



# Commercial Hull - Mortgagees' Interest

EFFECTIVE DATE: 01/02/2025

This is an important document. If You cannot read and understand English please use an interpreter to explain this document before You enter into this contract of insurance.

Insurance products are provided by National Transport Insurance, a joint venture of the insurers Insurance Australia Limited trading as CGU Insurance ABN 11 000 016 722 AFSL 227681 and AAI Limited Trading as Vero Insurance ABN 48 005 297 807 AFSL 230859 each holding a 50% share.

National Transport Insurance is administered on behalf of the insurers by its manager NTI Limited ABN 84 000 746 109 AFSL 237246.

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# INTRODUCTION

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## Important Things You Should Know

Welcome to National Transport Insurance.

Please ensure You read this document thoroughly before You enter into this contract of insurance.

You must also ensure that all details as shown in Your Policy Schedule are correct. Let Us know immediately if You need any changes. If You do not understand any part of the Policy, please contact Your insurance broker or Our authorised representative for an explanation.

To properly understand the significant features, benefits and risks of this insurance You need to carefully read:

- about the available type of Cover and benefits and exclusions in the Policy, (the standard Cover provided can be affected by the following);
- the rest of this "Introduction" section - this sets out who We are, some features of the Policy, the duty of disclosure, Our privacy policy, Our complaints procedure, Our External Dispute procedure and other important information
- the "Definitions" - this sets out what We mean by certain words used in the Policy. These words begin with a capital letter throughout this document;
- the "Exclusions" set out the general exclusions and limitations that apply to the Cover and benefits;
- the "General Conditions" and "Claims Responsibilities" sections - these set out certain general rights and obligations that You and We have and other Cover restrictions;
- all of the documents that make up the Policy, including the Policy Schedule and any Endorsements or other written changes to the Cover We issue You with - these contain specific details relevant to You and can affect the Cover. Your Policy Schedule may also specify Policy Deductibles and other limitations on Your Cover.

Headings are provided for reference only and do not form part of Your Policy for interpretation purposes.

## Insurers

National Transport Insurance means the joint venture of the following insurers in the proportions shown:

- Insurance Australia Limited trading as CGU Insurance ABN 11 000 016 722 AFSL 227681 - 50%
- AAI Limited trading as Vero Insurance ABN 48 005 297 807 AFSL 230859 - 50%

This means that each insurer is only responsible for its half share.

'We', 'Us', 'Our', 'Underwriter' or 'Insurer' means the joint venture National Transport Insurance that is administered by its manager NTI Limited ABN 84 000 746 109 AFSL 237246.

## National Transport Insurance (NTI)

Marine Protect is powered by NTI, Australia's specialist insurance provider with over 45 of experience in the insurance industry. With an award winning claims service, NTI is the company You can count on to protect You and Your business. Two of Australia's leading general insurers - Insurance Australia Limited trading as CGU Insurance and AAI Limited trading as Vero Insurance, back NTI - so You can rest assured that You are in safe hands.

## Our Hull product options

National Transport Insurance Commercial Hull - Mortgagees Interest Insurance Policy is intended to provide Cover for a variety of Australian owned/flagged or managed commercial vessels engaged in harbour, inland and coastal operations (excluding commercially registered fishing vessels). The Policy outlines the key base cover for hull, including the internationally accepted "Institute Clauses" or other coverage to be agreed. Where requested, Cover may be extended by activating certain optional extensions set out in the Policy, or to include other Institute Clauses.

# INTRODUCTION

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## Your Duty of Disclosure

Before You enter into an insurance contract, You have a duty under the Insurance Contracts Act 1984 (ICA) s.21 and the Marine Insurance Act 1909 (MIA) s.24, 25 and 26 (whichever is applicable) to tell Us, pursuant to the ICA: anything that You know, or could reasonably be expected to know, which may be relevant to Our decision to insure You and on what terms, or pursuant to the MIA: every material circumstance which is known to You or which ought to be known to You which would influence Us in calculating the Premium or determining whether to accept the risk.

You have this duty until We agree to insure You. You have the same duty before You renew, extend, vary or reinstate an insurance contract.

You do not need to tell Us anything that:

- reduces the risk We insure You for; or
- is common knowledge; or
- We know or should know as an insurer; or
- We waive Your duty to tell Us about.

### If You do not tell Us something:

Where the Insurance Contracts Act applies: if You do not tell Us anything You are required to, We may cancel Your contract or reduce the amount We will pay You if You make a claim, or both. Our liability will be reduced by an amount that fairly represents the extent to which Our interests have been prejudiced as a result of Your failure to notify Us.

If Your failure to tell Us is fraudulent, We may refuse to pay a claim and treat the contract as if it never existed.

Where the Marine Insurance Act 1909 applies, if You fail to comply with Your duty of disclosure, We may avoid the contract from its beginning.

### Who must tell Us?

Everyone who is insured under the Policy is required to comply with the duty of disclosure, including Your broker or agent.

## Alteration of Risk

Please inform Us of any fundamental change to the facts or circumstances which existed when this insurance commenced that change the nature of the risk (for example, the nature of Your business operations, or other circumstances to do with changes to the Vessel, its use or trade) in a way that would increase the risk of loss or damage occurring. Please notify Us immediately in writing. If We agree to the change We will do so in writing and may charge an additional Premium, or alter the conditions of cover, or both.

## Privacy

In complying with the Australian Privacy Principles We will collect and use Your personal information:

- a. only for the purpose of providing and administering Our products and services, including keeping You up to date with Our products and services;
- b. only for the purpose for which it was collected, which may include disclosing it to third parties with whom We have arrangements to protect Your Privacy.

By providing Us with personal information You and any other person You provide personal information for, consent to these uses and disclosures until You tell Us otherwise. If You wish to withdraw Your consent, including for things such as receiving information on products and offers by Us, please contact Us. You may choose not to provide this information, however, We may not be able to process Your request.

We will take all reasonable steps to make sure that personal information that We hold about You is accurate, complete, and up to date and that it is protected from misuse, loss or unauthorised access, modification or disclosure. If any information is inaccurate, You must contact Us to update it.

You can request access to Your personal information by phone or writing to Us via [www.nti.com.au](http://www.nti.com.au)

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Information security protocols are in place to minimise the risk of unauthorised access to Your personal information.

In special circumstances, We may decline to release the information but We will not do so unreasonably. In these circumstances, We will give You reasons and You will have the right to request Us to review Our decision. We will provide Our reasons in writing upon request.

