



# Commercial Hull – Builders' Risks

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 years 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 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 and vessel operational liability extension (Protection & Indemnity), 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>Equipment and Accessories</b>	<p>Equipment means manufactured items intended for use on Your Vessel(s) which are portable or not permanently attached to the Hull. Equipment includes equipment fitted or carried on the Vessel in accordance with statutory / safety requirements and used for the navigation and operation of the Vessel including:</p> <ul style="list-style-type: none"> <li>• lifesaving equipment,</li> <li>• navigation equipment including radar, depth sounders, global positioning systems,</li> <li>• marine communication equipment including radio/transceivers,</li> <li>• tools used for the repair and maintenance of the Vessel</li> </ul> <p>Accessories includes anchors, batteries, paddles and oars, portable fuel containers, covers and canopies of Vessel(s). It does not include Passengers' Baggage / Passengers' Personal Effects.</p>
<b>Final Contract Value</b>	means the provisional value of the Vessel once the building contract has been fully completed.
<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, which is based on the Final Contract Value.
<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>Limit of Liability</b>	means the limit of liability specified in the Policy Schedule or otherwise in this Policy. Our liability is limited to the amount stated for each accident or series of accidents arising out of the same event.
<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.



# DEFINITIONS THAT APPLY TO THIS POLICY

Word	Meaning
<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: 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.
<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/ 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.
<b>Period of Insurance</b>	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.  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.
<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).
<b>Tender</b>	means a purpose designed rigid hull or inflatable vessel (including motor and safety equipment, dinghy or dory) which is: <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>

# DEFINITIONS THAT APPLY TO THIS POLICY

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Word	Meaning
<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 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:

- 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;
- the Policy Schedule is a separate document and shows the insurance details that are relevant to Your insurance;
- 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:

The Vessel must be designed, constructed and commissioned in accordance with the regulations and by-laws of the appropriate State and/or Territory and/or Commonwealth office or department.

At all times during the currency of this Policy the Vessel(s) is skippered, manned, operated, in survey and/or licensed in accordance 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.

Where the Vessel(s) is registered with a Classification Society - it is warranted that the Vessel(s) is classed and class is maintained at all times during the currency of this Policy.

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) while Your Vessel(s) is operating within the Navigational Limits noted in Your Policy Schedule, during the Period of Insurance:

1. Institute Clauses for Builders' Risks 1/6/88 - amended as follows:
  - a. Section 1A - extended to include Vessel trials
  - b. Clause 1.1 - amended to read 0% unless otherwise specified in Your Policy Schedule
  - c. Clause 6 (Earthquake & Volcanic Eruption Exclusion) - deleted
  - d. Clause 10.1 (Deductible) - as set out in the Policy Schedule
  - e. Clauses 17, 18 & 19 - deleted where Protection & Indemnity option is not insured
2. Institute War Clauses Builders' Risks 1/6/88
3. Institute Strikes Clauses Builders' Risks 1/6/88

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. Acquired Companies Clause

Any company, subsidiary company or firm formed or purchased by You during the Period of Insurance provided that:

- a. You hold a controlling interest; and
- b. You advise Us of the existence of the company or firm within a reasonable time frame during the Period of Insurance, from the date of signing the purchase contract or date of formation.

This Additional Benefit does not Cover any new or additional Vessel(s) that You may hold a controlling interest in or that You have agreed to accept responsibility to insure unless You advise Us and We accept in writing.

## 2. Cross Liability Clause

Each person or company comprising 'You' is Covered in the same manner as if that party is the only person or company named in this Policy as You. It is further agreed that We will waive all subrogation rights or rights of action We may acquire against any of the parties comprising You provided always that the act is not unlawful and the limit of indemnity shall apply inclusive of this clause.

## 3. Public Relations / Crisis Management

When We have agreed to pay a claim for loss, damage or liability under Your Policy, and provided You have obtained Our prior written consent, We will pay the reasonable costs incurred, up to a limit of \$50,000, for management by professional media and public relations consultants, in order to reduce or negate any adverse publicity or public reaction to Your business as a result of the insured event giving rise to the 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. Collision Liability and Protection and Indemnity

Cover is provided in accordance with the following clauses (unless otherwise varied in the Policy Schedule) while Your Vessel(s) is operating within the Navigational Limits noted in Your Policy Schedule, during the Period of Insurance:

1. Institute Clauses for Builders' Risks 1/6/88 - amended as follows:
  - a. Clause 17 (Collision Liability) - as set out in the Policy Schedule
  - b. Clause 18 (Sistership) - as set out in the Policy Schedule
  - c. Clause 19 (Protection and Indemnity) - as set out in the Policy Schedule

### **TOMPA Clause**

Where We Cover You under the above Optional Extension, the following Additional Benefit "TOMPA Clause" will also apply to Vessels engaged in a trade covered by the Transport Operations (Marine Pollution) Act 1995 (QLD) and Regulations.

