

**Name of the Clause:** American Institute Increased Value And Excess Liabilities Clauses

**Subject of the Clause:** Cover extension (in addition with the Hull Policy)

**Category :** General Conditions

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### **American Institute**

## **INCREASED VALUE AND EXCESS LIABILITIES CLAUSES**

**(November 3, 1977)**

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 policy schedule 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.

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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.

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.

### **LOSS PAYEE**

Loss, if any, payable to {Response} 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.

On INCREASED VALUE AND EXCESS LIABILITIES of the vessel called the as policy schedule (or by whatsoever name or names the said vessel is or shall be called).

### **AMOUNT INSURED HEREUNDER**

As policy schedule.

### **DURATION OF RISK**

From the as policy schedule

to the as policy schedule.

Should the vessel at the expiration of this policy 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.

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

### **PREMIUM**

The Underwriters to be paid in consideration of this insurance as policy schedule being at the annual rate of {Response} 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.

## **RETURNS OF PREMIUMS**

Premium returnable as follows:

Pro rata daily net in the event of termination under the Change of Ownership clause;

Pro rata monthly net for each uncommenced month if it be mutually agreed to cancel this policy;

For each period of 30 consecutive days the vessel may be laid up in port for account of the Assured,

{Response} cents per cent. net not under repair, or

{Response} cents per cent. net under repair;

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 lightering purposes.

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 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 telegraphic 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, 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.

**COVERAGE**

This insurance covers only:

1. TOTAL LOSS (ACTUAL OR CONSTRUCTIVE) OF THE VESSEL directly caused by Perils of the Seas, Men-of-War, Fire, Lightning, Earthquake, Enemies, 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, Detriment 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. It shall also cover Total Loss (actual or constructive) 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.

Subject to the conditions of this policy, this insurance also covers Total Loss (actual or constructive) of the vessel directly caused by governmental authorities acting for the public welfare 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 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.

In ascertaining whether the vessel is a constructive Total Loss the Agreed Value in the policies 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.

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 policies on Hull and Machinery. 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 said policies.

Provided that the policies on Hull and Machinery contain the above clauses with respect to the method of ascertaining whether the vessel is a constructive Total Loss (or clauses having a similar effect), the settlement of a claim for Total Loss under the policies on Hull and Machinery shall be accepted as proof of the Total Loss of the vessel under this policy; and in the event of a claim for Total Loss being settled under the policies on Hull and Machinery as a compromised total loss, the amount payable hereunder shall be the same percentage of the amount hereby insured as the percentage paid on the amount insured under said policies.

Should the vessel be a constructive Total Loss but the claim on the policies on Hull and Machinery be settled as a claim for partial loss, no payment shall be due under this Section (1).

Full interest admitted; the policy being deemed sufficient proof of interest.

In the event of Total Loss, the Underwriters waive interest in any proceeds from the sale or other disposition of the vessel or wreck.

2. GENERAL AVERAGE AND SALVAGE not recoverable in full under the policies on Hull and Machinery by reason of the difference between the Agreed 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 policies covering Hull and Machinery may have required) and the value of the vessel adopted for the purpose of contribution to General Average or Salvage, the liability under this policy being for such proportion of the amount not recoverable as the amount insured hereunder bears to the said difference or to the total amount insured against excess liabilities if it exceed such difference.

3. SUE AND LABOR CHARGES not recoverable in full under the policies on Hull and Machinery by reason of the difference between the Agreed Value of the vessel as stated therein (or any reduced value arising from the deduction therefrom of any claim which the terms of the policies covering Hull and Machinery may have required) and the value of the vessel adopted for the purpose of ascertaining the amount recoverable under the policies on Hull and Machinery, the liability under this policy being for such proportion of the amount not recoverable as the amount insured hereunder bears to the said difference or to the total amount insured against excess liabilities if it exceed such difference.

4. COLLISION LIABILITY (Including Costs) not recoverable in full under the Collision Liability clause (including the Pilotage and Towage extension) in the policies on Hull and Machinery by reason of such liability exceeding the Agreed Value of the vessel as stated therein, in which case the amount recoverable under this policy shall be such proportion of the difference so arising as the amount hereby insured bears to the total amount insured against excess liabilities.

Underwriters' liability under 1, 2, 3 and 4 is separate and shall not exceed the amount insured hereunder in any one section in respect of any one claim.

#### **NOTICE OF CLAIM**

When it becomes evident that any accident or occurrence could give rise to a claim under this policy, prompt notice thereof shall be given to the Underwriters.

#### **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 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.

### **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 detainment, 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; or
- (g) Malicious acts or vandalism, unless committed by the Master or Mariners and not excluded elsewhere under this War Strikes and Related Exclusions clause; or
- (h) Hostilities or warlike operations (whether there be a declaration of war or not) but this subparagraph (h) not to exclude collision or contact with aircraft, rocket 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.

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