If You need to make a complaint about Your personal information or make a complaint about a privacy breach or if You require further information about how We handle personal information You can contact Us on (07) 3292 9800 or by writing to PO Box 13550 George Street QLD 4003.

A copy of Our Privacy Policy Statement and Privacy Complaint process can be obtained by visiting [www.nti.com.au](http://www.nti.com.au).

## Resolving Your Complaints

### What You do and who You contact if You have a complaint or dispute involving Us:

If You have a complaint about Your insurance Policy, decisions on Your claims or any of the services You have received from Us, or a representative, You may access Our Complaints process.

The first step is to contact Your closest NTI office or You can contact Us by calling 1300 308 080. Your call will be directed to an appropriate person who can assist You. NTI's details can also be obtained by visiting [www.nti.com.au](http://www.nti.com.au) and a brochure on Our Dispute Resolution System is available from all NTI offices.

### Complaints

Once You contact Us, Our staff will help You in every way they can.

We will acknowledge receipt of Your complaint promptly or as soon as practicable. We will communicate Our response taking into consideration Your preferences of communicating with Us.

If You are not satisfied with the outcome, Your complaint will be referred to the staff member's supervisor who will deal with Your complaint promptly.

### Internal Dispute Resolution

If You are still not satisfied Your complaint can be handled through Our Internal Dispute Resolution service by a different employee who has appropriate experience, knowledge and authority to conduct a full review. We will provide You with details of Our dispute service and will refer You to a Supervisor or Manager to manage Your complaint. Your complaint will then be treated as a dispute.

We have 30 calendar days to respond from the date that Your complaint is received. Our response will include:

- a. reasons for Our decision;
- b. information about how to access Our External Disputes Resolution (EDR) Scheme; and
- c. notify You of the time frame within which You must register Your dispute with the EDR Scheme, (usually within two years of Our final decision).

### External Dispute Resolution

Our Internal Dispute Resolution Service is designed to seek to resolve any complaints or disputes that may arise. However, if We are unable to resolve Your dispute to Your satisfaction within 30 days, We will inform You of the reasons for the delay and that You can take Your dispute to Our EDR scheme, administered by the Australian Financial Complaints Authority (AFCA), even if We are still considering it (and provided Your dispute is within AFCA Terms of Reference). We are a member of AFCA which is an ASIC approved external dispute resolution scheme and it may be able to resolve Your dispute. You may be entitled to assistance from the AFCA, however this is subject to the claim circumstances and the AFCA eligibility criteria.

Before the end of that 30 day period We will inform You that You have this right and details of how to access Our EDR Scheme.

AFCA is responsible for monitoring compliance with the General Insurance Code of Practice. It is available to customers and third parties who fall within its Terms of Reference and is an impartial body that is completely independent of Us. AFCA will initially determine whether Your dispute falls within its Terms of Reference and will notify You whether it may proceed to review Your dispute.

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Your dispute must be lodged with AFCA within two years of the date of Our final decision.

Where AFCA Terms of Reference do not extend to Your dispute We will advise You to seek independent legal advice or give You information about other external dispute resolution options, if any, that are available to You.

The contact details for AFCA are:

**Australian Financial Complaints Authority**

National Toll Free number 1800 931 678

GPO Box 3 Melbourne VIC 3001

Email: [info@afca.org.au](mailto:info@afca.org.au) Web: [www.afca.org.au](http://www.afca.org.au)

A brochure on Our Dispute Resolution Service is available from all NTI offices which includes information about the IDR and EDR Services.

## General Insurance Code of Practice

We are a signatory to the General Insurance Code of Practice.

We are committed to raising standards of service to Our customers. This Code sets out the minimum standards We will uphold in the services We provide to You and is a practical demonstration of Our commitment to providing a high level of service to Our customers.

If You are interested in obtaining more information about this important industry initiative, You can contact the Insurance Council of Australia or access the Code directly at: [www.codeofpractice.com.au](http://www.codeofpractice.com.au).

The Code aims to:

- describe standards of good practice and service to be met by participating insurers;
- promote disclosure of information relevant and useful to consumers so as to allow them to make an informed choice and compare one product with another;
- facilitate the education of consumers about their rights and obligations with insurance contracts;
- promote informed and effective relationships between consumers, insurers and authorised representatives; and
- ensure insurers have fair procedures for resolution of disputes between consumers and insurers or consumers and authorised representatives.

More information about the Code can be obtained from Us direct or Our website [www.nti.com.au](http://www.nti.com.au) or contacting the Insurance Council of Australia ("ICA") directly (the ICA has an office in most capital cities) or via their website at [www.insurancecouncil.com.au](http://www.insurancecouncil.com.au).

# DEFINITIONS THAT APPLY TO THIS POLICY

In this Policy certain words have special meanings. They have the same meanings wherever they appear.