We will Cover You for:

- a. the clean-up costs of the discharge of a pollutant (a harmful substance, including sewage) from the Vessel(s) into Queensland coastal waters; and
- b. the costs of salvage or removal of the Vessel(s) from Queensland coastal waters if the Vessel(s) is abandoned or wrecked.

# OPTIONAL EXTENSIONS

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Cover is provided subject to the Institute Clauses for Builders' Risks 1/6/88 - Exclusion Clause 19.3.10 deleted, or the alternative noted in Your Policy Schedule

provided that:

- i. the Vessel(s) is more than 15 metres in length overall;
- ii. the discharge, abandonment or wreck occurs within the first 3 nautical miles of the territorial sea and other coastal waters subject to the ebb and flow of the tides and during the Period of Insurance; and
- iii. applies where Vessels are in a trade covered by the provisions of the Transport Operations (Marine Pollution) Act 1995 (QLD), and where Protection & Indemnity is Covered by this Policy under this Optional Extension Clause 1.

The maximum We will pay under this TOMPA Additional Benefit is as follows:

1. for a recreational Vessel(s) more than 15 metres but less than 35 metres in length overall
  - (i) the clean-up costs of the discharge of a pollutant from the ship - \$250,000;
  - (ii) the costs of salvage or removal of the Vessel(s) if abandoned or wrecked - \$10,000,000;
2. for a Vessel(s) more than 15 metres but less than 35 metres in length overall
  - (i) the clean-up costs of the discharge of a pollutant from the Vessel(s) - \$500,000;
  - (ii) the costs of salvage or removal of the Vessel(s) if abandoned or wrecked - \$10,000,000;
3. for a ship/Vessel(s) 35 metres or more in length overall - \$10,000,000.

In no case will We Cover under this TOMPA Additional Benefit:

- fines or penalties of any kind whatsoever;
- loss damage liability or expense caused by pollution, contamination or clean-up costs unless caused by a single occurrence that is sudden and identifiable and neither expected nor intended by You.

The words and phrases in this TOMPA Clause shall have the same meaning as the words and phrases in the "Transport Operations (Marine Pollution) Act 1995 and Regulations (Qld)."

If Optional Extension 1. "Collision Liability and Protection and Indemnity" is specified in Your Policy Schedule, then You may apply for the following further Optional Extension 1.1:

## 1.1 Pollution Extension Clause

Subject to a sub-Limit of Liability of \$1,000,000 any event (or as specified in Your Policy Schedule), Optional Extension 1 "Collision Liability and Protection and Indemnity" is extended to Cover Your legal liability for actual physical damage to tangible property of others as a result of sudden and accidental discharge, emission, spillage or leakage upon or into the seas, waters or land or air, of oil, petroleum products, chemical or other substances of any kind or nature whatsoever.

In no case will We Cover any liability which You may become liable to pay in consequence of, with respect to, or arising out of:

- a. death, bodily injury, personal injury or illness;
- b. contractual or assumed liability;
- c. any loss of use or any consequential loss;
- d. fines or penalties of any kind whatsoever;
- e. punitive or exemplary damages;
- f. the provision of any federal, state or local legislation regulating or controlling the discharge, spillage, emission or leakage of oil or any other substance into navigable waters or elsewhere and/or the removal of or liability for such discharge, spillage, emission or leakage. The phrase "federal state or local legislation" shall include laws and regulations of any foreign national or political sub-division thereof and any treaty or convention;

Provided that such discharge, emission, spillage or leakage does not arise from wilful negligence nor wilful misconduct by or within the privity or knowledge of You, Your managing officers or managing agents.

This Optional Extension shall not increase the Limit of Liability provided under Optional Extension 1 "Collision Liability and Protection and Indemnity" with respect to any one event. We will also cover costs of clean up and/or mitigation of a pollution hazard limited to \$100,000 any one event less any Deductible referred to in the Policy Schedule.

# 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 Limit of Liability shown in the Policy Schedule, in the event of a total or constructive total loss, We will:

- a. Pay You, or other parties agreed with You, up to the Sum Insured Limit shown in the Policy Schedule; or
- b. Replace the Vessel(s) with one of similar age and condition.

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.

Where any item of Equipment and Accessories is less than 10 years old from time of manufacture, and is lost or damaged to the extent that it cannot be repaired, We will pay for its replacement without deduction, new for old. This benefit does not apply to any item of Equipment and Accessories which is aged 10 years or more from time of manufacture, a lifeboat or Tender, or equipment contained therein, for which an amount for depreciation will be deducted in making a settlement.

You remain fully insured for the Insured Amount 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.

## Insured Amount Clause

The Insured Amount (where stated) in the Policy Schedule in respect of Hull, Machinery, Fixtures and Fittings, Equipment and Accessories, Tender shall represent separate Insured Amounts for the purpose of calculating the maximum amount payable in respect of each item when a claim is made under this Policy.

