

FINNISH MARINE HULL INSURANCE CONDITIONS 2001

(FHC 2001)



**In case of any dispute under these conditions
the original Swedish wording shall prevail.**

These Finnish Marine Hull Insurance Conditions 2001 (FHC 2001) have been approved by the Finnish Marine Underwriters' Association, the Finnish Shipowners' Association, the Cargoship Association and the Aland Shipowners' Association.

The above mentioned associations recommend application of these conditions. Notwithstanding this, nothing prevents the insurer and the policyholder from agreeing on any other conditions.

This recommendation was issued on 12 April 2002.

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(FHC 2001)

General provisions

Section 1 Applicable provisions

- 1 The insurance contract shall be governed by Finnish law.
- 2 Any questions governed by these FHC 2001 Conditions but not specifically resolved herein shall be resolved in accordance with the general principles that these conditions are based on. The Insurance Contracts Act shall be applied only subject to these FHC 2001 Conditions and the insurance contract.
- 3 If these FHC 2001 Conditions are in conflict with any individually agreed conditions, the individually agreed conditions shall apply. The insurer shall ensure that the individually agreed conditions and any deviations from these FHC 2001 Conditions are explicitly stated in the insurance contract.

Section 2 Insurer, policyholder and the insured

- 1 The insurance contract shall be concluded between the insurer and the policyholder.
- 2 The insured shall be the person in whose favour the insurance is in force. Notwithstanding this, the insurance shall only be in force in favour of the policyholder, subject to what is provided in section 82.

Section 3 Attachment of insurer's liability

The insurer's liability shall attach only after the insurer has explicitly confirmed the attachment of liability to the policyholder and as provided in sections 19 and 20.

Section 4 Insurance policy, electronic communications

- 1 The insurer shall issue the insurance policy and deliver the policy to the policyholder together with these FHC 2001 Conditions.
- 2 Any reference in these FHC 2001 Conditions to documents, written notifications or other communications shall also include electronic communications. Such documents and communications may be signed electronically.

Section 5 Conclusion of insurance contract through broker

If the insurance contract is concluded through an insurance broker, the contract shall be governed by the Insurance Brokers Act. If the insurance policy is issued by the broker, the insurance policy

shall explicitly state that the policy has been issued on behalf of a named insurer by proxy.

Perils covered

Section 6 General rule

- 1 The insurance shall cover perils of the sea and any other perils that the insured interest may be exposed to. Details of the perils covered and exclusions are specified in these FHC 2001 Conditions and in the insurance contract.
- 2 The perils covered shall be agreed on in accordance with section 7 and the definitions in sections 8 to 13.

Section 7 Cover alternatives

7.1 On full conditions

- 1 If so agreed between the insurer and the policyholder, the insurance may cover damage to the vessel in accordance with section 8, ice damage in accordance with section 9, total loss in accordance with section 10, machinery damage and defective material in accordance with section 11, general average in accordance with section 12 and collision liability in accordance with section 13.
- 2 Insurance in accordance with the first subsection shall in the insurance policy be referred to as insurance "on full conditions".
- 3 If the perils covered have not been agreed on, the insurance shall be in force on full conditions.

7.2 On full conditions with exclusions

- 1 If so agreed between the insurer and the policyholder, the insurance may cover damage to the vessel in accordance with section 8, total loss in accordance with section 10, general average in accordance with section 12 and collision liability in accordance with section 13.
- 2 In addition, if so agreed between the insurer and the policyholder, the insurance may cover either ice damage in accordance with section 9 or machinery damage and defective material in accordance with section 11.
- 3 Insurance in accordance with the first and second subsection shall in the insurance policy be referred to as insurance "on full conditions with exclusions" accompanied, if so agreed, by "including ice damage" or "including machinery damage and defective material".

7.3 Limited conditions

If so agreed between the insurer and the policyholder, the insurance may only cover some of the particular perils and damage specified in sections 8 to 13. The perils and damage covered shall be named in the insurance policy.

Section 8 Damage to vessel

- 1 The insurance shall cover partial loss and particular average on the vessel. The insurance shall also cover damage caused to the vessel by external ice formation or by collision with an iceberg in the open sea.
- 2 The insurance shall not cover damage to the vessel resulting from the vessel navigating or lying in ice. If the vessel collides with another vessel while navigating in ice, the ice damage caused by the collision shall not be covered.
- 3 Damage sustained by the vessel while navigating or lying in ice shall not be covered, unless the policyholder proves that the damage has been caused by a reason other than ice or unless it is evident that the damage has not been caused by ice.
- 4 The insurance shall not cover damage to machinery, unless the damage has been caused by the vessel having touched ground, stranded, collided with another vessel even if the vessel navigated in ice, collided with another floating or fixed object, capsized or sunk or unless the damage has been caused by fire, explosion or lightning.

Section 9 Ice damage

- 1 Without prejudice to the second subsection of section 8, the insurance shall cover damage to the vessel resulting from the vessel having navigated or lain in ice. If the vessel has collided with another vessel while navigating in ice, the ice damage caused by the collision shall also be covered.
- 2 Freezing shall be governed by what is provided in the fifth subsection of section 44.