| Word   | Meaning   |
|--|---|
| <b>Cover</b>   | means the benefit and protection provided by this Policy specified in Your Policy Schedule.   |
| <b>Crew</b>  | means any person, including the skipper or master, working on board the commercial Vessel in any capacity as an employee, including volunteers, whether paid or not.  |
| <b>Deductible</b>  | means the amount We will deduct from each claim, from each Vessel(s), as set out in the Policy Schedule or otherwise in the Policy. When more than one Vessel(s) on the Policy Schedule suffers a claim from the same event, each Vessel's Deductible will apply or as otherwise described in the Policy Schedule.  |
| <b>GST</b>   | has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999.  |
| <b>Headings</b>  | when used in Your Policy, are purely descriptive in nature and are not intended to be used for interpretative purposes.   |
| <b>Hull</b>  | means the structure of the Vessel(s) including the bottom, superstructure, deck, cabins and fixtures and fittings normally sold with the hull and not normally removable.   |
| <b>Input Tax Credit</b>                                      | has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999.  |
| <b>Insured Amount</b>  | means the Sum Insured Limit as specified in Your Policy Schedule.   |
| <b>Insurance Proposal</b>                                    | means the particulars of insurance completed by You, as Your application for insurance, and submitted to Us either in writing or electronically on which We rely to determine whether to provide You with a Policy, and if so, upon what terms and conditions.  |
| <b>Institute Clauses</b>                                     | means the customary market standard wordings prepared by the Institute of London Underwriters, excluding any provision which identifies English law, practice or jurisdiction as being applicable.  |
| <b>Machinery</b>   | means the mechanical and electrical components of the Vessel(s) not normally removable from it, excluding the items listed as equipment and accessories but including inboard / outboard motors (which may be shown separately on the Policy Schedule), stern drive or jet units, thrusters, gear boxes, propellers, shafts, wiring harnesses/looms, fuel tanks and lines, instruments, generators and refrigeration or cooling machinery.                                  |
| <b>Masts, Spars, Rigging and Sails</b>                       | means the masts, booms, fittings, spinnakers, poles, standing and running rigging and sails of the Vessel.  |
| <b>National Transport Insurance (NTI)</b>                    | means the joint venture of the following insurers in the proportions shown:<br>Insurance Australia Limited trading as CGU Insurance ABN 11 000 016 722 AFSL 227681 - 50%<br>AAI Limited trading as Vero Insurance ABN 48 005 297 807 AFSL 230859 - 50%<br>This means that each insurer is only responsible for its half share.  |
| <b>Navigational Limits</b>                                   | means the geographical area specified in Your Policy Schedule.  |
| <b>Passenger</b>   | Any person carried on board the Vessel solely as a passenger, fare paying or otherwise, and not a member of the Crew.   |
| <b>Passengers' Baggage/<br/>Passengers' Personal Effects</b> | Personal Equipment or property belonging to passengers but excluding watches, mobile phones, personal electronic devices and laptop computers, mobile General Packet Radio Service (GPRS) units, precious metals and stones, money (which means any coin or banknote), bullion, cheques, credit or other card sales vouchers, securities, shares, bonds, deeds, bills of exchange or any documents that represent money. Passenger's Baggage is not considered to be cargo. |



# DEFINITIONS THAT APPLY TO THIS POLICY

| Word                                      | Meaning   |
|---|---|
| <b>Period of Insurance</b>                | <p>means the period between and includes the dates in Your Policy Schedule shown as "Insured From/To" during which We provide insurance under Your Policy.</p> <p>Your Policy expires on the date specified in Your Policy Schedule as the "to" date at 4.00pm Local Standard Time (L.S.T.) of the State or Territory within the Commonwealth of Australia in which Our office issuing Your Policy is located, unless another time is noted in Your Policy Schedule.</p>  |
| <b>Policy</b>                             | means this document and Your Policy Schedule the Insurance Proposal, any declarations and statements You, or Your broker or agent, make to Us and any other notice We give You in writing, all to be read together.   |
| <b>Policy Schedule</b>                    | means the most current insurance details and attachments to them, issued to You by Us. It sets out Your Policy number, the Cover applying, Deductible and any special conditions, endorsements and limits which apply to Your Policy.   |
| <b>Premium</b>                            | means the amount calculated by Us from Your initial disclosure made prior to commencement of Cover, as the amount You must pay for the Policy. This amount does not include government taxes and duties.  |
| <b>Specialist Operations</b>              | means operations which include dredging activities; blasting; pile driving; well stimulation; laying or lifting of cables or pipes; construction; blasting or underwater excavation; core sampling; depositing or lifting or cutting or drilling or crushing of spoil; professional oil spill response work including professional oil spill response training.   |
| <b>Sum Insured Limit</b>                  | means the maximum amount specified in the Policy Schedule or otherwise in this Policy up to which We will pay (should We agree to pay Your claim), and which represents the outstanding amount of finance against the Insured Vessel(s).  |
| <b>Tender</b>                             | <p>means a purpose designed rigid hull or inflatable vessel (including motor and safety equipment, dinghy or dory) which is:</p> <ul style="list-style-type: none"> <li>• no greater than 6 metres in length, or as otherwise noted in the Policy Schedule; and</li> <li>• used as an attendant to or an auxiliary for another vessel; and</li> <li>• carried on or under deck or towed behind the attended vessel.</li> </ul> <p>Tender excludes personal water craft including jet-skis, wave runners, kayaks, canoes, paddle or pedal boats, surf-skis, surf/wake boards, sailing catamarans, inflatable donut and banana craft and windsurfers.</p> |
| <b>Trailer</b>                            | means a trailer and its winch whether powered or unpowered, designed and used for the purpose of moving the Vessel on land, as specified in the Policy Schedule.  |
| <b>Vessel(s)</b>                          | means the commercial marine craft(s) specified in the Policy Schedule.  |
| <b>We/Our/Ours/Us/Underwriter/Insurer</b> | means the joint venture National Transport Insurance, that is administered by its manager NTI Limited ABN 84 000 746 109 AFSL 237246.   |
| <b>You/Your/Yours Assured/Insured</b>     | means the client (person or company) named in the Policy Schedule.  |

# OUR AGREEMENT WITH YOU

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Based on the information in Your Insurance Proposal, and the statements and declarations that You have made in support of Your application for insurance and provided that You have agreed to pay the Premium by the due date, We will Cover You as specified in Your Policy Schedule, subject to the terms, conditions and exclusions that are set out in this Policy.

Your Policy consists of:

- a. this document (Policy wording), which sets out the conditions of Cover, exclusions and the terms and conditions that apply to each Policy or level of Cover You have chosen;
- b. the Policy Schedule is a separate document and shows the insurance details that are relevant to Your insurance;
- c. any endorsements noted in Your Policy Schedule (which might exclude, restrict or extend Cover) or otherwise notified by Us to You in writing;

They are all to be read as if they are the one document.

## **Important Things You Should Know**

You are only covered for the Cover options of this Policy and Optional Extensions and any other endorsed Cover, shown on Your Policy Schedule.

Should there be any change in circumstances which existed when this insurance commenced that change the nature of the risk in a way that would increase the risk of loss or damage occurring, You must advise Us immediately and in writing. We will only be liable (to the extent permitted by law) under this Policy if We have agreed in writing to the change. Unless We have previously agreed to the change in writing, Our liability may be reduced by an amount that fairly represents the extent to which Our interests have been prejudiced as a result of Your failure to notify Us of that change.

# THE COVER

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## Important Note: Warranties

This Cover is subject to the following warranties:

At all times during the currency of this Policy the Insured complies with the laws, regulations and by-laws of the government and/or regulatory authorities of the appropriate State and/or Territory and/or Commonwealth office or department.

The Warranties as per Clause 4 of Institute Mortgagees' Interest Clauses Hulls 1/3/97.

Other warranties - if applicable, as specified in Your Policy Schedule.