## Cover - Legal Liability

Subject to the terms, conditions, limitations, exclusions and the maximum Limit of Liability shown in the Policy Schedule, We will pay the costs of:

- a. the amount(s) We negotiate on Your behalf, subject to the maximum Limit of Liability shown in the Policy Schedule; or
- b. all sums which You become legally liable to pay as compensation for physical loss or damage to third party property or death or personal injury;
- c. the claimant's legal expenses and any interest awarded;
- d. legal costs incurred with Our consent in addition to the above;
- e. the additional benefits shown in the Section "Additional Benefits" where applicable.

# 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.

## **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 Your 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;

# EXCLUSIONS TO THIS POLICY

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## 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).

## 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. Specialist Operations / Dredging / Vibration / Spoil

liability or expense arising from:

- a. Specialist Operations; or
- b. dredging activities including but not limited to loss and/or damage to pipes, cables and/or any underground or underwater structures or installations, of any description; or
- c. damage to property where such property consists of land or fixed property and where such damage is caused by vibration or by the removal or weakening of support to land, buildings or any other property; or
- d. underwater excavation and/or construction including the lifting, cutting, drilling, crushing or depositing of spoil, or pile driving.

## 11. 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.



# EXCLUSIONS TO THIS POLICY

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## 12. 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 7. (Termination) of the Institute War Clauses Builders Risks 1/6/88.

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.

# CONDITIONS OF THIS POLICY

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## 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.

## 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.

# CONDITIONS OF THIS POLICY

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## 10. Moorings

Permanent moorings leased or owned by You for the purpose of mooring the Vessel(s) must be maintained in good order, inspected annually and serviced in accordance with all applicable statutory authority regulations.

## 11. Payment of Limit of Indemnity (applicable only to Liability Optional Extensions)

We may at any time pay to You the appropriate Limit of Liability (after deducting from it any amounts already paid) or a lesser amount for which a claim or claims may be settled. In doing so We will relinquish the conduct of, and shall be under no further liability in connection with, such claim or claims except for costs and expenses incurred before We made such payment. This condition only applies to Optional Extension 1, 1.1 and any other legal liability Covers provided by this Policy and noted in Your Policy Schedule.

## 12. 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.

## 13. 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.

## 14. Under-insurance

We require You to insure each Vessel for its full current insurable value. If You do not, You may be under-insured. In the event that We Cover You for repairable loss or damage to Your Vessel, We may reduce Our payment proportionally to the extent You have under-insured Your Vessel, as outlined in the Marine Insurance Act 1909 (Cth) and Insurance Contracts Act 1984 (Cth) where relevant.

If the actual value of the Vessel or Equipment and Accessories insured under this Policy, at the time of loss or damage, is higher than the Insured Amount as shown in Your Policy Schedule, the amount We will pay will be limited to the Insured Amount specified in Your Policy Schedule, or as outlined in the How Much We Will Pay section of this Policy unless We recover an amount greater than the Insured Amount, and if that occurs, We will pay You that greater amount less Our administrative and legal costs incurred.

## 15. Due Care

You must at all times, take appropriate care:

- a. in the operation of the Vessel(s);
- b. to protect the Vessel(s) from loss or damage;
- c. following an event causing loss or damage to take reasonable steps to minimise loss or prevent further loss or damage; and
- d. to preserve rights against any other party who may have responsibility for the loss, damage or liability.

## 16. 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 Your 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 Your 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

1/6/88 "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 CLAUSES FOR BUILDERS' RISKS

This insurance is subject to Australian law and practice

VESSEL ..... Contract or Yard No.....

BUILDERS.....

BUILDERS' YARDS.....

### SUBJECT OF INSURANCE

(Where more than one part of the subject-matter insured is described in Section I(A), Section I(B) or Section II below, then the respective wording of Section I(A), Section I(B) or Section II shall be applied to each part separately.)

SECTION I. Provisional Period..... from .....

but this insurance to terminate upon delivery to Owners if prior to expiry of Provisional Period.

- (A) HULL and MACHINERY etc. under construction at the yard or other premises of the Builders.

Description	Contract or Yard No.	Provisionally valued at	To be built at/by

The subject-matter of this sub-section (A) is covered whilst at Builders' Yard and at Builders' premises elsewhere within the port or place of construction at which the Builders' Yard is situated and whilst in transit between such locations.

The Underwriters' liability in respect of each item of this sub-section (A) which is at such locations shall attach from the time:-

- (i) of inception of this Section I if such item has already been allocated to the Vessel;
- (ii) of delivery to Builders of such item (if allocated) when delivered after inception of this Section I;
- (iii) of allocation by Builders if allocated after inception of this Section I.

- (B) MACHINERY etc. insured hereon whilst under construction by Sub-Contractors.

Description	Contract or Yard No.	Provisionally valued at	To be built at/by

The subject-matter of this sub-section (B) is covered whilst at Sub-Contractors' works and at Sub-Contractors' premises elsewhere within the port or place of construction at which the Sub-Contractors' works are situated and whilst in transit between such locations.