Section 10 Total loss

10.1 General provisions

- 1 The insurance shall cover actual total loss and constructive total loss.
- 2 The insurance shall also cover total loss caused by navigating or lying in ice providing that the vessel was then classified in the Finnish Maritime Administration ice dues class IA Super, IA, IB, IC or II.
- 3 If the policyholder has paid damages to a third party for an amount equal to or in excess of the value of the vessel but has not lost the vessel, the event shall not be deemed total loss.

10.2 Actual total loss

- 1 Actual total loss shall refer to a situation where the vessel is lost or where the vessel cannot be salvaged or repaired owing to the occurrence of a recoverable casualty and to a situation where the vessel has gone missing during voyage and has not been heard of within a reasonable time after its estimated time of arrival at the port.
- 2 If the vessel has not been salvaged within six months after a loss for reasons beyond the policyholder's control or if salvage attempts have been abandoned, the event shall be actual total loss. If salvage operations have been prevented by ice, water level or climatic conditions, the time limit shall be extended correspondingly, yet not beyond 12 months.

- 3 The insurer shall be entitled to attempt to salvage the vessel at his own expense and on his own responsibility. The policyholder shall then do his best to assist the insurer in salvaging the vessel.

10.3 Constructive total loss

- 1 Constructive total loss shall refer to a situation where the cost of repairing the damage caused by the casualty is estimated to equal at least 80 per cent of the insurable value of the vessel or of the value of the vessel after repairs, if this is higher than the insurable value. The right to compensation for constructive total loss shall be determined by including all such recoverable but unrepaired damage reported to and surveyed by the insurer as has occurred in the three years preceding the casualty that gave rise to the claim. The cost estimate shall include all expenses arising from the transfer to the repair site and from the repairs but no salvage award.
- 2 Whether the casualty qualifies for compensation for total loss shall be determined in the survey referred to in section 48 and by inviting tenders for repairs.
- 3 Even if it appeared from the survey report that it is not possible or worth while to repair the vessel because of extensive damage, the insurer may, without undue delay, order that the vessel be transferred to another location for invitation of tenders for repairs, if the insurer deems this to be a way to avoid constructive total loss. If such tender is received, the survey shall not be binding on the insurer. The cost of the transfer shall be met by the insurer in accordance with the second subsection of section 59, and this cost shall not be included in the repair cost.
- 4 If the vessel is damaged during the transfer, this damage shall be included in the damage sustained in the casualty.

Section 11 Machinery damage and defective material

- 1 The machinery of the vessel includes amongst others the propelling machinery, other machinery onboard, any other equipment that is part of the machinery but not part of the hull, the vessel pipes, electric and hydraulic lines, communication lines and other lines, and installations and devices. The main machinery shall refer to the propelling machinery and equipment belonging to or interacting with it, propellers with shafts and stern tubes.
- 2 The insurance shall cover damage to machinery even if the damage had not been caused by any of the events specifically mentioned in the fourth subsection of section 8. Damage to machinery caused by an event not specifically mentioned in the fourth subsection of section 8 shall be covered after a 25 per cent deduction before applying any deductible. If, however, such damage is caused by the engine room becoming flooded with water completely or partly, the damage shall be covered without the 25 per cent deduction.
- 3 If any part of a boiler, pressure vessel or the main machinery has suffered a fracture or a crack, the insurance shall cover the cost of repairs or replacement of the damaged part or parts, providing the part or parts had been approved by the classification society.

- 4 Damage to a cylinder liner shall be covered only if the liner has suffered a fracture or shows signs of a fracture.
- 5 The insurance shall cover the cost of repairs or replacement of a defective part or of defective parts of the vessel resulting from defective material, if the part or parts had been approved by the classification society.
- 6 In no case shall the insurer be liable for damage to machinery caused by faulty construction or any of the events referred to in item (a) of the first subsection of section 15.3.
- 7 If the policyholder has the damaged machinery or defective material repaired without any compelling reason and without giving the insurer an opportunity to survey the damage, no compensation is paid unless the policyholder proves that the damage concerned is covered.

Section 12 General average

- 1 The insurance shall cover any general average contribution by the vessel on the basis of a final or an approved average adjustment. The average adjustment shall be made in accordance with the applicable rules of law or on such conditions as are deemed customary in the trade concerned. If no place of average adjustment has been agreed upon, the average adjustment shall be made in the place designated by the shipowner. The contribution by the vessel shall be covered in accordance with the average adjustment even if the contribution exceeded the insurable value of the vessel.
- 2 The insurance shall also cover any general average contribution by the vessel as a result of the vessel having navigated or lain in ice providing that the vessel was then classified in the Finnish Maritime Administration ice dues class IA Super, IA, IB, IC or II.
- 3 Even if any ice damage of the kind referred to in section 9 had not been agreed to be covered by the insurance, the insurance shall cover any general average contribution relating to ice damage, if such ice damage was caused while the vessel was arriving at an ice-covered or ice-blocked port or departing from such port in order to be saved from a peril caused by damage other than ice damage.
- 4 If the vessel was not carrying cargo, the insurance shall cover such intentional sacrifice and direct expense for the salvage of the vessel or for the completion of the voyage without cargo as would have been covered as a general average according to the York-Antwerp Rules 1994 had the vessel been carrying cargo. Notwithstanding this, the insurance shall not cover wages or maintenance of the master, officers and the crew until completion of the final repairs as referred to in subsection (b) of Rule XI of the York-Antwerp Rules 1994, nor the commission or interest referred to in Rules XX and XXI, respectively. What is provided in the claims settlement rules governing particular average shall be applied if these rules are more favourable to the policyholder than the York-Antwerp Rules.
- 5 The policyholder's right to claim compensation from the insurer for damage sustained by the insured vessel before a final or an approved average adjustment is available is regulated by section 71.
- 6 If the policyholder cannot claim contributions from the other participants in a general average because of violation of the