## THE COVER:

Cover under this Policy is applied in accordance with the following clauses (unless otherwise varied in the Policy Schedule) during the Period of Insurance:

Institute Mortgagees' Interest Clauses Hulls 1/3/97 amended as follows:

- All references to "Owners' Policies and Club Entries" are deleted, and replaced with "Owners' Commercial Hull Policy."
- Clause 1.1 - amended to delete the words "or liability of"
- Clause 2.1.2.2 - amended to read as follows: "breach of Section 45 (5) of the Marine Insurance Act of 1909"
- Clause 2.2 - amended to read as follows: "**Owners' Commercial Hull Policy** means the Hull and Machinery Policy issued by Hull Protect and, if included therein, increased value and war risks, as per the insuring conditions of the Hull Protect Policy."
- Clause 3.1.1 - amended to delete "or call,"
- Clause 3 (Exclusions) - additional exclusions added as follows:
  - 3.1.6 any and all loss, damage or liability to third parties or third party property arising howsoever or from any activity whatsoever, including but not limited to Specialist Operations,
  - 3.1.7 any and all loss, damage or liability arising under the provisions of Optional Extensions 1, 1.1, 1.2 and 1.3 under the Owners' Commercial Hull Policy where such cover has been purchased,
- Clause 4.1 - amended to delete the words "and limit of liability"
- Clause 4.2 - amended to delete the words "each of"
- Clause 6.4 - deleted
- Clause 7.1.2 - amended to delete the words "in London"

Where more than one Vessel(s) (excluding Tender) is insured, each Vessel(s) is deemed to be a separate insurance.

# ADDITIONAL BENEFITS

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The following Additional Benefits are included in the Cover provided by this Policy and unless stated otherwise are subject to the terms, conditions and exclusions of this Policy. The limits which apply to each Additional Benefit specified below are in addition to the Insured Amount specified in Your Policy Schedule, unless stated otherwise.

We will Cover You for:

## 1. Theft of Vessel's own Trailer

Theft of the Vessel's own Trailer, subject to the following:

Perils Clause 6.1.3 in the Institute Time Clauses Hulls 1/10/83 (or the alternative noted in Your Policy Schedule) is amended to read as follows:

- 6.1.3.1. violent theft by persons from outside the Vessel(s) (however this cover excludes theft of or attempted theft of a Trailer or any part thereof)
- 6.1.3.2. theft of the entire Trailer provided it is securely locked with an anti-theft device in addition to its normal method of storage or attachment or following violent entry into the place of storage or repair.

## 2. Transit of Vessel whilst on its own Trailer

Accidental damage to the Vessel(s) and its Trailer whilst under tow by a motor vehicle or, whilst conveyed as cargo by road, rail or vehicle ferry, including loading and unloading from the conveyance, within the Commonwealth of Australia, but no claim shall be allowed in respect of:

- a. scratching, chipping, bruising and denting
- b. liability arising whilst the Vessel(s) is being towed by or attached to a motor vehicle or has broken away or become accidentally detached from a motor vehicle

Claims under this Additional Benefit are subject to a Deductible of \$500 or 1% of the combined Insured Amount of the Vessel(s) and its Trailer, whichever is the greater.

## 3. Refit/Alteration Clause

Damage to the Vessel(s) while laid up, afloat or ashore including hauling out and launching or on trial trips within the limits of the Policy during the period of refit, overhaul and/or structural alterations of the Vessel(s), subject to:

- a. Institute Clauses for Builders' Risks 1.6.88 with Clauses 17, 18 & 19 deleted.
- b. Institute Strikes Clauses Builders' Risks 1.6.88
- c. Institute War Clauses Builders' Risks 1.6.88

In no case shall this Additional Benefit apply where the cost of any refit, overhaul and/or structural alteration(s) of the Vessel(s) is greater than the Vessel's Hull & Machinery Insured Amount.

## 4. Fixed Fire Appliance Discharge Clause

Clean-up costs arising from and/or loss or damage caused by spontaneous and complete discharge of any fixed fire suppression system fitted aboard the Vessel(s) in the absence of any fire, explosion or other event deemed to be a system trigger.

In no case shall this Additional Benefit apply:

- a. Where the fire suppression system is being tested, fitted, maintained, recharged or otherwise in use or being worked upon; or
- b. To Cover the cost of system recharge.

The maximum We will pay under this Additional Benefit is \$5,000 any one event and a Deductible of \$500 shall apply for each and every claim.

# OPTIONAL EXTENSIONS

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The following extensions are not automatically applicable to this Policy. An additional Premium is payable if any additional Cover is purchased. Each optional extension will only apply if it is specified in Your Policy Schedule.

## 1. Additional Perils

Cover is provided in accordance with the following clauses:

Institute Mortgagees' Interest Clauses Hulls 1/3/97 amended as follows:

- All references to "Owners' Policies and Club Entries" are deleted, and replaced with "Owners' Commercial Hull Policy."
- Clause 1.1 - amended to delete the words "or liability of"
- Clause 2.2 - amended to read as follows: "**Owners' Commercial Hull Policy** means the Hull and Machinery Policy issued by Hull Protect and, if included therein, increased value and war risks, as per the insuring conditions of the Hull Protect Policy.
- Clause 3 (Exclusions) - additional exclusions added as follows:
  - 3.1.6 any and all loss, damage or liability arising to third parties or third party property arising howsoever or from any activity whatsoever, including but not limited to Specialist Operations,
  - 3.1.7 any and all loss, damage or liability arising under the provisions of Optional Extensions 1, 1.1, 1.2 and 1.3 under the Owners' Commercial Hull Policy where such cover has been purchased,
- Clause 4.1 - amended to delete the words "and limit of liability"
- Clause 4.2 - amended to delete the words "each of"
- Clause 6.4 - deleted
- Clause 7.1.2 - amended to delete the words "in London"

## 2. Disbursements/Increased Value

Cover is provided in accordance with the following clauses:

Institute Mortgagees' Interest Clauses Hulls 1/3/97 amended as follows:

- All references to "Owners' Policies and Club Entries" are deleted, and replaced with "Owners' Commercial Hull Policy."
- Clause 1.1 - amended to delete the words "or liability of"
- Clause 2.2 - amended to read as follows: "**Owners' Commercial Hull Policy** means the Hull and Machinery Policy issued by Hull Protect and, if included therein, increased value and war risks, as per the insuring conditions of the Hull Protect Policy.
- Clause 3 (Exclusions) - additional exclusions added as follows:
  - 3.1.6 any and all loss, damage or liability arising to third parties or third party property arising howsoever or from any activity whatsoever, including but not limited to Specialist Operations,
  - 3.1.7 any and all loss, damage or liability arising under the provisions of Optional Extensions 1, 1.1, 1.2 and 1.3 under the Owners' Commercial Hull Policy where such cover has been purchased,
- Clause 4.1 - amended to delete the words "and limit of liability"
- Clause 4.2 - amended to delete the words "each of"
- Clause 6.4 - deleted
- Clause 7.1.2 - amended to delete the words "in London"

# HOW MUCH WE WILL PAY

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## Cover - Vessel(s)

Subject to the terms, conditions, limitations, exclusions and the Insured Amount and maximum Sum Insured Limit shown in the Policy Schedule, in the event of a total or constructive total loss We will pay You, or other parties agreed with You, up to the Sum Insured Limit shown in the Policy Schedule.