The Underwriters' liability in respect of each item of this sub-section (B) which is at such locations shall attach from the

# INSTITUTE CLAUSES

time:-

- (i) of inception of this Section I if such item has already been allocated to the Vessel;
- (ii) of delivery to the Sub-Contractors of such item (if allocated) when delivered after inception of this Section I;
- (iii) of allocation by the Sub-Contractors if allocated after inception of this Section I.

The subject-matter of this sub-section (B) is also covered whilst:-

- (a) in transit to Builders if the transit is within the port or place of construction at which the Builders' Yard is situated;
- (b) at Builders' Yard and at Builders' premises elsewhere within the port or place of construction at which the Builders' Yard is situated and whilst in transit between such locations.

SECTION II. Provisional Period ..... from .....  
but this insurance to terminate upon delivery to Owners if prior to expiry of Provisional Period.

MACHINERY etc. insured hereon from delivery to Builders.

Description	Contract or Yard No.	Provisionally valued at	To be built at/by

The subject-matter of this Section II is covered whilst at Builders' Yard and at Builders' premises elsewhere within the port or place of construction at which the Builders' Yard is situated and whilst in transit between such locations. The Underwriters' liability in respect of each item of this Section II shall attach from the time of delivery to Builders.

## 1 INSURED VALUE

- 1.1 Whereas the value stated herein is provisional, it is agreed that the final contract price, or the total building cost plus.....% whichever is the greater, of the subject-matter of this insurance shall be the insured value.
- 1.2 Should the insured value, determined as above,
  - 1.2.1 exceed the provisional value stated herein, the Assured agree to declare to the Underwriters hereon the amount of such excess and to pay premium thereon at the full policy rates, and the Underwriters agree to accept their proportionate shares of the increase,
  - or
  - 1.2.2 be less than the provisional value stated herein, the sum insured by this insurance shall be reduced proportionately and the Underwriters agree to return premium at the full policy rates on the amounts by which their respective lines are reduced.
- 1.3 Nevertheless, should the insured value exceed 125% of the provisional value, then the limits of indemnity under this insurance shall be 125% of the provisional value, any one accident or series of accidents arising out of the same event.
- 1.4 Notwithstanding the above it is understood and agreed that any variation of the value for insurance on account of a material alteration in the plans or fittings of the Vessel or a change in type from that originally contemplated does not come within the scope of this clause and such a variation requires the specific agreement of the Underwriters.

## 2 TRANSIT

Held covered at a premium to be arranged for transit not provided for in Section I or II above.

## 3 DELAYED DELIVERY

Held covered at a premium to be arranged in the event of delivery to Owners being delayed beyond the provisional period(s) mentioned above, but in no case shall any additional period of cover extend beyond 30 days from completion of Builders' Trials.

## 4 DEVIATION OR CHANGE OF VOYAGE

Held covered in case of deviation or change of voyage, provided notice be given to the Underwriters immediately after receipt of advices and any amended terms of cover and any additional premium required by them be agreed.

# INSTITUTE CLAUSES

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## 5 PERILS

5.1 SUBJECT ALWAYS TO ITS TERMS, CONDITIONS AND EXCLUSIONS this insurance is against all risks of loss of or damage to the subject-matter insured caused and discovered during the period of this insurance including the cost of repairing replacing or renewing any defective part condemned solely in consequence of the discovery therein during the period of this insurance of a latent defect. In no case shall this insurance cover the cost of renewing faulty welds.

5.2 In case of failure of launch, the Underwriters to bear all subsequent expenses incurred in completing launch.

## 6 EARTHQUAKE AND VOLCANIC ERUPTION EXCLUSION

In no case shall this insurance cover loss damage liability or expense caused by earthquake or volcanic eruption. This exclusion applies to all claims including claims under Clauses 13, 17, 19 and 20.

## 7 POLLUTION HAZARD

This insurance covers loss of or damage to the Vessel caused by any governmental authority acting under the powers vested in it to prevent or mitigate a pollution hazard, or threat thereof, resulting directly from damage to the Vessel for which the Underwriters are liable under this insurance, provided such act of governmental authority has not resulted from want of due diligence by the Assured, the Owners, or Managers of the Vessel or any of them to prevent or mitigate such hazard or threat. Master, Officers, Crew or Pilots not to be considered Owners within the meaning of this Clause 7 should they hold shares in the Vessel.

## 8 FAULTY DESIGN

Notwithstanding anything to the contrary which may be contained in the Policy or the clauses attached thereto, this insurance includes loss of or damage to the subject-matter insured caused and discovered during the period of this insurance arising from faulty design of any part or parts thereof but in no case shall this insurance extend to cover the cost or expense of repairing, modifying, replacing or renewing such part or parts, nor any cost or expense incurred by reason of betterment or alteration in design.

## 9 NAVIGATION

9.1 With leave to proceed to and from any wet or dry docks, harbours, ways, cradles and pontoons within the port, or place of construction and to proceed under own power, loaded or in ballast, as often as required, for fitting out, docking, trials or delivery, within a distance by water of 250 nautical miles of the port or place of construction, or held covered at a premium to be arranged in the event of such distance being exceeded.