contract of affreightment, the insurance shall only cover the amount that according to the general average rules falls on the insured interest.

Section 13 Collision liability

- 1 The insurance shall cover the policyholder's collision liability. Collision liability shall refer to liability in damages that the policyholder is obliged to pay to a third party under general rules or special rules of tort law, with due consideration of the currently valid rules regarding limitation of shipowner's liability, for damage that the vessel or its boat during the service of the vessel has caused by collision or other impact while in use.
- 2 Notwithstanding the above, the insurance shall not cover:
 - (a) liability for bodily injuries;
 - (b) loss or damage sustained by master, officers or crew or by passengers or other persons onboard the insured vessel;
 - (c) liability for damage to or loss of property onboard the insured vessel;
 - (d) liability for loss or damage sustained by the charterer or another party whose interest is related to the insured vessel;
 - (e) liability for loss or damage resulting from fire or explosion caused by oil, chemicals, gas, steam or similar solid, liquid or volatile substance or liability for using oil-spill booms or taking other measures to prevent such loss or damage despite the fact that the costs arising from such measures are prevention costs or that such loss or damage is recoverable as general average; if the insured vessel has collided with another vessel, the insurance shall, however, cover liability for loss or damage of the kind mentioned in this item (e) caused to the other vessel with fixtures and cargo;
 - (f) liability for loss or damage caused by use of the insured vessel's anchor, towing or mooring gear, loading or discharging lines, boarding stairs or similar equipment, or liability for loss of or damage to any such equipment belonging to a third party;
 - (g) compensation to a third party that has paid compensation for any of the loss or damage mentioned under items (a) to (f).
- 3 If the policyholder is liable to a third party with vessel and freight, the insurance shall only cover liability in respect of the vessel.
- 4 If the insured vessel is used for salvage, assistance or towing, the insurance shall not cover liability for loss or damage sustained by the other party in the course of such operations. If, however, such action has been taken under circumstances where the action is justifiable, compensation shall be paid in accordance with the first subsection, but not for towing or mooring gear.
- 5 If the vessel or object that the insured vessel collides with belongs to the policyholder, the insurer's liability shall not be affected.
- 6 If the policyholder accepts a third party's claim without consent from the insurer, the insurer shall be exempt from liability to the extent that such claim was manifestly unfounded or excessive in amount.
- 7 If a third party that has suffered loss or damage has a claim on the policyholder and the policyholder has a counterclaim on the third party, and if such claim and counterclaim are based on the same occurrence, the claims shall be settled between the

policyholder and the insurer on a cross liability basis, ie on the basis that the insurer is entitled to compensation which equals the third person's share of liability for the loss or damage to the policyholder that is covered by the insurance. The policyholder's liability for the loss or damage to the third party shall be calculated separately in proportion to the liability of the policyholder.

Details of the perils covered and exclusions

Section 14 Subject-matter insured

1 The insurance shall cover

- (a) the hull and machinery of the vessel defined in the first subsection of section 11;
- (b) fixtures and vessel spare parts onboard regardless of whether the policyholder owns them or not, providing, however, that any fixtures brought onboard after the conclusion of the insurance contract other than those replacing fixtures that were earlier onboard are covered up to 5 per cent of the insurable value in accordance with section 22 and only in case of partial losses;
- (c) permanent hydraulic oils, system oils and lubricating oils which remain unused onboard or are of such a kind that they need not normally be changed due to use;
- (d) any object temporarily removed from the vessel for repairs, service, reconstruction or similar action or otherwise in the course of the use of the vessel, providing that the intention is to return the object onboard without delay.

2 The insurance shall not cover

- (a) loose objects intended merely for securing or protecting cargo;
- (b) provisions, fuel, engine or deck stores or other substances or accessories intended for consumption;
- (c) works of art or decorative objects;
- (d) boats or equipment intended for fishing;
- (e) containers, flats, trailers or similar articles of transport not belonging to the vessel.

Section 15 Exclusions

15.1 War risks and comparable risks

The insurer shall not be liable for war risks or any other risks which would have been covered by the Finnish war risk insurance conditions generally valid at the time the insurance contract was concluded.

15.2 Faulty construction and defective material

Subject to section 11, the insurer shall not be liable for the cost of repairs or replacement of any part or parts of the vessel caused by faulty construction or defective material.

