or counter-letter of undertaking restricted to his proportion of the insurance and to the terms and limits of this insurance. However, the insurer is under no obligation to provide security in respect of the assured's liability covered under this clause.

6. General average and salvage clause

⁷ See previous note

6.1 This insurance also covers the insured vessel's proportion of general average, salvage and/or salvage charges. In case of general average sacrifice of the vessel, the assured has the right to recover in respect of the whole of such loss without first enforcing his rights of contribution from other parties.

6.2 The general average adjustment shall be according to the applicable law and practice. However, where the contract of carriage or affreightment so provides, the adjustment shall be according to the York-Antwerp Rules 1974 or similar provisions of other rules.

6.3.1 When the vessel sails in ballast, and where there are no other contributing interests, the provisions of the York-Antwerp Rules, 1974 (excluding XX and XXI), or similar provisions of other rules if expressly agreed, shall be applied and the insurer shall pay the vessel's proportion as so calculated. 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.

6.3.2 Where all the contributing interests are owned by the assured, the provisions of the York-Antwerp Rules, 1974, or similar provisions of other rules if expressly agreed, shall be applied as if the interests were owned by different persons, and the insurer shall pay the vessel's proportion as so calculated.

6.4 Where the insured vessel receives salvage services from another vessel wholly or partially owned by the assured, or under the same management, the insurer shall be liable under this clause as if the other vessel were owned by a third party. In such cases, the amount payable for the services rendered shall be determined by a sole arbitrator agreed by the insurer and the assured.

6.5 Where extraordinary expenditure has been reasonably incurred in an unsuccessful attempt to save both the vessel and other property involved in a common maritime adventure, and a claim for total loss of the vessel is admitted under this insurance, the insurer shall, in addition to the total loss, pay such proportion of such expenditure in excess of the proceeds, if any, as may reasonably be regarded as having been incurred in respect of the vessel.

6.6 No claim under this clause shall in any case be allowed unless the general average act or salvage was undertaken to avoid, or in connection with the avoidance of, a peril insured against.

7. Sue and labour clause

7.1 Where there has been loss of or damage to the vessel from a peril insured against, or where the vessel is in danger from such a peril, and as a result reasonable expenditure is incurred by the assured in order to avert or minimize a loss which would be recoverable under this insurance, the insurer shall pay to the assured the expenditure incurred. This clause shall not apply to general average, salvage or salvage charges or to expenditure otherwise provided for in this insurance.

7.2 The insurer's liability under this clause is, in addition to his liability under the other provisions of this insurance, but shall not exceed an amount equal to the sum insured in respect of the vessel.

D. PERIOD OF COVERAGE

8. Continuation Clause

This insurance may be extended at a pro rata daily/monthly⁸ premium provided previous notice be given to the insurer, if at expiry

8.1 the vessel is at sea or in distress or at a port of refuge or of call, until its arrival at its port of destination,

8.2 the vessel is in port carrying out repairs which affect its seaworthiness and which are covered under the insurance, until completion of those repairs.

E. DUTIES OF THE ASSURED

9. 9.1 Where there has been loss of or damage to the vessel from a peril insured against, or where the vessel is in danger from such a peril, it shall be the duty of the assured, owners and managers to take all reasonable measures to avert or minimize loss which would be recoverable under this insurance.

9.2 Measures taken by the assured or insurer to prevent or minimize loss recoverable under this insurance shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.

9.3 Alternative A

Where the failure to give such notice as required by the Notice Clause (Part G, clause 14) or to take such measures as required by 9.1 above is the result of a lack of due diligence by the assured, owners or managers, the claim recoverable under this insurance shall be reduced to the extent that the loss, damage, liability or expense has not been minimized, or has been aggravated, as the case may be.

Alternative B

No provision.

F. MEASURE OF INDEMNITY

10. General Rules

10.1 Agreed and insurable value

10.1.1 Where an agreed value is stated in this insurance, this agreed value shall be conclusive between the assured and the insurer as to the value of the insured vessel in the absence of fraud.

