

AMERICAN INSTITUTE TUG FORM (August 1, 1976) 53 R-1

To be attached to and form a part of Policy No of the

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
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.

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.

LOSS PAYEE

Loss, if any, payable to Assured and or order.

VESSEL

The Subject Matter of this insurance is the Vessel called the or by whatsoever name or names the said Vessel is or shall be called, which for the purposes of this insurance shall consist of and be limited to her hull, launches, lifeboats, rafts, furniture, bunkers, stores, supplies, tackle, fitting, equipment, apparatus, machinery, boilers, refrigerating machinery, insulation, motor generators and other electrical machinery.

In the event any equipment or apparatus not owned by the Assured is installed for use on board the Vessel and the Assured has assumed responsibility therefore, it shall be considered part of the Subject Matter and the aggregate value thereof shall be included in the Agreed Value.

In the event that more than one vessel is insured by this Policy, all of these clauses shall apply as though a separate policy had been issued with respect to each vessel.

TRADING WARRANTY

Warranted that the Vessel shall be confined to

Any breach of the Trading Warranty specified in this Policy shall result in a suspension thereof, provided, however that on the return of the Vessel in a seaworthy condition to within the limit stated in the said Trading Warranty this Policy shall re-attach and continue in full force and effect but in no event beyond the normal expiry thereof.

DURATION OF RISK

From
Until

**Standard time at
place of issuance.**

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.

AGREED VALUE

The Vessel, for so much as concerns the Assured, by agreement between the Assured and Underwriters in this Policy, is and shall be valued at \$.

AMOUNT INSURED HEREUNDER

\$

PREMIUM

The Underwriters to be paid in consideration of this insurance \$ **Dollars** (payable at inception) being at the rate of per cent which premium shall be due on attachment.

DEDUCTIBLE

Notwithstanding anything in this Policy to the contrary, there shall be deducted from the aggregate of all claims (including claims under the Sue and Labour clause and claims under the Collision and Tower's Liability Clause) arising out of each separate accident, the sum of \$, unless the accident results in a Total Loss of the Vessel in which case this clause shall not apply to the claim for the Total Loss of the Vessel and to claims under the Sue and Labour Clause. A recovery from other interests, however, shall not operate to exclude claims under this Policy provided the aggregate of such claims arising out of one separate accident if unreduced by such recovery exceeds that sum. For the purpose of this clause each accident shall be treated separately but it is agreed that (a) a sequence of damages arising from the same accident shall be treated as due to that accident and (b) all heavy weather damage which occurs during a single sea passage between two successive ports shall be treated as though due to one accident.

RETURNS OF PREMIUM

Premium returnable as follows:

Pro Rata daily in the event of termination under the Change of Ownership Clause;
Pro Rata daily if this Policy be cancelled by the Underwriters;
Short rate will be charged if this Policy be cancelled by the Assured;
N/A cents per cent for each period of 30 consecutive days the Vessel may be laid up in port not under repair;
provided always that:

- a) from all return premiums the same percentage of deduction (if any) shall be made as was allowed by the Underwriters on receipt of the original premium;

- b) a total loss of the Vessel has not occurred during the currency of this Policy;
- c) 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;
- d) in the event of any amendment of the annual rate, the above rates of return shall be adjusted accordingly;

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.

CANCELLATION

This Policy may be cancelled either by the Underwriters or by the Assured giving 15 days written or telegraphic notice to the other. Underwriters' notice may be sent to the Assured's last known address or in care of the broker who negotiated this Policy. In the event of a 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, subject to all the terms, conditions and warranties of this Policy, 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.

PERILS

Touching the Adventures and Perils which the Underwriters are contented to bear and take upon themselves, they are of the Waters named herein, Fire, Lightning, Earthquake, Assailing Thieves, Jettisons, Barratry of the Master and Mariners and all other like Perils that shall come to the Hurt, Detriment or Damage of the Vessel.

ADDITIONAL PERILS (INCHMAREE)

Subject to the conditions of this Policy, this insurance also covers loss of, or damage to the Vessel directly caused by the following:

- Accidents in loading, discharging or handling cargo, or in bunkering;
- Accidents in going on or off, or while on dry docks, 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, Owners or Managers of the Vessel, or any of them.