9.2 Any movement of the Vessel in tow outside the port or place of construction held covered at a premium to be arranged, provided previous notice be given to the Underwriters.

## 10 DEDUCTIBLE

10.1 No claim arising from a peril insured against shall be payable under this insurance unless the aggregate of all such claims arising out of each separate accident or occurrence (including claims under Clauses 13, 17, 19 and 20) exceeds ..... in which case this sum shall be deducted. Nevertheless the expense of sighting the bottom after stranding, if reasonably incurred specially for that purpose, shall be paid even if no damage be found. This Clause 10.1 shall not apply to a claim for total or constructive total loss of the Vessel or, in the event of such a claim, to any associated claim under Clause 20 arising from the same accident or occurrence.

10.2 Claims for damage by heavy weather occurring during a single sea passage between two successive ports shall be treated as being due to one accident. In the case of such heavy weather extending over a period not wholly covered by this insurance the deductible to be applied to the claim recoverable hereunder shall be the proportion of the above deductible that the number of days of such heavy weather falling within the period of this insurance bears to the number of days of heavy weather during the single sea passage. The expression "heavy weather" in this Clause 10.2 shall be deemed to include contact with floating ice.

10.3 Excluding any interest comprised therein, recoveries against any claim which is subject to the above deductible shall be credited to the Underwriters in full to the extent of the sum by which the aggregate of the claim unreduced by any recoveries exceeds the above deductible.

10.4 Interest comprised in recoveries shall be apportioned between the Assured and the Underwriters, taking into account the sums paid by the Underwriters and the dates when such payments were made, notwithstanding that by the addition of interest the Underwriters may receive a larger sum than they have paid.

## 11 UNREPAIRED DAMAGE

11.1 The measure of indemnity in respect of claims for unrepaired damage shall be the reasonable depreciation in the market value of the Vessel at the time this insurance terminates arising from such unrepaired damage, but not exceeding the reasonable cost of repairs.

# INSTITUTE CLAUSES

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11.2 In no case shall the Underwriters be liable for unrepaired damage in the event of a subsequent total loss (whether or not covered under this insurance) sustained during the period covered by this insurance or any extension thereof.

11.3 The Underwriters shall not be liable in respect of unrepaired damage for more than the insured value at the time this insurance terminates.

## 12 CONSTRUCTIVE TOTAL LOSS

12.1 In ascertaining whether the subject-matter insured is a constructive total loss, the insured value shall be taken as the repaired value and nothing in respect of the damaged or break-up value shall be taken into account.

12.2 No claim for constructive total loss based upon the cost of recovery and/or repair shall be recoverable hereunder unless such cost would exceed the insured value. In making this determination, only the cost relating to a single accident or sequence of damages arising from the same accident shall be taken into account.

## 13 GENERAL AVERAGE AND SALVAGE

13.1 This insurance covers the Vessel's proportion of salvage, salvage charges and/or general average, reduced in respect of any under-insurance, but in case of general average sacrifice of the Vessel the Assured may recover in respect of the whole loss without first enforcing their right of contribution from other parties.

13.2 Adjustment to be according to the law and practice obtaining at the place where the adventure ends, as if the contract of affreightment contained no special terms upon the subject; but where the contract of affreightment so provides the adjustment shall be according to the York-Antwerp Rules.

13.3 When the Vessel sails in ballast, not under charter, the provisions of the York-Antwerp Rules, 1974 (excluding Rules XX and XXI) shall be applicable, and the voyage for this purpose shall be deemed to continue from the port or place of departure until the arrival of the Vessel at the first port or place thereafter other than a port or place of refuge or a port or place of call for bunkering only. If at any such intermediate port or place there is an abandonment of the adventure originally contemplated the voyage shall thereupon be deemed to be terminated.

13.4 No claim under this Clause 13 shall in any case be allowed where the loss was not incurred to avoid or in connection with the avoidance of a peril insured against.

## 14 NOTICE OF CLAIM

In the event of loss damage liability or expense which may result in a claim under this insurance, prompt notice shall be given to the Underwriters prior to repair and, if the subject-matter is under construction abroad, to the nearest Lloyd's Agent so that a surveyor may be appointed to represent the Underwriters should they so desire.

## 15 CHANGE OF INTEREST

Any change of interest in the subject-matter insured shall not affect the validity of this insurance.

## 16 ASSIGNMENT

No assignment of or interest in this insurance or in any moneys which may be or become payable thereunder is to be binding on or recognised by the Underwriters unless a dated notice of such assignment or interest signed by the Assured, and by the assignor in the case of subsequent assignment, is endorsed on the Policy and the Policy with such endorsement is produced before payment of any claim or return of premium thereunder.

## 17 COLLISION LIABILITY

17.1 The Underwriters agree to indemnify the Assured for any sum or sums paid by the Assured to any other person or persons by reason of the Assured becoming legally liable by way of damages for

17.1.1 loss of or damage to any other vessel or property on any other vessel

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

17.1.3 general average of, salvage of, or salvage under contract of, any such other vessel or property thereon,

where such payment by the Assured is in consequence of the Vessel hereby insured coming into collision with any other vessel.