15.3 Other exclusions

1 The insurer shall not be liable for

- (a) cost of repairs or replacement of any part or parts of the vessel resulting from wear and tear, age, corrosion, rust, rot,

insufficient maintenance or care, or any other similar cause; if the vessel's frames or similar supporting or strengthening structures are in an unsatisfactory condition for any of the reasons mentioned in this item and the condition leads to damage to the external hull, the insurer shall not be liable for such damage;

- (b) the policyholder's liability for loss or damage caused by swell or suction from the vessel;
- (c) cost of or liability for the removal of the wreck of the insured vessel or of any other object lost and covered by the insurance;
- (d) indirect loss sustained by the policyholder such as loss of time, loss of interest or loss resulting from market fluctuations, loss of market or increase in costs; or
- (e) costs arising from stay in quarantine or from arrest.

2 Neither shall the insurer be liable for loss, damage or cost resulting from or referable to

- (a) ionising radiation or radioactive contamination caused by nuclear fuel, nuclear process or radioactive nuclear waste, uncontrolled nuclear reaction or insufficient cooling of nuclear power plant, or by manufacture, transport, storing, testing or use of nuclear weapons;
- (b) embargo, arrest, requisition, confiscation or other measures by civil or military authorities, unless such measure has been taken for the purpose of averting or minimising environmental damage;
- (c) strike, lockout, riot, civil commotion, sabotage, plundering, mutiny or piracy;
- (d) violation of currently valid import or export regulations, unauthorised transport or any other similar offence or punishable attempt thereof, of which the policyholder was aware; or
- (e) normal use of the vessel and its fixtures.

3 The insurer shall not be liable for loss or damage caused by or cost or liability arising from or deemed to relate to environmental risks or environmental damage. This shall also apply to the special compensation paid to the salvor under article 14 of the International Convention on Salvage, 1989, ("environmental salvage") or under another set of rules similar in content.

Section 16 Combination of perils

- 1 If any loss or damage has been caused by a combination of perils and some of the risks are not covered by the insurance, the loss or damage shall be apportioned in proportion to the contribution by each peril to the occurrence and to the extent of the loss or damage sustained. Compensation shall be paid for loss or damage attributable to the perils which are covered by the insurance.
- 2 If any loss or damage has been caused both by a peril of the sea or another peril covered by these FHC 2001 Conditions and by a war risk, the entire loss or damage shall be deemed to have been caused by the dominant peril. If neither of the perils was dominant, both of the perils shall be deemed to have contributed to the occurrence of and to the extent of the loss or damage with equal shares.

Section 17 Principle of indemnity

No interpretation of either these FHC 2001 Conditions or any other part of the insurance contract may lead to a situation where the policyholder receiving compensation is left in a better financial position than he would be in if no loss or damage had occurred. Notwithstanding this, valued policies shall be governed by section 22.

Section 18 Supplementary cover

- 1 Hull interest insurance shall be governed by section 10 and any other conditions laid down in the insurance contract. The policyholder shall then not be entitled to compensation in accordance with section 64.
- 2 War risk insurance may be taken out as a separate policy.
- 3 Insurance covering
 - (a) extended collision liability shall be governed by section 66.
 - (b) third party's interest shall be governed by sections 82 to 86.
 - (c) third party's special interest shall be governed by subsections 1 to 5 of section 87.
 - (d) policyholder's special interest shall be governed by subsection 6 of section 87.

Insurer's liability

Section 19 Insurer's duty of disclosure

- 1 In accordance with section 9 of the Insurance Contracts Act, the insurer shall be liable for incomplete, incorrect or misleading information only if deemed to have acted negligently.
- 2 Incomplete, incorrect or misleading information given by the insurer shall be of no importance if the policyholder was or should have been aware of the true circumstances. The same shall apply to situations where the circumstance on which incomplete, incorrect or misleading information was given was of no importance to the policyholder at the time the contract was concluded or during the insurance period.

Section 20 Commencement and termination of cover under voyage policy

- 1 If the vessel is insured for a voyage, cover shall commence when the vessel starts to load cargo or ballast. If no cargo or ballast is loaded, cover shall commence when the vessel begins to heave the anchor or to let go the moorings in order to sail. Cover shall continue until the vessel is anchored or moored in the customary manner at the destination specified in the insurance contract or, if the voyage terminates prior to the destination, at the place where the voyage terminates. If the vessel discharges cargo or ballast, cover shall continue until such discharging has terminated, yet for no longer than thirty days when cargo is onboard and three days when the vessel is in ballast, calculated from the date and hour at which the vessel is anchored or moored.
- 2 If the vessel is insured for a voyage and it subsequently turns out that the voyage had commenced before the insurance contract was concluded, the insurer shall cover any loss or damage sustained only if the policyholder is able to prove that the loss or damage had occurred after the contract was concluded.

Section 21 Commencement and termination of cover under time policy

- 1 If the vessel is insured for a fixed period of time, cover shall commence at the beginning of the agreed day of commencement and terminate at the expiry of the agreed last day. The date and hour shall be determined according to local time at the place where the vessel is located.
- 2 If at the expiry of the insurance period the vessel is in an unseaworthy condition owing to loss or damage covered by the insurance, cover shall continue until the vessel has been repaired or declared to be beyond repair.
- 3 If a vessel missing at the expiry of the insurance period is found and the policyholder is not entitled to compensation for total loss, cover shall continue as laid down in the second subsection.
- 4 If the insurance period has been extended in accordance with the second or third subsection, the insurance premium for such extension shall be payable in an amount calculated on the premium payable for the insurance period on a pro rata parte temporis basis.