COLLISION AND TOWER'S LIABILITY

And it is further agreed that:

- (a) If the Vessel hereby insured shall come into collision with any other vessel, craft or structure, floating or otherwise (including her tow); or shall strand her tow or shall cause her tow to come into collision with any other vessel, craft or structure, floating or otherwise, or shall cause any other loss or damage to her tow or to the freight thereof or to the property on board, and the Assured, or the Surety, in consequence of the Insured Vessel being at fault, shall become liable to pay and shall pay by way of damages to any other person or persons any sum or sums, we, the Underwriters will pay the Assured or the Surety, whichever shall have paid, such proportion of such sum or sums so paid as our subscriptions hereto bear to the value of the Vessel hereby insured;
- (b) In cases where the liability of the Vessel has been contested or proceedings have been taken to limit liability with the consent in writing, of a majority (in amount) of the Underwriters on the hull and machinery, we will also pay a like proportion of the costs which the Assured shall thereby incur or be compelled to pay.

When both vessels are to blame, then, unless the liability of the Owners of one or both of such vessels becomes limited by law, claims under the Collision and Tower's Liability clause shall be settled on the principle of Cross-Liabilities, as if the Owners of each vessel had been compelled to pay to the Owners of the other of such vessels such one half or other proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Assured in consequence of such casualty.

It is hereby further agreed that the principles involved in this clause shall apply to the case where two or more of the vessels involved are the property, in part or in whole, of the same Assured, all questions of responsibility and amount of liability as between such Vessels being left to the decision of a single Arbitrator, if the parties can agree upon a single Arbitrator, or failing such agreement, to the decision of Arbitrators, one to be appointed by the Assured and one to be appointed by a majority (in amount) of the Underwriters on hull and machinery; the two Arbitrators to choose a third Arbitrator before entering upon the reference, and the decision of such single Arbitrator, or of any two of such three Arbitrators, appointed as above, to be final and binding.

Provided always that this Collision and Tower's Liability clause shall in no case extend to any sum which the Assured or the Surety may become liable to pay, or shall pay:

- 1) for loss, damage or expense to vessel(s) in tow owned (other than vessels bareboat chartered to others), bareboat chartered, managed or operated by the Assured and/or its affiliated and/or subsidiary companies and/or corporations, and to cargo, owned by the Assured and/or its affiliated and/or subsidiary companies and/or corporations, on board vessel(s) in tow of the Vessel hereby insured; or
- 2) in consequence of, with respect to, or arising out of:
 - a) removal or disposal of obstructions, wrecks or their cargoes under statutory powers or otherwise pursuant to law;
 - b) cargo, baggage or engagements of the Insured Vessel;
 - c) loss of life, personal injury or illness;
 - d) the discharge, spillage, emission or leakage of oil, petroleum products, chemicals or other substances of any kind or description whatsoever.

Provided further that exclusion 2(d) shall not apply to actual physical loss of or damage to such substances (if liability therefore is otherwise covered under the attached Policy) except to the extent that such loss or damage arises out of any action taken to avoid, minimize or remove any discharge, spillage, emission or leakage described in Exclusion 2(d)

GENERAL AVERAGE AND SALVAGE

General Average and Salvage shall be payable in accordance with the Laws and Usage of the Port of New York, but excluding wages, provisions, fuel and engine stores during detention however caused.

And it is further agreed that in the event of salvage, towage or other assistance being rendered to the Vessel hereby insured by any vessel belonging in part or in whole to the same Owners or Charters, the value of such services (without regard to the common ownership or control of the vessels) shall be ascertained by arbitration in the manner above provided for under the Collision and Tower's Liability clause, and the amount so awarded so far as applicable to the interest hereby insured shall constitute a charge under this Policy.

When the contributory value of the Vessel is greater than the Agreed Value herein, the liability of the Underwriters for General Average contribution (except in respect to amounts made good to the Vessel), or Salvage, shall not exceed that proportion of the total contribution due from the Vessel which the amount insured hereunder bears to the contributory value; and if, because of damage for which the Underwriters are liable as Particular Average, the value of the Vessel has been reduced for the purpose of contribution, the amount of such Particular Average damage recoverable under this Policy shall first be deducted from the amount insured hereunder, and the Underwriters shall then be liable only for the proportion which such net amount bears to the contributory value.