10.1.2 Where there is no agreed value, the insurable value of the vessel is its actual market value at the time the risk attaches, unless otherwise directed by applicable law.

10.1.3 Where there is no agreed value and the term "agreed value" is used in other provisions of this insurance, this term shall be deemed also to cover the insurable value, as defined in 10.1.2 above.

10.2 Sum insured

The insurer's liability in respect of each separate occurrence covered under clauses 1 and 2 of Part A and clause 6 (except 6.5) of Part C shall be limited to the sum insured. In addition the

⁸ Stricke out wichever is not applicable

insurer shall be liable for claims under clauses 5, 6.5 and 7 of Part C (the Collision Liability, Unsuccessful General Average and Sue and Labour Clauses) as provided therein.

10.3 Under- and over-insurance

10.3.1 Where the sum insured is less than the agreed value, the insurer is only liable to pay that proportion of any loss covered by this insurance that the sum insured bears to the agreed value.

10.3.2 Where the sum insured is higher than the agreed value, the assured may not recover more than the agreed value.

10.4 Under-valuation

Alternative A

The indemnity payable under this insurance shall not be reduced by reason of the agreed value being less than the actual or contributory value of the insured vessel.

Alternative B

10.4.1.1 Where the assured has a claim under Part C clause 6 (except 6.5) of this insurance other than for general average sacrifice of the vessel and the agreed value is less than the full contributory value of the vessel, the insurer shall only pay such proportion of general average, salvage and salvage charges as the agreed value bears to the full contributory value.

10.4.1.2 Where the vessel has suffered damage covered by this insurance and such damage constitutes a deduction from the contributory value, the same amount must be deducted from the agreed value when determining whether the agreed value is less than the contributory value.

10.4.2 Where the assured has a claim under Part C clauses 6.5 and 7 of this insurance and the agreed value is less than the sound value of the vessel at the time of the occurrence which made such measures necessary, the insurer shall only pay such proportion of the claim as the agreed value bears to the sound value. When a total loss of the vessel has been admitted under this insurance, this provision shall only be applied to expenditure in excess of the value of any part of the insured vessel which may be recovered.

10.5 Co-insurance

Where two or more insurers are liable under this insurance,

10.5.1 each insurer is liable only for his proportion of the claim, which is the proportion that his subscription bears to the sum insured, and shall on no account be held jointly liable with his co-insurers.

10.5.2 Alternative A

each insurer agrees to be subject to the jurisdiction of the courts applicable to the leading insurer for all disputes under this insurance. The leading insurer is authorized by his co-insurers to accept and conduct legal proceedings on their behalf.

Alternative B

No provision.

11. Total Losses

11.1 A claim for loss by a peril insured against may be for a total loss, as herein defined, or otherwise for a partial loss.

11.2 Actual total loss occurs where the insured vessel is destroyed or so damaged as to cease to be a thing of the kind insured or where the assured is irretrievably deprived of the vessel.

11.3 Presumed total loss occurs where the insured vessel is missing and no news of the vessel has been received for a reasonable time but not to exceed ... months.

11.4 Constructive total loss occurs:

11.4.1 where the assured has been deprived of the free use and disposal of the vessel and

11.4.1.1 it is unlikely that he will be able to recover it within a reasonable time but not to exceed ... months; or

11.4.1.2 he could not recover it without incurring an expenditure in excess of the agreed value;

11.4.2 where the vessel is so damaged that the estimated reasonable cost of repairs would exceed the agreed value. In estimating the reasonable cost of repairs the following items shall be added where applicable:

11.4.2.1 the vessel's proportion of the costs of salvage and recovery, but excluding any expenditure which is to be claimed separately under this insurance;

11.4.2.2 general average contributions to which the vessel would be liable, if repaired.

General average contributions to the cost of repairs payable by other interests are to be disregarded.

11.5 Where there is a valid claim for a total loss recoverable under this insurance, the amount payable by the insurer is the sum insured in respect of the vessel.

11.6 Where there has been a total loss, the insurer shall not claim any freight earned by the insured vessel.

12. Abandonment

12.1 Where the assured elects to claim for a constructive total loss rather than for a partial loss, or where there is a presumed total loss, the assured shall with reasonable diligence notify the insurer that he wishes to abandon what remains of the vessel to the insurer.