Where the Vessel(s) is damaged We will pay the reasonable costs of repairing the Vessel(s) or part or item or replacing the damaged or lost part or item(s) but not exceeding the Sum Insured Limit shown in the Policy Schedule of the entire Vessel(s), or item or part.

You remain fully insured for up to the Sum Insured Limit shown in Your Policy Schedule following a claim, except where Your claim is for a total or constructive total loss, in which case Your Policy will end in respect of the Vessel(s) as at the date of the loss with no refund of Premium.

# EXCLUSIONS TO THIS POLICY

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Important Note: Institute Radioactive Contamination, Chemical, Biological, Bio Chemical & Electro Magnetic Weapons Exclusion Clause (clause 1) and Sanction Limitation and Exclusion Clause (clause 2) shall be paramount where they conflict with any terms contained in this Policy. In the event of conflict between these two Clauses, the Institute Radioactive Contamination, Chemical, Biological, Bio Chemical & Electromagnetic Weapons Exclusion Clause (clause 1) shall prevail.

In addition to exclusions found in any applicable Institute Clause forming part of this Policy, We will not pay for:

## 1. Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical & Electromagnetic Weapons Exclusion Clause 10/11/03

loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from:

- a. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
- b. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
- c. any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
- d. the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. This Exclusion 1.d does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes
- e. any chemical, biological, bio-chemical, or electromagnetic weapon.

## 2. Sanction Limitation and Exclusion Clause

any claim or provide any benefit hereunder to the extent that the provision of such Cover, payment of such claim or provision of such benefit would expose Us to any sanction, prohibition or restriction under United Nations resolutions or trade or economic sanctions, laws or regulations of Australia, the European Union, Singapore, Switzerland, United Kingdom or United States of America.

# EXCLUSIONS TO THIS POLICY

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## 3. Marine Cyber Endorsement 11/11/2019 (LMA5403)

1. Subject only to paragraph 3 below, in no case shall this insurance cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus, computer process or any other electronic system.
2. Subject to the conditions, limitations and exclusions of the Policy to which this clause attaches, the indemnity otherwise recoverable hereunder shall not be prejudiced by the use or operation of any computer, computer system, computer software programme, computer process or any other electronic system, if such use or operation is not as a means for inflicting harm.
3. Where this clause is endorsed on policies covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, paragraph 1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

## 4. Certain Causes of Loss

loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from the Vessel(s):

- a. engaging in racing, speed tests or endurance trials;
- b. being designed to exceed 50 knots;
- c. on-board lifting devices' registered or rated capacity having been exceeded;
- d. using, carrying or storing explosives;

## 5. Asbestos

loss or damage or liability arising out of any claim or claims in respect of loss or losses directly or indirectly arising out of, resulting from or in consequence of, contributed to or aggravated by or in any way involving asbestos, asbestos fibres, asbestos products or by-products or derivatives of asbestos, including, but not limited to:

- a. mining, processing, transport, distribution and / or storage of asbestos;
- b. manufacture of asbestos;
- c. processing of asbestos;
- d. installation, removal, cleaning up, decontamination, control or treatment of asbestos;
- e. the inhalation of, or fears of the consequences of exposure to or the inhalation of asbestos; or
- f. any property damage (including the resultant loss of use of such property).

## 6. Small Craft (excluding tender)

loss or damage to, or liability or expense directly or indirectly caused by or contributed to by or arising from:

- a. Surf-skis, surfboards, inflatable donut, banana craft and windsurfers or any similar water craft whether towed behind the Vessel(s) or otherwise.
- b. Jet-skis, wave runners, kayaks, canoes, paddle or pedal boats, sailing catamarans or any similar water craft whether towed behind the Vessel(s) or otherwise, other than when such items are specified in the Policy Schedule.

## 7. Cargo

loss or damage to, or liability arising out of, any sort of cargo carried on-board the Vessel(s).

# EXCLUSIONS TO THIS POLICY

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## 8. Punitive, Aggravated and Exemplary Damages

loss, damage, liability or expense directly or indirectly caused by or contributed to, or arising from, any ruling against You for payment of punitive, or aggravated, or exemplary damages.

## 9. Sails and Covers

loss, damage or liability to sails and/or protective covers caused by the force of the wind unless there has also been damage caused to the mast(s) or spars, rigging or supporting frames of the Vessel(s).

## 10. Silica

any liability or expense directly or indirectly arising out of, resulting from, in consequence of, contributed to or aggravated by or in any way involving the inhalation of, or exposure to, silica or any materials containing silica in any form or quantity whatsoever.

## 11. Communicable Disease Exclusion

1. Notwithstanding any provision to the contrary within this insurance agreement, this insurance agreement excludes any loss, damage, liability, claim, cost or expense of whatsoever nature, directly or indirectly caused by, contributed to by, resulting from, arising out of, or in connection with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease regardless of any other cause or event contributing concurrently or in any other sequence thereto.
2. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
  - 2.1. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
  - 2.2. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
  - 2.3. the disease, substance or agent can cause or threaten bodily injury, illness, damage to human health, human welfare or property.



# CONDITIONS OF THIS POLICY

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## 1. Law and Jurisdiction

This Policy is subject to Australian law and jurisdiction and will be interpreted in accordance with the laws of Australia as determined by a court thereof.

## 2. Premium Payment and Cancellation

Subject always to the full payment of annual Premium if the Vessel(s) is lost (total or constructive total loss) a concession on the time allowable for payment of Premium may be offered from Us to You, as follows:

- Premium payment due must be received by Us within ninety (90) days of attachment date; or
- thirty (30) days of any Deferred Premium instalment date (only if Deferred or Instalment Premium is noted by Us on Your Policy Schedule).