Section 22 Valued policy

An agreed value policy (valued policy) is binding on the parties, yet not on the insurer in cases where the policyholder has given misleading information for the assessment of the value of the vessel at the time the contract was concluded.

Section 23 Double insurance

- 1 The policyholder shall be obliged to notify the insurer of whether the same vessel has been or is covered by a hull policy or a hull interest policy taken out during the insurance period from another insurer, stating the name of such other insurer, if any, and the sum insured. If the policyholder fails to give this information and the failure can be deemed detrimental to the insurer, the insurer shall be entitled to reduce compensation by a reasonable amount or to be exempt from liability.
- 2 If the policyholder also takes out a hull policy from another insurer, the insurer is not liable to the extent that the policyholder can recover under such other policy for any loss or damage sustained.
- 3 If the other insurer has also reserved himself the right to be exempt from liability as referred to in the second subsection, each insurer shall be liable to the policyholder in proportion to the sum insured that he would have been liable for had he granted the policy alone. If any one of the insurers is unable to pay his share, the other insurers shall settle the shortage in the said proportion.

Section 24 Subrogation

- 1 If the insurer pays compensation to or in favour of the policyholder, the insurer shall be subrogated to all the rights and remedies of the policyholder in respect of the compensation paid, regardless of what the third party's liability is based on.
- 2 This right of subrogation shall also apply to interest accrued on the compensation paid, any exchange gains and any other increase in capital.
- 3 If the policyholder waives his rights against a third party in

full or in part prior to or after the occurrence of a recoverable casualty, the insurer is exempt from liability accordingly, unless such exemption is manifestly unreasonable.

Section 25 Status of a third party that has suffered loss or damage

- 1 Although the insurer is liable for the policyholder's obligation to pay compensation to a third party, such third party shall not be entitled to claim compensation direct from the insurer under the insurance contract.
- 2 The insurer shall not be obliged to notify a third party that has suffered loss or damage of his decision on a claim. Neither can such third party refer his claim based on such decision for adjustment to the Finnish Average Adjuster or otherwise bring action against the insurer.

Section 26 Coinsurance and lead insurer

- 1 If an insured interest has been divided among several insurers (coinsurance), each individual insurer shall be liable for his own share alone, not for the entire interest jointly and severally.
- 2 Any agreement between the lead insurer and the policyholder shall be binding on the other coinsurers in all respects other than increase in the sum insured. This shall also apply to claims handling and subrogation, providing that such agreements are in accordance with the policy conditions.
- 3 The lead insurer shall be authorised to sign mortgage clauses and pledge agreements on behalf of the other coinsurers and to issue insurance policies in accordance with the second and third subsections of section 73.
- 4 Any communication forwarded to the lead insurer shall be deemed to have come to the knowledge of the other coinsurers as well.
- 5 The lead insurer shall be entitled to take legal action on behalf of the other coinsurers in any matter relating to the policy granted by them in their capacity as coinsurers.
- 6 Coinsurers are bound by any judgement rendered, any final average adjustment or agreement reached after commencement of legal action, and any arbitration award even if the judgement, adjustment, agreement or award only covered the share of the lead insurer.

Circumstances that the policyholder shall observe

Section 27 Policyholder's duty of disclosure at conclusion of contract

- 1 At the conclusion of an insurance contract, the policyholder shall give the insurer any information asked by the insurer on the vessel, as well as any other information that is material for the insurer for the assessment of the insurance risk. If the policyholder subsequently discovers that the information given by him is incomplete, incorrect or misleading, he shall notify the insurer thereof without delay.
- 2 If the policyholder has failed to fulfil his duty of disclosure with fraudulent intent, the insurer shall not be bound by the insurance contract.

- 3 If the policyholder has given any information that he knew or should have known to be incomplete, incorrect or misleading and there is reason to assume that the insurer would not have granted the policy had he been aware of the true circumstances, the insurer is exempt from liability. If it can be assumed that the insurer would have granted the policy but only against a higher insurance premium or on conditions other than those agreed, the insurer shall be liable for the occurrence of a recoverable casualty only to the extent it is proved that such incomplete, incorrect or misleading information had no effect on the occurrence or on the extent of the loss or damage sustained.
- 4 If the policyholder has through negligence failed to notify the insurer of any circumstance that he knew of and if the policyholder understood or should have understood the circumstance to be of importance for the insurer, the third subsection shall apply. The same shall apply to cases of failure to give the information referred to in the second sentence of the first subsection.
- 5 If it can be assumed that the policyholder neither understood nor should have understood that the information given by him at the conclusion of the contract was incorrect, delivery of such incorrect information shall not have any effect on the insurer's liability.
- 6 The insurer's right to terminate the policy is regulated by section 78.
- 7 The insured's duty of disclosure is regulated by section 82.