12.2 Unless otherwise directed by applicable law, no notice of abandonment need be given if, at the time when the assured receives reliable information of the loss, there would be no possibility of benefit to the insurer if notice were given to him or where the insurer has expressly waived the need for such notice.

12.3 Notice of abandonment may be expressed in any terms which indicate the intention of the assured unconditionally to abandon his interest in the vessel to the insurer. The insurer shall advise

the assured whether he accepts or rejects the notice of abandonment within a reasonable time from the date on which the notice is tendered.

12.4 Where notice of abandonment is given as provided herein, the rights of the assured shall not be prejudiced by the refusal of the insurer to accept the abandonment.

12.5 Where notice of abandonment is accepted, the abandonment is irrevocable and the acceptance of the notice of abandonment conclusively admits liability for the loss and sufficiency of the notice. Upon acceptance of abandonment, the insurer may, if he so wishes, take over whatever may remain of the vessel, with all the rights and obligations attached thereto but excluding freight.

13. Partial losses

13.1 Cost of repairs

13.1.1 General principles

Where a vessel is damaged and repairs are carried out, the insurer shall indemnify the assured for the reasonable cost of repairing the damage covered by this insurance. The reasonable cost of repairs is the amount of such expenses as are necessary to make good the damage sustained.

13.1.2 Deferred repairs

If repairs are unreasonably deferred without the insurer's consent, he shall not be liable for any increase in the cost of repairs that arises therefrom.

13.1.3 Deduction new for old

Claims shall be payable without deduction new for old.

13.1.4 Removal expenses

13.1.4.1 Necessary expenses incurred

13.1.4.1.1 in moving the vessel to a port of repair from a port where permanent repairs cannot be effected prudently, and

13.1.4.1.2 in returning the vessel immediately after repair to the port or place from which it was removed, shall be allowed as part of the reasonable cost of repairs.

13.1.4.2 Where the removal or the return of the vessel is a voyage in which freight is earned, the insurer is liable only for that part of the necessary expenses which exceeds the ordinary running expenses.

13.1.4.3 Where, by moving the vessel to or from the port of repair, expenses are saved in relation to the current voyage of the vessel, such savings shall be deducted from the expenses of removal.

13.1.5 Temporary repairs

The cost of temporary repairs shall be borne by the insurer where

13.1.5.1 the vessel is in a port or place where permanent repairs cannot be prudently effected and temporary repairs are required to enable the vessel to reach a port or place where they can be so effected;

13.1.5.2 they are carried out in order to effect a saving in the total cost of the repairs.

13.1.6 Simultaneous repairs

13.1.6.1 Where the vessel must be placed in dry dock for the repair of damage covered by this insurance, the insurer's liability for the costs of docking shall not be reduced should the assured have surveys or other work carried out while the vessel is in dock, provided the work for the assured's account does not prolong the period in dock or in other ways increase the costs of docking.

13.1.6.2 Notwithstanding 13.1.6.1 above, where the repairs covered by this insurance are carried out concurrently with repairs for the assured's account which are necessary to make the vessel seaworthy or with a routine drydocking, the costs of entering and leaving dock and the dock dues for the time spent in dock shall be divided equally, unless they can be attributed to only one of these categories of work.

13.1.7 Costs incurred to expedite repairs

Where, in order to avoid unreasonable delay in repairs, greater expenses are incurred in dispatching parts for repairs by one means of transport rather than another, such expenses will be allowed as part of the reasonable cost of repairs.

13.1.8 Cost of surveyors and superintendents

Fees of surveyors and superintendents of repairs necessitated by loss covered by this insurance are calculated as part of the reasonable cost of repairs.

13.1.9 Agency commission

No sum shall 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 company or person acting on behalf of the assured to perform such services.