You may cancel the Policy by giving Us written notice in advance.

Where all of or part of the premium has been funded by a lending institution, and provided that institution holds a legal right over this Policy by virtue of assignment and irrevocable power of attorney to exercise all rights and powers under and in respect of the Policy, then it is agreed that upon written request to Us, this Policy may be cancelled at the request of the lending institution, once substantiation of default and debt has been made and provided to Us. We will thereupon return to the lending institution (via the broker) daily pro-rata premium from the date of cancellation.

We may cancel the Policy in accordance with applicable law:

- where there is non-payment of Premium to Us, when due;
- in compliance with Clause 10. (Automatic Termination) of the Institute Mortgagees' Interest Clauses Hulls.

We will refund Premium (where applicable) for each day of the unexpired Period of Insurance.

The daily Premium will be calculated by dividing the Premium by the number of days of the Period of Insurance. Some government taxes and duties are not refundable.

We will effect cancellation of the Policy by giving seven (7) days written notice of cancellation to You or Your Insurance Intermediary (where applicable). Cancellation will become effective at 4.00pm on the seventh day from the date the notice of cancellation was given.

## 3. Goods and Services Tax

The amount of Premium paid by You for Your Policy includes an amount for GST on the Premium. As You are a commercial entity, You must inform Us of the extent to which You are entitled to an Input Tax Credit for that GST amount each time that You make a claim under Your Policy.

No payment will be made to You for any GST liability that You may incur on the settlement of a claim if You do not inform Us of Your entitlement or correct entitlement to any Input Tax Credit.

Despite the other provisions of this insurance (including provisions in the wordings, Your Policy Schedule or any endorsement) Our liability to You will be calculated taking into account any Input Tax Credit to which You are entitled for any acquisition which is relevant to Your claim, or to which You would have been entitled were You to have made a relevant acquisition, and if the Insured Amount specified in Your Policy Schedule is not sufficient to Cover Your loss, We will only pay any GST (less any relevant Input Tax Credit) that relates to Our proportion of Your loss.

## 4. Government Taxes and Duties

You must pay all levies, taxes, imposts and/or charges, including but not limited to stamp duty and other similar charges which may be payable to or required to be paid to any government in Australia whether acting through any agency, instrumentality or otherwise in relation to Your Policy.

# CONDITIONS OF THIS POLICY

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## 5. Tax Provisions

Notwithstanding the payment provisions contained in this Policy, We will pay the claimant or payee in respect of the cost of repairs or replacement to make good the loss, the amount(s) payable as detailed in this Policy:

- a. plus the amount of any GST due in respect of the payment, where the claimant or payee cannot claim an Input Tax Credit; or
- b. less any input tax credits available to the claimant or payee in respect of the payment, where the claimant or payee can claim an Input Tax Credit.

## 6. Joint Insurance

A claim made by any one of the individuals or entities named as the Insured in Your Policy Schedule is a claim made by all of the individuals or entities named as the Insured. Similarly, any statement, act or omission made by any individual or entity named as the Insured in the Policy Schedule is assumed to be made by all individuals or entities named as the Insured.

## 7. Notices

Where there is more than one of You, any notice given by Us under Your Policy to any one of You will be deemed to be notice given to all of You.

## 8. Other Interested Parties

You must let Us know the names and interests of any other party (e.g. financiers, mortgagees, owners or lessors) who You require to be Covered by this Policy. We will protect their interests only if You have informed Us about them and they are noted on Your Policy Schedule.

We will however recognise a government agency or Your personal representative in the event of Your death or incapacity whether temporary or permanent.

All Persons entitled to any benefit under Your Policy will be bound by the terms of Your Policy.

## 9. Co-insurance

If, at the time of any loss or damage to the Vessel(s), there is any other current insurance, whether effected by You or any other person or persons, covering the same Vessel, We will not be liable (where legally entitled) for more than Our proportion of the loss, damage or expense.

## 10. Subrogation Clause

When We settle a claim, We may endeavour to pursue recovery rights against any third party who caused or contributed to loss or damage to the Vessel(s) and or Your third party liability. You authorise Us to act in Your name in such recovery action, and undertake to give Us reasonable assistance in such actions.

## 11. Waiver Clause

Measures taken by You or Us with the object of saving, protecting or recovering the Vessel(s) shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.

## 12. Due Care

You must at all times, take appropriate care to preserve rights against any other party who may have responsibility for the loss, damage or liability.

## 13. Prohibited by Law

Where this Policy provides any indemnity to You which is prohibited by law, this Policy will be varied by operation of this clause so that this Policy does not respond to the extent that the indemnity is prohibited by law.

# CLAIMS RESPONSIBILITIES

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These procedures are important and should be read in conjunction with any Notice of Claims and Tenders clause set out in the Institute Clauses.

## What You Must Do

If there is any event which may result in a claim, You must take the following steps:

1. Notify Us immediately of any circumstances likely to give rise to a claim under this Policy.
2. Contact Our claims team by telephone on 1800 684 669 (1800 NTI NOW).
3. Take such measures as may be reasonable for the purpose of averting or minimising a loss and take all reasonable precautions to prevent further loss, damage or deterioration. Reasonable costs associated with these actions will be considered in the claim.
4. Make a report to the Police and/or other appropriate bodies if there is injury, malicious damage, theft or attempted theft to the Vessel.
5. Submit as soon as possible all written particulars, supporting documentation and correspondence regarding the event including invoices, statements or other documents evidencing the amount being claimed.
6. Complete Our claim form where required.
7. Assist Us and any surveyor We might appoint to report on the loss/damage.
8. Do not make any admission of liability, take any action which may be considered to be an admission of liability, or repudiate, settle or make an offer on any third party claim without Our prior written consent.
9. Do not authorise repairs to the Vessel without Our prior written consent.
10. Where other parties may be liable:
  - a. Do not release those parties from liability and ensure all rights against those parties are properly preserved;
  - b. Deliver to the parties responsible a notice of intention to claim; and
  - c. Notify Us of the circumstances and provide Us with copies of all relevant documents.
11. Notify Us of any other insurance that also provides insurance for any claim under Your Policy.
12. Not make any false declaration or statement in support of any claim under Your Policy.