SUE AND LABOR

And in case of any Loss or Misfortune, it shall be lawful and necessary for the Assured, their Factors, Servants and Assigns, to sue, labor and travel for, in, and about the defense, safeguard and recovery of the Vessel, or any part thereof, without prejudice to this insurance, to the charges whereof the Underwriters will contribute their proportion as provided below. And it is expressly declared and agreed that no acts of the Underwriters or Assureds in recovering, saving or preserving the Vessel shall be considered as a waiver or acceptance of abandonment.

In the event of expenditure under the Sue and Labor clause, the Underwriters shall pay the proportion of such expenses that the amount insured hereunder bears to the Agreed Value, or that the amount insured hereunder (less loss and/or damage payable under this Policy) bears to the actual value of the salvaged property, whichever proportion shall be less; provided always that their liability for such expenses shall not exceed their proportionate part of the Agreed Value.

If claim for Total Loss is admitted under this Policy and sue and labor expenses have been reasonably incurred in excess of any proceeds realized or value recovered, the amount payable under this Policy will be the proportion of such excess that the amount insured hereunder (without deduction for loss or damage) bears to the actual Value or to the sound value of the Vessel at the time of the accident, whichever value was greater; provided always that Underwriters' liability for such expenses shall not exceed their proportionate part of the Agreed Value. The foregoing shall also apply to expenses reasonably incurred in salving or attempting to save the Vessel and other property to the extent that such expenses shall be regarded as having been incurred in respect of the Vessel.

SEAWORTHINESS

The Underwriters shall not be liable for any loss, damage or expense arising out of the failure of the Assured to exercise due diligence to maintain the Vessel in a seaworthy condition after attachment of

this Policy; the foregoing, however, not to be deemed a waiver of any warranty of seaworthiness implied at law.

WATCHMAN

It is agreed that when this Vessel is tied up or moored, it shall be at all times in charge of a watchman in the employ of the Assured, whose duty it shall be to make careful examination of the Vessel throughout at reasonable intervals, including inspection of the bilges.

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 herein be changed, canceled 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 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.

ADDITIONAL INSURANCES

It is a condition of this Policy that there shall be no other insurance against physical loss of or damage to the Vessel for or on account of the Assured except that the Assured may without prejudice to this insurance, insure:

- (a) War, Strikes and Related risks not covered by this Policy;
- (b) Risks identical to those covered by this Policy for the difference in amount, if any, between the "AMOUNT INSURED HEREUNDER" and the "AGREED VALUE".

provided that any breach of the above condition shall not afford the Underwriters any defence to a claim by a mortgagee who has accepted this Policy without knowledge of such breach.

CLAIMS (GENERAL PROVISIONS)

In the event of any accident or occurrence which could give rise to a claim under this Policy, prompt notice thereof shall be given to the Underwriters, and:

- a) Where practicable, the Underwriters shall be advised prior to the survey so they may appoint their own surveyor, if they so desire;
- b) The Underwriters shall be entitled to decide where the Vessel shall proceed for docking and/or repair (allowance to be made to the Assured for the actual additional expense of the voyage arising from compliance with the Underwriters' requirement);
- c) the Underwriters shall have the right of veto in connection with any repair firm proposed;

- d) the Underwriters may take tenders, or may require in writing that tenders be taken for the repair of the Vessel, in which event, upon acceptance of a tender with the approval of the Underwriters, an allowance shall be made at the rate of 30 per cent, per annum on the amount insured, for each day or pro rata for part of a day, for time lost between the issuance of invitations to tender and the acceptance of a tender, to the extent that such time is lost solely as the result of tenders having been taken and provided the tender is accepted without delay after receipt of the Underwriters' approval.

Due credit shall be given against the allowances in (b) and (d) above for any amount recovered:

- 1) in respect of fuel, stores, or wages and maintenance of Master, Officers or Crew members allowed in General or Particular Average;
- 2) from third parties in respect of damages for detention and/or loss of profit and/or running expenses; for the period covered by the allowances or any part thereof.

