

**Name of the Clause :** Mortgagees Interest German Conditions Of Insurance (Amended)

**Subject of the Clause :** Self explanatory

**Category :** Additional Clause

**Number :** EHG 123                      **Date :** Unknown

**Country :** Germany ?                      **Issued by :** Unknown

**Comments :**

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## MORTGAGEES INTEREST

### GERMAN CONDITIONS OF INSURANCE (AMENDED) (EHG 123)

The Assured are mortgagees of the Vessel and warrant that:

(A) Hull and Machinery Policies on the standard form of English marine policy and on conditions not less wide than I.T.C. Hulls or American Hull Form or Norwegian Hull Policy or other terms agreed by the insurers hereof, and War and Strikes Policies on the standard form of English marine policy on conditions not less wide than I.T.C. War and Strikes (hereafter called the "Owner's Policies"), and P & I entry (hereafter called the "Entry") on standard full P & I entry are taken out (except as the result of the occurrence of any of the events provided for in clause 1 (B) (i), (ii), (iii), (iv) and clause 3 hereof which would otherwise cause the Owner's Policies or the Entry not to be so maintained) and maintained at all times on values or limits of liability of the lesser of the Insured Amount and the Total Indebtedness, as defined in Clause 1 (C) hereof.

(B) The Owner's Policies and Entry are endorsed to the extent of the Assured's interest.

(C) Neither the Owner's Policies or the Entry shall terminate during the currency of this Policy (hereafter called "the Policy Period") due to non-payment of premiums or calls provided always

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that the Assured shall be given 14 days notice prior to such termination becoming effective and during that period the opportunity to pay any unpaid premiums or calls.

NOW THIS POLICY WITNESSETH as follows:

1 (A) If during the policy period any sum is by the terms of any of the Owner's Policies and/or the Entry payable to the Assured or on their behalf, but is not so paid, then the lesser of such sum and the Total Indebtedness shall be paid to the Assured hereunder on receipt of a declaration by the Assured that, first, a demand for payment has been made to the insurers under the relevant Owner's Policy/Entry and, secondly, those insurers have failed to pay that sum within a reasonable period not exceeding 90 days of such demand.

(B) For all the purposes of the present policy a sum shall be treated as payable by the terms of an Owner's Policy/Entry, but always subject to the Institute Notice of Cancellation and Automatic Termination of Cover Clause Hull etc. dated 1.10.1983, notwithstanding that;

- (i) the vessel had embarked on a voyage in an unseaworthy condition or was inadequately manned or equipped; or
- (ii) the Vessel had breached the stipulated geographical warranties or had deviated from the designated or usual and customary route; or
- (iii) the policy be rendered void or voidable, from inception or at any time thereafter, by reason of any act or omission of the Owners or anyone acting on their behalf; or
- (iv) the insurers under that policy are discharged from liability either generally or as regards a particular claim, at any time, or an event which would otherwise be a peril insured against is not recoverable by reason of any circumstance whatsoever including (without prejudice to the generality of the foregoing) any deliberate, negligent, or accidental act or omission or any knowledge or privity of, the Owners or anyone acting on their behalf including the deliberate or negligent casting away or damaging of the Vessel or by reason of some breach of warranty.

PROVIDED ALWAYS, that the act, omission, breach, knowledge or privity occurs or exists without the consent or privity of the Assured and the cause of any non-payment is not due to the insolvency of the Insurers or the P & I Club or to the operation of exchange control measures.

(C) "Total Indebtedness" includes all sums of money due and owing or to become due and owing by the Owners to the Assured under the Mortgage including:

any principal sum, interest, costs, commission, expenses and any and all other sums whatsoever due or to become due to the Assured from the Owners or for their account, whether alone or jointly with others, including any outstanding liabilities then incurred by the Assured for the Owners and all liabilities to the Assured or incurred by the Assured on the Owners behalf of any Bills, Guarantees or otherwise howsoever.

2. If during the policy period the vessel becomes a Total or a Constructive Total Loss, or sustains other loss or damage and any sum payable by the terms of the Owner's Policy in respect thereof is not so paid then the Assured shall be paid hereunder;

(A) in the case of Total or Constructive Total Loss, the lesser of the Insured value and the Total Indebtedness

(B) In the case of other loss or damage, the lesser of the cost of making good such loss or damage and the Total Indebtedness.

3. This Insurance is also to indemnify the Assured to the extent of failure to recover the lesser of the Insured Amount and the Total Indebtedness if such failure arises from a Third Party Liability in connection with the vessel, resulting from an event occurring during the policy period and not recoverable from the Protection and Indemnity Underwriters by reason of the Owner's privity, as a result of which a lien is exercised on the vessel to satisfy such liability.

4. The Assured are to receive all payments due to them hereunder within 3 months after they have put forward their claim, failing which they shall then be paid hereunder interest on any monies outstanding at the current rate of interest payable to them by the Owners, until such time as an actual payment is made.

5. If during the policy period the ownership of the vessel is transferred to another Owner with the Assured's prior written approval then, in the absence of agreement to the contrary, this policy shall be automatically terminated at the time of such transfer, subject to a pro rata return of premium.

6. If during the policy period any of Owner's Policies/Entry is amended, altered, cancelled or terminated this policy shall be affected only after the expiry of fourteen days from the date the Assured has received notice of the amendment or alteration or cancellation or termination from the Insurers under the relevant Owner's Policy/Entry. The Assured has to inform the Insurers hereunder without delay after having received such information.

7. Upon payment of any sum to the Assured hereunder, the Insurers shall to the extent of their payment only, be thereupon subrogated to all those rights of the Assured which are legally allowed to be subrogated.

**EXCEPT THAT**

(i) in the event of payment being made to the Assured hereunder in respect of a Total or Constructive Total Loss then the Insurers hereunder shall not exercise their subrogated rights unless and until the Assured have recovered the Total Indebtedness ; and

(ii) the Assured is entitled to allow such alterations with regard to any security as in their sole judgement they shall consider not to prejudice the proper repayment of the loan.