## What We May Do

1. We may give to and obtain from any other insurers, insurance reference bureaux and credit reporting agencies any information relating to Your credit or insurance history as well as insurance claims information.
2. Subject to the extent of Coverage provided, We may be entitled but not obliged to control or take over the conduct of the investigation defence and settlement of any claim suit or proceeding against You which is or is likely to be the subject of indemnity under this insurance Policy.
3. Subject to the extent of Coverage provided, We shall have full discretion in the conduct, defence or settlement of any claim. This includes the right to instruct lawyers to provide advice as to Your liability and to represent You. This includes Our rights to settle or defend a claim against You by another party.
4. Subject to the provisions of the Insurance Contracts Act 1984 (Cth) or Marine Insurance Act 1909 (Cth), whichever is applicable, We have the right to recover or obtain contribution from any person against whom You may be able to claim and the right to take action in Your name.
5. You and any other person entitled to benefit under this Policy must not hinder these rights and must give Us all such information and cooperation as We may reasonably require.
6. Fraudulent Claims:  
If any claim is fraudulent or false in any respect We may refuse to pay the whole or part of the claim to the extent permitted by law, and may also be entitled to cancel the Policy.

# INSTITUTE CLAUSES

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1/3/97 "These clauses are purely illustrative. Different policy conditions may be agreed. The specimen clauses are available to any interested person upon request. In particular:

- (a) in relation to any clause which excludes losses from the cover, insurers may agree a separate insurance policy covering such losses or may extend the clause to cover such events;
- (b) in relation to clauses making cover of certain risks subject to specific conditions each insurer may alter the said conditions".

## INSTITUTE MORTGAGEES' INTEREST CLAUSES HULLS

This insurance is subject to Australian law and practice

### A. RECITAL

Whereas the Assured has entered into a loan agreement commensurate with which the Assured holds certain collateral security including a first mortgage on the Mortgaged Vessel and endorsements of its interests on the Owners' Policies and Club Entries.

Now it is agreed as follows:

### 1. INSURING CLAUSE

- 1.1 This insurance will indemnify the Assured for loss resulting from loss of or damage to or liability of the Mortgaged Vessel which, in the absence of an insured Peril set out in Clause 2.1 below, would prima facie be covered by the Owners' Policies and Club Entries, and not excluded therein, but in respect of which there is subsequent non-payment (or reduced payment which is Approved in advance by the Underwriters hereon) by any of the underwriters of Owners' Policies and Club Entries as a result of any Insured Peril, **provided always that such insured Peril occurs or exists without the privity of the Assured.**
- 1.2 The indemnity payable hereunder shall be
  - 1.2.1 the amount of the Assured's net loss of any amounts recoverable under Clause 6 herein, collectively not exceeding the sum insured of the mortgaged Vessel, or
  - 1.2.2 the amount of the unrecoverable claim or part thereof under any of the Owners' Policies and Club Entries whichever is the lesser amount.
- 1.3 All the above is subject to the Definitions, Exclusions, Warranties and Conditions below.

### 2. DEFINITIONS

#### 2.1 Insured Perils

- 2.1.1 Avoidance of the Owners' Policies and Club Entries or any of them by the underwriters thereof on the grounds of a misrepresentation or non-disclosure of any material circumstance, whether such misrepresentation or non-disclosure arises from the assured thereunder or any of such assured's insurance agents or insurance brokers.
- 2.1.2 breach of any statutory provision or any express or implied promissory warranty or condition, including without limitation
  - 2.1.2.1 breach of any implied warranty of seaworthiness or legality,
  - 2.1.2.2 breach of Section 39(5) of the Marine insurance Act of 1906,
  - 2.1.2.3 breach of trading warranties contained in any of the Owners' Policies and Club Entries,
  - 2.1.2.4 breach of any warranty or condition in any of the Owners' Policies and Club Entries in respect of the classification of the mortgaged vessel by a Classification Society or any failure to comply with the recommendations of the Society to the extent required by such warranty or condition,
  - 2.1.2.5 breach of any warranty or condition in any of the Owners' Policies and Club Entries which requires compliance with any condition survey, structural survey or P&I Club survey requirements and pursuant to which clauses underwriters deny a claim,
  - 2.1.2.6 breach of any warranty or condition in any of the Owners' Policies and Club Entries in respect of the ownership, flag, management or charter on a bareboat basis of the Mortgaged Vessel,
- 2.1.3 failure of the Assured under the hull and machinery policy or the owners, managers or superintendents of the vessel or any of their onshore management to exercise due diligence in respect of any loss or damage to the Mortgaged Vessel where such failure to exercise due diligence entitles the underwriters of the owner's hull and machinery policy to deny a claim otherwise recoverable thereunder,
- 2.1.4 any deliberate or fraudulent casting away of or damage to the Mortgaged Vessel,
- 2.1.5 avoidance of a claim under any of the Owners' Policies and Club Entries or of any of the Owners' Policies and Club Entries by reason of breach of the duty of good faith in respect of such claim, or
- 2.1.6 the operation of any applicable provision in any of the Owners' Policies and Club Entries which provides for a time limitation on the presentation of claims,
- 2.1.7 in the event of the total loss of the Mortgaged Vessel, the final judgement or award of the courts or

# INSTITUTE CLAUSES

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arbitration tribunal agreed to have jurisdiction under the express terms of Owners' Policies and Club Entries (or in the event of there being no such existence of competent court) following a contested hearing whereby the Owners' claim is not recoverable under either Owners' hull and machinery or war risks policies on the ground that loss has not been proved to have been proximately caused by a peril insured under the policy and is not otherwise excluded from payment by any exclusion or other provision therein.

- 2.2 **Owners' Policies and Club Entries** - means hull and machinery policies on terms equivalent to or wider than the current Institute Time Clauses Hulls or American Institute Hull Clauses (if taken, increased value policies on terms equivalent to Institute Time Clauses - Hull Disbursements and Increased Value (Total loss Only and Excess Liabilities) or American Institute Increased Value and Excess Liabilities Clauses, war or terms equivalent to current Institute War and Strikes Clauses Hulls Time and full protection and indemnity risks on conditions equivalent to the rule of a P&I Club that is a member of the International Group of P&I Associations.
- 2.3 **Net Loss** - means the Assured's loss under the loan agreement to the extent secured by mortgage on the Mortgaged Vessel net of any amounts recovered or recoverable under all security arrangements contained in or collateral to the loan including but not limited to all mortgages (whether on vessels insured hereunder or on other vessels), liens, any floating and fixed charges, security interests, guarantees, insurance policies and pledges.
- 2.4 **Mortgaged Vessel** - means the vessel mortgaged to the Assured which is listed on the schedule attached hereto.