Section 28 Insurer's awareness

- 1 If the policyholder gives incomplete, incorrect or misleading information or fails to disclose the true circumstances, the insurer's liability shall not be affected, providing that the insurer was or should have been aware of the true circumstances at the time the information should have been given. The same shall apply to situations where such information was of no importance to the insurer at the time the contract was concluded or where the said information has since then lost significance.
- 2 If the insurer becomes aware that the policyholder has failed to fulfil the duty of disclosure imposed in section 27, the insurer shall, without undue delay, notify the policyholder of the extent to which the insurer wishes to be exempted from liability. If the insurer fails to give this notification, he may no longer invoke his right to be exempted from liability.
- 3 The second subsection shall not apply if the policyholder has acted with fraudulent intent.

Section 29 Increase in risk

- 1 An increase in risk refers to a situation where the insured risk increases as a result of a change in the circumstances prevailing at the time the insurance contract was concluded and constituting the basis of the contract.
- 2 Change of owner is regulated by section 32, classification by section 33, insurer's right to information filed with the classification society by section 34, safety management system by section 35, insurer's right to information on authorities'

control by section 36, docking by section 37, change of manager by section 38, downgrading of ice dues class by section 39, use of the insured vessel for salvage by section 40 and trading waters by section 41.

Section 30 Consequences of increase in risk

- 1 If after the conclusion of the insurance contract the policyholder contributes to an increase in risk or consents thereto and if the increase in risk is not of a nature that the insurer is to be deemed to have taken into account, the insurer is exempted from liability, providing the insurer would not have granted the policy had he been aware of the increase in risk. If it can be assumed that the insurer would have granted the policy despite the increase in risk but on conditions other than those agreed, the insurer shall be liable for the loss or damage sustained only to the extent it is proved that the increase in risk did not contribute either to the occurrence of the recoverable casualty or to the extent of the loss or damage sustained.
- 2 If the risk has increased without contribution by or consent from the policyholder, and the policyholder has failed to notify the insurer thereof without any acceptable reason, the consequences referred to in the first subsection shall apply.
- 3 The insurer's right to terminate the contract is regulated by section 78.
- 4 If the action that increased the risk was taken with an intention to prevent injury to person or damage to property under circumstances where such action is to be deemed justifiable, the action shall not affect the insurer's liability.

Section 31 Circumstances to be observed by insurer when risk increases

- 1 If a changed circumstance which has increased the risk is restored or if the increase in risk is otherwise no longer of any importance, the insurer's liability shall not be affected.
- 2 If the insurer becomes aware of an increase in risk and does not without undue delay notify the policyholder of whether and to what extent he wishes to exercise the rights mentioned in section 30, the insurer may no longer invoke the rights.
- 3 If the policyholder has acted with fraudulent intent, the second subsection shall not apply.

Section 32 Change of owner

If the owner of the vessel changes, the policy shall cease to be in force with immediate effect.

Section 33 Classification, change of classification society and loss of class

- 1 The vessel shall be classed throughout the validity of the insurance by a classification society approved by the insurer.
- 2 If the classification society is changed or if the class given by an approved classification society is lost, the policy shall cease to be in force with immediate effect. If the vessel is at sea when the class is lost, cover shall continue until the vessel arrives at the first port approved by the insurer with reasonable opportunities to take the measures needed to remedy the situation.

- 3 The vessel shall be deemed to lose its class
 - (a) if the shipowner applies for withdrawal of the class; or
 - (b) if the class is cancelled, suspended, withdrawn or deferred until further notice for a reason other than a recoverable casualty.
- 4 If the classification society has explicitly granted an extension for the performance of a survey and the policyholder has fulfilled the conditions that the society may have imposed on the extension, the vessel shall not be deemed to have lost its class until such extension has expired.

Section 34 Insurer's right to information filed with classification society

- 1 The insurer is authorised by the policyholder to extend a request directly to the classification society for any such information on the vessel as the insurer may deem justified. The insurer shall notify the policyholder prior to requesting such information.
- 2 If the insurer does not have access to the information referred to in the first subsection, the lack of such information shall be deemed an increase in risk.

Section 35 Safety management system

- 1 The shipowner (the Company) shall have an approved safety management system and the vessel shall have approved management arrangements for the safe use of the vessel, drawn up in accordance with the International Safety Management Code regulated in chapter IX of the SOLAS Convention. This requirement is met if a valid Document of Compliance evidencing the Company's approved safety management system and a valid Safety Management Certificate evidencing an approved safety organisation for the vessel are available at all times during the insurance period.
- 2 Unless the policyholder is able to produce the document or certificate referred to in the first subsection, the policy shall cease to be in force with immediate effect. If the vessel is at sea when the document or certificate referred to in the first subsection expires, cover shall continue until the vessel arrives at the first port approved by the insurer with reasonable opportunities to take the measures needed to remedy the situation.
- 3 If the document or certificate referred to in the first subsection is obtained before the expiry of the insurance period after the policy has ceased to be in force in accordance with the second subsection, the policy shall be reinstated.
- 4 If the policyholder otherwise fails to meet the requirements imposed on the Company's safety management system and on the management arrangements designed for the safe use of the vessel as provided in the ISM Code, in any other rules based thereon or in the Company's individually approved safety management system, such failure shall be deemed an increase in risk only if the insurer proves that the failure is of fundamental nature. The insurer may not invoke any other kind of violation of the ISM Code. Without prejudice to this, the insurer may invoke any other provisions of these FHC 2001 Conditions.