17.2 The indemnity provided by this Clause 17 shall be in addition to the indemnity provided by the other terms and conditions of this insurance and shall be subject to the following provisions:

17.2.1 Where the insured Vessel is in collision with another vessel and both vessels are to blame then, unless the liability of one or both vessels becomes limited by law, the indemnity under this Clause 17 shall be calculated on the principle of cross-liabilities as if the respective Owners had been compelled to pay to each other such proportion of each other's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Assured in consequence of the collision.



# INSTITUTE CLAUSES

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17.2 In no case shall the Underwriters' total liability under Clause 17.1 and 17.2 exceed their proportionate part of the insured value of the Vessel hereby insured in respect of any one such collision.

17.3 The Underwriters will also pay the legal costs incurred by the Assured or which the Assured may be compelled to pay in contesting liability or taking proceedings to limit liability, with the prior written consent of the Underwriters.

## EXCLUSIONS

17.4 Provided always that this Clause 17 shall in no case extend to any sum which the Assured shall pay for in respect of

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

17.4.2 any real or personal property or thing whatsoever except other vessels or property on other vessels

17.4.3 the cargo or other property on, or the engagements of, the insured Vessel

17.4.4 loss of life, personal injury or illness

17.4.5 pollution or contamination of any real or personal property or thing whatsoever (except other vessels with which the insured Vessel is in collision or property on such other vessels).

## 18 SISTERSHIP

Should the Vessel hereby insured come into collision with or receive salvage services from another vessel belonging wholly or in part to the same Owners or under the same management, the Assured shall have the same rights under this insurance as they would have were the other vessel entirely the property of Owners not interested in the Vessel hereby insured; but in such cases the liability for the collision or the amount payable for the services rendered shall be referred to a sole arbitrator to be agreed upon between the Underwriters and the Assured.

## 19 PROTECTION AND INDEMNITY

19.1 The Underwriters agree to indemnify the Assured for any sum or sums paid by the Assured to any other person or persons by reason of the Assured becoming legally liable, as Owner of the Vessel, for any claim, demand, damages and/or expenses, where such liability is in consequence of any of the following matters or things and arises from an accident or occurrence during the period of this insurance:

19.1.1 loss of or damage to any fixed or movable object or property or thing or interest whatsoever, other than the Vessel, arising from any cause whatsoever in so far as such loss or damage is not covered by Clause 17

19.1.2 any attempted or actual raising, removal or destruction of any fixed or movable object or property or other thing, including the wreck of the Vessel, or any neglect or failure to raise, remove, or destroy the same

19.1.3 liability assumed by the Assured under contracts of customary towage for the purpose of entering or leaving port or manoeuvring within the port

19.1.4 loss of life, personal injury, illness or payments made for life salvage.

19.2 The Underwriters agree to indemnify the Assured for any of the following arising from an accident or occurrence during the period of this insurance:

19.2.1 the additional cost of fuel, insurance, wages, stores, provisions and port charges reasonably incurred solely for the purpose of landing from the Vessel sick or injured persons or stowaways, refugees, or persons saved at sea

19.2.2 additional expenses brought about by the outbreak of infectious disease on board the Vessel or ashore

19.2.3 fines imposed on the Vessel, on the Assured, or on any Master Officer crew member or agent of the Vessel who is reimbursed by the Assured, for any act or neglect or breach of any statute or regulation relating to the operation of the Vessel, provided that the Underwriters shall not be liable to indemnify the Assured for any fines which result from any act neglect failure or default of the Assured their agents or servants other than Master Officer or crew member

19.2.4 the expenses of the removal of the wreck of the Vessel from any place owned, leased or occupied by the Assured

19.2.5 legal costs incurred by the Assured, or which the Assured may be compelled to pay, in avoiding, minimising or contesting liability with the prior written consent of the Underwriters.

# INSTITUTE CLAUSES

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## EXCLUSIONS

19.3 Notwithstanding the provisions of Clauses 19.1 and 19.2 this Clause 19 does not cover any liability cost or expense arising in respect of:

- 19.31 any direct or indirect payment of the Assured under workmen's compensation or employers' liability acts and any other statutory or common law, general maritime law or other liability whatsoever in respect of accidents to or illness of workmen or any other persons employed in any capacity whatsoever by the Assured or others in on or in connection with the Vessel or her cargo materials or repairs
- 19.32 liability assumed by the Assured under agreement expressed or implied in respect of death or illness of or injury to any person employed under a contract of service or apprenticeship by the other party to such agreement
- 19.33 punitive or exemplary damages, however described
- 19.34 cargo or other property carried, to be carried or which has been carried on board the Vessel but this Clause 19.34 shall not exclude any claim in respect of the extra cost of removing cargo from the wreck of the Vessel
- 19.35 loss of or damage to property, owned by builders or repairers or for which they are responsible, which is on board the Vessel
- 19.36 liability arising under a contract or indemnity in respect of containers, equipment, fuel or other property on board the Vessel and which is owned or leased by the Assured
- 19.37 cash, negotiable instruments, precious metals or stones, valuables or objects of a rare or precious nature, belonging to persons on board the Vessel, or non-essential personal effects of any Master, Officer or crew member
- 19.38 fuel, insurance, wages, stores, provisions and port charges arising from delay to the Vessel while awaiting a substitute for any Master, Officer or crew member
- 19.39 fines or penalties arising from overloading or illegal fishing
- 19.310 pollution or contamination of any real or personal property or thing whatsoever.