### 3. EXCLUSIONS

In no case shall this policy cover:

- 3.1 any loss or expense arising from or as a result of
- 3.1.1 the relevant Owners' Policies and Club Entries having been terminated or cancelled or cover suspended or non-payment of claims by the underwriters or insurance brokers thereof due to non-payment of premium or call,
- 3.1.2 insolvency or financial default of any of the underwriters of the Owners' Policies and Club Entries,
- 3.1.3 inability of any party to transmit funds,
- 3.1.4 any fluctuation in exchange rates,
- 3.1.5 the operation of any franchise deductible or provision for self-insurance,
- 3.2 loss or damage directly or indirectly caused by or contributed to by or arising from:
- 3.2.1 ionising radiation from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from combustion of nuclear fuel,
- 3.2.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof,
- 3.2.3 any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

### 4. WARRANTIES

It is warranted in respect of the Mortgaged Vessel that:

- 4.1 Owners' Policies and Club Entries have been taken out and, except as a result of the occurrence or existence of an insured Peril without the privity of the Assured, shall be maintained throughout the currency of this insurance for an insured value and limit of liability not less than the amount insured hereunder or the amount of the outstanding loan to the extent secured by the Mortgaged Vessel,
- 4.2 each of the Owners' Policies and Club Entries is endorsed to the extent of the Assured's interest, and
- 4.3 the Assured has procured and registered a valid first mortgage.

### 5. CHANGE OF OWNERSHIP OR CONTROL

This insurance will terminate automatically at the time the Assured becomes or is aware of or privy to any change of:

- 5.1 Classification Society or of change, suspension, discontinuance, withdrawal or expiry of the Mortgaged Vessel's class within that Society,
- 5.2 ownership, flag, management or control of the Mortgaged Vessel,
- unless the Assured gives prompt notice of such change in writing, and agrees to pay an additional premium, if required, and Owners' Policies and Club Entries are maintained.

### 6. DUTY OF ASSURED (SUE AND LABOUR)

- 6.1 The Assured shall report in writing to the Underwriters any circumstances which may give rise to a claim under this insurance within 30 days of the Assured's knowledge of such circumstances and shall thereafter keep the Underwriters fully informed of all developments.
- 6.2 It is the duty of the Assured and their servants and agents to take such measures as may be reasonable for the purpose of averting or minimising a loss which would be recoverable under this insurance.
- 6.3 The Underwriters will reimburse charges properly and reasonably incurred by the Assured their servants or agents for such measures except for legal costs and expenses incurred by the Assured in relation to any claim under Owners' Policies and Club Entries which shall only be reimbursed in accordance with clause 6.4 herein.

# INSTITUTE CLAUSES

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- 6.4 Subject to the condition precedent that the mortgaged vessel is entered in a Freight, Demurrage and Defence Club covering the cost of the owner proceeding against the Owners Policies and Club Entries, the Underwriters will reimburse those legal costs and expenses incurred by the Assured in pursuing the non-paying Owners' Policies and Club Entries not otherwise recoverable as part of the Net Loss but only where the Assured can demonstrate to the satisfaction of the Underwriters that it has made every reasonable effort to compel the owner to pursue the non-paying Owners' Policies and Club Entries. This policy shall not pay for legal costs and expenses incurred by the Assured in monitoring the claim against the Owners' Policies and Club Entries.
- 6.5 Any amounts payable under this clause shall be included within and shall not be additional to the Sum Insured.
- 6.6 Measures taken by the Assured or the Underwriters with the object of averting or minimising a loss which would be recoverable under this insurance shall not be considered as a waiver or acceptance of a claim or otherwise prejudice the rights of either party.

## 7. CLAIMS

- 7.1 The Assured shall prove a claim under this insurance by:
- 7.1.1 demonstrating to the satisfaction of the Underwriters that by reason of the perils insured under clause 2.1 there is no reasonable prospect of the Owners and/or Assured succeeding in the claim against the Underwriters of the Owners' Policies and Club Entries, or
- 7.1.2 in the event of disagreement between the Underwriters and the Assured by, either referring the issue to a sole arbitrator in London to be agreed to between the Underwriters and the Assured or on final court judgement, or arbitration award delivered in favour of the Underwriters of Owners' Policies and Club Entries.
- 7.2 The Underwriters shall pay any claim hereunder within 3 months of the date that both the claim is proved in accordance with clause 7.1 and Net Loss is established.

## 8. SUBROGATION

- 8.1 Upon payment to the Assured of a claim hereunder, the Underwriters shall be subrogated to all the rights and remedies of the Assured in respect of such payment.
- 8.2 It is a condition of this insurance that any payments by the Underwriters shall not be applied by the Assured in or towards discharge or satisfaction of the amount of the outstanding indebtedness.

## 9. EFFECT OF UNDER INSURANCE

If the loan amounts are not fully insured hereunder at the time of loss, then the indemnity payable hereunder including any sue and labour amounts shall be reduced in proportion to the under-insurance.

## 10. AUTOMATIC TERMINATION

- 10.1 Cover hereunder for loss of or damage to or liability of a Mortgaged Vessel shall terminate in respect of those risks covered by the War and Strikes clauses of the Mortgaged Vessel
- 10.1.1 AUTOMATICALLY upon the outbreak of war (whether there be a declaration of war or not) between any of the following
- United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China
- 10.1.2 AUTOMATICALLY in respect of a Mortgaged Vessel in the event of that Mortgaged Vessel being requisitioned either for title or use
- 10.1.3 7 days after the Underwriters of the Owner's War Risks Insurances or any of them have given notice of cancellation unless such War Risks Insurances have been reinstated prior to or from the expiry of such notice and any new rate of premium and amendments to terms, conditions or warranties, if any, have been agreed, or
- 10.1.4 7 days after the Underwriters hereon have given notice of cancellation in respect of such risks.
- 10.2 Cancellation in accordance with Clauses 10.1.3 and 10.1.4 shall become effective on the expiry of 7 days from midnight on the day on which the notice of cancellation is given. The Underwriters agree however to reinstate this insurance subject to agreement between the Underwriters and the Assured prior to the expiry of such notice of cancellation as to new rate of premium and/or conditions and/or warranties.

## CL. 337





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