Section 36 Insurer's right to information on authorities' control

- 1 The policyholder shall, whenever requested, supply the insurer with any information needed on any remarks made in inspections in the flag state or port state. The insurer is authorised by the policyholder to extend a request directly to the controlling authorities for any such information on the vessel as the insurer may deem justified. The insurer shall notify the policyholder prior to asking for such information.
- 2 If the insurer does not have access to the information referred to in the first subsection, the lack of such information shall be deemed an increase in risk.

Section 37 Docking

The policyholder shall notify the insurer of his choice of dock. If this information is not given, the docking shall be deemed an increase in risk.

Section 38 Change of manager

The insurer shall give his explicit consent to any change of manager. Failure to obtain such consent shall be deemed an increase in risk.

Section 39 Downgrading of ice dues class

If the vessel's ice dues class is downgraded, the downgrading shall be deemed an increase in risk, in view of section 9.

Section 40 Use of the insured vessel for salvage

If the vessel is used for salvage or assistance under circumstances where the action is justifiable, the insurer shall cover the loss or damage caused by such increase in risk even if the vessel had not been insured as a salvage vessel.

Section 41 Trading waters

- 1 The policy covers all trading waters other than those specified as excluded waters or conditional waters in the Annex to these FHC 2001 Conditions. Excluded waters also include loading and discharging places where the vessel lies against the sea bottom at low tide (dry docks). If the vessel deviates from the trading limits, the policyholder shall notify the insurer thereof in advance.
- 2 If the vessel enters excluded waters, the policy shall cease to be in force, unless the insurer has consented to such entry in advance or unless the entry results from unintentional action on the part of the master or from saving life or from the fact that the insured vessel has on its voyage salvaged or attempted to salvage another vessel or cargo.
- 3 If the vessel leaves excluded waters before the expiry of the insurance period, the policy shall be reinstated.
- 4 The insurer shall be entitled to require that the policyholder have the vessel drydocked and surveyed at the policyholder's own expense both immediately before and after the period during which the insurance contract was not in force on account of the vessel having been taken to excluded waters. The policyholder shall notify the insurer of such survey well in advance.

- 5 If the insurance contract has been concluded for a definite period of time, the insurer shall return part of the premium on a pro rata temporis basis for the period during which the policy has not been in force for reasons specified in the second and third subsections.
6. If the vessel navigates within conditional waters the policyholder shall pay an additional premium and observe an increase in the deductible as notified by the insurer. If the vessel is damaged while navigating within conditional waters with the policyholder's consent without any advance notice of the deviation communicated to the insurer, the amount of compensation shall be reduced by 25 per cent, yet no more than 125,000 euros. The reduction shall be calculated on compensation payable under these FHC 2001 Conditions and under the insurance contract before deduction of the deductible agreed in the insurance contract.

Section 42 Loss or damage caused intentionally or through gross negligence

- 1 The insurer is exempted from liability to anyone who has caused loss or damage intentionally.
- 2 If the policyholder has caused loss or damage through gross negligence, compensation may be reduced or refused according to the circumstances.

Seaworthiness and safety regulations

Section 43 Seaworthiness

- 1 The vessel shall be seaworthy in respect of construction, fixtures, maintenance, manning, loading and ballast and otherwise, and it shall meet the seaworthiness requirements imposed by authorities and classification societies.
- 2 The insurer shall not be liable for any loss or damage sustained on account of the vessel having been in an unseaworthy condition, if the policyholder was or should have been aware of such unseaworthiness at such a time that it would have been possible for him to intervene.
- 3 The policyholder shall prove that he neither was nor should have been aware that the vessel was unseaworthy. If the vessel has sprung a leak while afloat, the policyholder shall also prove that the damage was not attributable to unseaworthiness.

Section 44 Safety regulations

- 1 Safety regulations are rules drawn up in order to prevent losses. Such rules are
 - (a) issued by authorities or the vessel's classification society; or
 - (b) incorporated into the insurance contract and referred to as safety regulations; or
 - (c) issued by the insurer under the insurance contract.
- 2 All periodical surveys required either by authorities or the vessel's classification society shall be deemed part of the safety regulations. The surveys shall be performed within the time limit given.
- 3 The insurer shall at any time during the insurance period be entitled to survey the vessel and to verify that the vessel is in a seaworthy condition and that the safety regulations are

complied with. For this purpose the insurer shall be entitled to request that the cargo be discharged in full or in part. The insurer's entitlement to such survey and verification shall be deemed part of the safety regulations.

- 4 If the survey or verification referred to in the third subsection has not been made due to the occurrence of a recoverable casualty or similar circumstances, the insurer shall compensate the costs and losses due to the survey or verification, unless it turns out that the vessel is not in a seaworthy condition or that the safety regulations have not been complied with.
- 5 The policyholder shall take the appropriate measures to prevent freezing. This rule shall be deemed part of the safety regulations.
- 6 If a vessel is laid up or otherwise withdrawn from service, the policyholder shall ensure that the vessel is safely moored and kept empty of sea water and that it is under control. Likewise, the policyholder shall ensure that any measures required by the insurer or needed for the safety of the vessel are taken. These rules shall be deemed part of the safety regulations.