No claim shall be allowed in Particular Average for wages and maintenance of the Master, Officers and Crew, except when incurred solely for the necessary removal of the Vessel from one port to another for average repairs or for trial trips to test average repairs, in which cases wages and maintenance shall be allowed only when the Vessel is underway.

General and Particular Average shall be payable without deduction, new for old. The expense of sighting the bottom after stranding shall be paid, if reasonably incurred especially for that purpose, even if no damage be found.

No claim shall in any case be allowed in respect of scraping or painting the Vessel's bottom.

In the event of loss or damage to equipment or apparatus not owned by the Assured but installed for use on board the Vessel and for which the Assured has assumed responsibility, claim shall not exceed (1) the amount the Underwriters would pay if the Assured were owner of such equipment or apparatus, or (2) the contractual responsibility assumed by Assured to the owners or lessors thereof, whichever shall be less.

No claim for unrepaired damages shall be allowed, except to the extent that the aggregate damage caused by perils insured against during the period of this Policy and left unrepaired at the expiration of this Policy and shall be demonstrated by the Assured to have diminished the actual market value of the Vessel on that date if undamaged by such perils.

TOTAL LOSS

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 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 Labour clause.

In ascertaining whether the Vessel is a constructive Total Loss the Agreed Value 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.

In the event of a Total Loss (actual or constructive), no claim to be made by the Underwriters for freight, whether notice of abandonment has been given or not.

In no case shall the Underwriters be liable for unrepaired damage in addition to a subsequent Total Loss sustained during the period covered by this Policy.

SUBROGATION

Upon making any payment under this Policy, Underwriters shall be vested with all of the Assureds rights or recovery against any person, corporation, vessel or interest, and the Assured shall execute and deliver such instruments and papers as the Underwriters shall require and do whatever else is necessary to secure such rights at the time of payment or subsequent thereto. At the option of the Underwriters, such payment may be made by means of a loan receipt repayable only out of any recovery made by the Underwriters as aforesaid. Such loan receipt shall be in the customary form permitting Underwriters to bring suit in the name of the Assured or the Underwriters at the latter's own cost and expense.

Any agreement, contract or act, past or future, express or implied, by the Assured whereby any right of recovery of the Assured against any person, corporation, vessel or interest is released, decrease, transferred or lost which would, upon payment of claim by the Underwriters, belong to the Underwriters but for such agreement, contract or act shall render this Policy null and void as to the amount of any such claim, but only to the extent and to the amount that said agreement, contract or act release decreases, transfers, or causes the loss of any right or recovery of the Underwriters, but the Underwriters right to retain or recover the full premium shall not be affected.

LITIGATION AND DEFENSE

The Underwriters shall have the option of naming the attorneys who shall represent the Assured in the prosecution or defence of any litigation or negotiations between the Assured and third parties concerning any claim, loss or interest covered by this Policy, and the Underwriters shall have the direction of such litigation or negotiations. If the Assured shall fail or refuse to settle any claim as authorised by the Underwriters, the liability of the Underwriters to the Assured shall be limited to the amount for which settlement could have been made.

No suit, action or proceedings brought by the Assured against the Underwriters for the recovery of any claim under this Policy shall be sustainable in any court of law or equity unless the same be commenced within twelve (12) months after the Underwriters have denied liability for payment of claim; except that in the case of a claim arising under the Collision and Tower's Liability Clause, no suit or action shall be sustainable unless brought within twelve (12) months next after the Assured shall have discharged his liability. Provided, however, that if by laws of the State within which this Policy is issued such limitation is invalid, then any such claim shall be void unless such action, suit or proceeding be commenced within the shortest limit of time permitted by the laws of such State.

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 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 labour disturbances, civil commotion's, riots, martial law, military or usurped power, malicious acts or vandalism;

- g) Hostilities or warlike operations (whether there be a declaration of war or not) but this subparagraph (g) not to exclude collision or contact with aircraft, rockets 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 above conditions only to the extent the terms of such endorsement are inconsistent therewith and only while such endorsement remains in force.