19.4 The indemnity provided by this Clause 19 shall be in addition to the indemnity provided by the other terms and conditions of this insurance.

19.5 Where the Assured or the Underwriters may or could have limited their liability the indemnity under this Clause 19 in respect of such liability shall not exceed Underwriters' proportionate part of the amount of such limitation.

19.6 In no case shall the Underwriters' liability under this Clause 19 in respect of each separate accident or occurrence or series of accidents arising out of the same event, exceed their proportionate part of the insured value of the Vessel.

## 19.7 PROVIDED ALWAYS THAT

- 19.71 prompt notice must be given to the Underwriters of every casualty event or claim upon the Assured which may give rise to a claim under this Clause 19 and of every event or matter which may cause the Assured to incur liability costs or expense for which he may be insured under this Clause 19
- 19.72 the Assured shall not admit liability for or settle any claim for which he may be insured under this Clause 19 without the prior written consent of the Underwriters.

## 20 DUTY OF ASSURED (SUE AND LABOUR)

20.1 In case of any loss or misfortune 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.

20.2 Subject to the provisions below and to Clause 10 the Underwriters will contribute to charges properly and reasonably incurred by the Assured their servants or agents for such measures. General average, salvage charges (except as provided for in Clause 20.4) collision defence or attack costs and costs incurred by the Assured in avoiding, minimising or contesting liability covered by Clause 19 are not recoverable under this Clause 20.

20.3 Measures taken by the Assured or the Underwriters with the object of saving, protecting or recovering the subject-matter insured shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.

# INSTITUTE CLAUSES

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- 20.4 When a claim for total loss of the subject-matter insured is admitted under this insurance and expenses have been reasonably incurred in saving or attempting to save the subject-matter insured and other property and there are no proceeds, or the expenses exceed the proceeds, then this insurance shall bear its pro rata share of such proportion of the expenses, or of the expenses in excess of the proceeds, as the case may be as may reasonably be regarded as having been incurred in respect of the subject-matter insured.
- 20.5 The sum recoverable under this Clause 20 shall be in addition to the loss otherwise recoverable under this insurance but shall in no circumstances exceed the amount insured under this insurance in respect of the Vessel.

**The following clauses shall be paramount and shall override anything contained in this insurance inconsistent therewith.**

## **21 WAR EXCLUSION**

In no case shall this insurance cover loss damage liability or expense caused by

- 21.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
- 21.2 capture seizure arrest restraint or detainment (barratry and piracy excepted), and the consequences thereof or any attempt thereat
- 21.3 derelict mines torpedoes bombs or other derelict weapons of war.

## **22 STRIKES EXCLUSION**

In no case shall this insurance cover loss damage liability or expense caused by

- 22.1 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions
- 22.2 any terrorist or any person acting from a political motive.

## **23 MALICIOUS ACTS EXCLUSION**

In no case shall this insurance cover loss damage liability or expense arising from

- 23.1 the detonation of an explosive
- 23.2 any weapon of war  
and caused by any person acting maliciously or from a political motive.

## **24 NUCLEAR EXCLUSION**

In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from

- 24.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- 24.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
- 24.3 any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

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# INSTITUTE CLAUSES

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1/6/88 "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 WAR CLAUSES BUILDERS' RISKS

This insurance is subject to Australian law and practice

### 1 ATTACHMENT

**This insurance shall not attach to the subject-matter insured until the Vessel is launched and then shall attach only to such part of the subject-matter as is built into or is in or on the Vessel at the time of the launch. The insurance against the said risks shall attach to the remainder of the subject-matter insured only as it is placed in or on the Vessel subsequent to the launch.**

### 2 PERILS

Subject always to the exclusions hereinafter referred to, this insurance covers loss of or damage to the subject matter insured caused by

- 2.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
- 2.2 capture seizure arrest restraint or detention, arising from perils covered under 2.1 above, and the consequences thereof or any attempt thereat
- 2.3 derelict mines torpedoes bombs or other derelict weapons of war.

### 3 PROTECTION AND INDEMNITY

This insurance also covers, subject to the limitation of liability provided for in Clauses 19.5 and 19.6 of the Institute Clauses for Builders' Risks 1/6/88, the liability under Clause 19 of the Institute Clauses for Builders' Risks 1/6/88 which is excluded by Clauses 21, 22.2 and 23.