13.2 Unrepaired damage

Alternative A

Where the vessel is sold and damage covered by this insurance has not been repaired, the assured is entitled to be indemnified for the unrepaired damage to the extent that the sale price is reduced by the existence of such unrepaired damage. However, the insurer's liability as determined by this clause shall in no case exceed the reasonable cost of repairs of such unrepaired damage, as calculated at the first reasonable opportunity to effect such repairs.

Alternative B

Where the vessel has been damaged and repairs to the whole or part of the damage covered by this insurance have not been carried out at the expiry of this insurance, then, if the assured elects not to repair but to claim for unrepaired damage, the insurer shall indemnify him in respect of that unrepaired damage for the estimated reasonable cost of repairs, not exceeding the reasonable depreciation of the vessel, both calculated at the expiry of this insurance.

Where the vessel is sold before the expiry of this insurance, and damage covered by this insurance has not been repaired, the assured is entitled to be indemnified for the depreciation caused by such unrepaired damage at the date of sale. However, the insurer's liability as determined by this clause shall in no case exceed the reasonable cost of repairs of the unrepaired damage as calculated at the date of sale.

The reasonable depreciation shall be considered to be the difference between the market value of the vessel without such unrepaired damage and the vessel's damaged value.

The assured shall not be entitled to claim for any unrepaired damage existing at the time the vessel becomes a total loss during the period covered by this insurance.

13.3 Wages and maintenance

Wages and maintenance of the master, officers and crew shall not be allowed in the cost of repairs. However, this provision shall not apply:

13.3.1 to the vessel's proportion of general average,

13.3.2 to such expenses which are recoverable as removal expenses under 13.1.4, or which are incurred on trial trips related to repair of recoverable damage.

G. CLAIMS SETTLEMENT

14. Notice

In the event of an occurrence which may result in a claim under this insurance, the assured shall, without undue delay, give notice thereof to the insurer.

15. Tender clause

15.1 In the event of an occurrence which may result in a claim under this insurance, the assured shall, without undue delay:

15.1.1 enable the insurer to arrange for survey of the damage. The assured also has the right to appoint his own surveyor if he so wishes;

15.1.2 take such measures and obtain such tenders as a diligent uninsured owner would take to obtain the most favourable offer to carry out repairs.

15.2 The insurer may also take tenders or may require additional tenders to be taken for the repair of the vessel, in which case an allowance shall be payable to the assured at the rate of 25 per cent per annum on the agreed value of the insured vessel for the time lost to the extent that such time is lost solely as a result of such tenders being taken.

15.3 The assured may decide to which port or place to proceed for docking or repair and which tender to accept. However, if the assured in taking such decisions does not act as a diligent uninsured owner, the insurer shall not be liable for any increased costs resulting therefrom.

16. Payment on account

16.1 Where the assured, before the claims statement has been issued, has made or will have to make disbursements recoverable under this insurance, he may for this purpose require one or more payments on account from the insurer. The insurer shall use his best endeavours to make such payments to the assured without undue delay.

16.2 Where on reasonable grounds the insurer does not admit liability for the claim, he may refuse to make any payment on account or, in the event that he admits liability for some of the disbursements, limit his payment on account to such disbursements as he admits.

16.3 The insurer may require that the assured consent to have the payment made on his behalf to a third party.

16.4 A payment on account by the insurer shall in no way prejudice the question of his liability to the assured.

ANNEX OF ADDITIONAL OVERAGE WHICH MAY BE AVAILABLE UNDER NAMED PERILS COVER

Extended Cover Clause

1. If expressly agreed by the parties, and subject to payment of an agreed additional premium, this insurance is extended to cover:

1.1 the cost of repairing or replacing any boiler which bursts or any shaft which breaks,

1.2 the cost of repairing or replacing any latent defect in the material of the machinery or hull which has caused loss or damage covered by Part A clause 1.2.2 of this insurance, and

1.3 loss of or damage to the vessel caused by any accident, negligence, incompetence, error of judgement or malicious act of any person whatsoever.

2. Nothing in this Extended Cover Clause shall allow any claim in respect of the mere discovery of a defect or of a fault or error in design or construction.

3. The cover provided by this clause is subject to the due diligence proviso of Part A clause 1.2 and the exclusions contained in Part B.