**Provided however that such cover shall not attach until the Vessel is launched.**

### 4 INCORPORATION

The Institute Clauses for Builders' Risks 1/6/88 except Clauses 4, 5.1 and 5.2, 7, 8, 21, 22, 23 and 24 are deemed to be incorporated in this insurance, in so far as they do not conflict with the provisions of these clauses.

### 5 DETAINMENT

In the event that the Vessel shall have been the subject of capture seizure arrest restraint or detention, and the Assured shall thereby have lost the free use and disposal of the Vessel for a continuous period of 12 months then for the purpose of ascertaining whether the Vessel is a constructive total loss the Assured shall be deemed to have been deprived of the possession of the Vessel without any likelihood of recovery.

### 6 EXCLUSIONS

This insurance excludes

- 6.1 loss damage liability or expense arising from
  - 6.1.1 any detonation of any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter, hereinafter called a nuclear weapon of war
  - 6.1.2 the outbreak of war (whether there be a declaration of war or not) between any of the following countries:
    - United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China
  - 6.1.3 confiscation expropriation requisition or pre-emption
  - 6.1.4 capture seizure arrest restraint or detention by or under the order of the government or any public or local authority of the country in which the Vessel is owned or registered
  - 6.1.5 arrest restraint or detention under quarantine regulations or by reason of infringement of any customs or trading regulations

# INSTITUTE CLAUSES

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- 6.16 the operation of ordinary judicial process, failure to provide security or to pay any fine or penalty or any financial cause
- 6.17 any claims based upon loss of or frustration of any voyage or contract for sale or other adventure,
- 6.2 loss damage liability or expense covered by the Institute Clauses for Builders' Risks 1/6/88 or which would be recoverable thereunder but for Clause 10 thereof,
- 6.3 any claim for any sum recoverable under any other insurance on the property hereby insured or which would be recoverable under such insurance but for the existence of this insurance,
- 6.4 any claim for expenses arising from delay except such expenses as would be recoverable in principle in Australian law and practice under the York-Antwerp Rules 1974.

## 7 TERMINATION

- 7.1 This insurance may be cancelled by either the Underwriters or the Assured giving 7 days notice (such cancellation becoming effective on the expiry of 7 days from midnight of the day on which notice of cancellation is issued by or to the Underwriters). 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.
- 7.2 Whether or not such notice of cancellation has been given this insurance shall TERMINATE AUTOMATICALLY
  - 7.2.1 upon the occurrence of any hostile detonation of any nuclear weapon of war as defined in Clause 6.1.1 wheresoever or whensoever such detonation may occur and whether or not the Vessel may be involved
  - 7.2.2 upon the outbreak of war (whether there be a declaration of war or not) between any of the following countries:
    - United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China
  - 7.2.3 in the event of the Vessel being requisitioned, either for title or use.
- 7.3 In the event either of cancellation by notice or of automatic termination of this insurance by reason of the operation of this Clause 7 pro rata net return of premium shall be payable to the Assured.

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**This insurance shall not become effective if, subsequent to its acceptance by the Underwriters and prior to the intended time of its attachment, there has occurred any event which would have automatically terminated this insurance under the provisions of Clause 7 above.**

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# INSTITUTE CLAUSES

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1/6/88 "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 STRIKES CLAUSES BUILDERS' RISKS

This insurance is subject to Australian law and practice

### 1 PERILS

Subject always to the exclusions hereinafter referred to, this insurance covers loss of or damage to the subject-matter insured caused by

- 1.1 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions
- 1.2 any terrorist or any person acting maliciously or from a political motive.

### 2 PROTECTION AND INDEMNITY

This insurance also covers, subject to the limitation of liability provided for in Clauses 19.5 and 19.6 of the Institute Clauses for Builders' Risks 1/6/88, the liability under Clause 19 of the Institute Clauses for Builders' Risks 1/6/88 which is excluded by Clause 22.1.

### 3 INCORPORATION

The Institute Clauses for Builders' Risks 1/6/88 are deemed to be incorporated in this insurance, in so far as they do not conflict with the provisions of these clauses, but this insurance excludes any claim which would be recoverable under the said clauses.

### 4 RETURNS OF PREMIUM

No return of premium hereunder unless specially agreed.

### 5 EXCLUSIONS

This insurance excludes

- 5.1 any loss of or damage to the subject-matter insured covered by the Institute War Clauses Builders' Risks 1/6/88
- 5.2 any claim for expenses arising from delay except such expenses as would be recoverable in principle in Australian law and practice under the York-Antwerp Rules 1974
- 5.3 piracy (but this exclusion shall not affect cover under Clause 1.1)
- 5.4 any claim based upon loss of or frustration of any voyage or contract for sale or other adventure.

**The following clauses shall be paramount and shall override anything contained in this insurance inconsistent therewith.**

### 6 WAR EXCLUSION

In no case shall this insurance cover loss damage or expense caused by war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power.

### 7 NUCLEAR EXCLUSION

In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from

- 7.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- 7.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
- 7.3 any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

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**CL. 350**





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