Section 45 Violation of safety regulations

- 1 If the policyholder violates any of the safety regulations, the insurer shall be liable only if and to the extent that the policyholder is able to prove that the loss or damage cannot be assumed to have been caused by violation of safety regulations or that the violation of safety regulations cannot be assumed to have resulted from negligence on the part of the policyholder.
- 2 The insurer's right to terminate the contract is regulated by section 78.

Policyholder's action in the event of threatening casualty or after casualty

Section 46 Prevention of loss or damage

- 1 If a casualty threatens or has occurred, the policyholder shall
 - (a) to the best of his ability take the necessary action in an effort to avert or minimise the loss or damage;
 - (b) take the necessary action by, for example, securing collateral and evidence to preserve his rights against a third person where such third person is or can be assumed to be liable to pay compensation or liable to contribute to general average; and
 - (c) where possible, comply with instructions given by the insurer in consequence of the loss or damage.
- 2 If the policyholder either intentionally or through gross negligence fails to take the action referred to in the first subsection, the insurer shall be liable to cover only the loss or damage that can be assumed to have occurred if the preventive action had been correct or if the instructions had been complied with.

Section 47 Notification to insurer

- 1 If a casualty or another insured event threatens or has occurred, the policyholder shall
 - (a) as soon as possible notify the insurer or the insurer's average agent in the place where the loss or damage occurred of the

event and keep him notified of the developments; and
(b) notify the insurer or his agent in good time before a protest or a survey.

- 2 If the policyholder intentionally or through gross negligence fails to take the action referred to in the first subsection and if it can be assumed that the insurer has not been able to prevent or minimise the consequences of the occurrence because of the failure or if the insurer has sustained other harm, the insurer shall only be liable to cover the loss or damage that can be assumed to have occurred even if the duty of notification had been met.
- 3 A casualty or another insured event shall be deemed to have come to the knowledge of the policyholder at the time the event is entered in the vessel's logbook.

Section 48 Average survey

- 1 If the vessel has sustained a loss or damage that can be assumed to be covered by the insurance, the vessel shall be surveyed at the earliest opportunity and, as far as possible, as directed by and in the presence of the insurer. If such directions cannot be obtained owing to the circumstances and the loss or damage is significant, the master shall have the vessel surveyed in compliance with the prevailing practice.
- 2 Any loss or damage caused to the vessel by a third party shall be surveyed jointly with the third party's representative, where possible. The same shall apply to loss or damage caused by the insured vessel to a third party.
- 3 The surveyor shall, where possible, establish the cause of the loss or damage, the date and hour of the occurrence, the extent of the loss or damage and the most convenient repair method, and estimate the cost of repairs.
- 4 If the policyholder intentionally or through negligence fails to take the action referred to in the first, second and third subsections, the insurer shall only be liable to cover the loss or damage that can be assumed to have occurred had the survey been performed in the right manner.
- 5 Should the insurance cease to be in force and should no new insurance be taken out on the same conditions from the same insurer, the policyholder shall, if he wishes to claim compensation for any loss or damage, have the vessel surveyed at the termination of cover in accordance with the first, second or third subsection. If this is not done, no loss or damage discovered after the termination of cover shall be deemed compensable by the insurer, unless the policyholder is able to prove that the loss or damage has occurred while the insurance was in force.

Identification

Section 49 Scope of identification rules

Identification between the policyholder and his assistants shall be determined in accordance with section 50 in all respects other than the policyholder's duty of disclosure specified in section 27. Identification under insurance covering a third party's interest is regulated by sections 83 to 85.

Section 50 Identification between the policyholder and his assistants

- 1 The insurer may invoke against the policyholder intent or negligence on the part of the policyholder's board of directors, managing director or deputy managing director. The same shall apply to the board, managing director or deputy managing director of a company that is part of the same group as the policyholder.
- 2 If the policyholder is an unlimited partnership or a limited partnership, the insurer may invoke against the policyholder intent or negligence on the part of the responsible partner. The same shall apply to intent or negligence on the part of the principal owner of a shipping partnership and on the part of the policyholder himself if he is an independent entrepreneur. If the responsible partner or the principal owner works as a company, the provisions of the first subsection shall, where applicable, be complied with.
- 3 The insurer may invoke against the policyholder intent or negligence on the part of any person outside the policyholder company or policyholder group to whom the policyholder has delegated decision-making powers in matters which are of material importance for the insurance cover. Such intent or negligence shall relate to exercise of the decision-making powers.
- 4 The insurer may not invoke against the policyholder intent or negligence on the part of the master of the vessel, any member of the crew, or any other person working for the vessel in connection with their service as seamen.
- 5 If the policyholder works onboard the vessel, the insurer may not invoke negligent action on the part of the policyholder, if such action is connected with his service as seaman.
- 6 If any safety regulation incorporated into the insurance contract in accordance with item (b) of the first subsection of section 44 has not been complied with, intent or negligence on the part of any person who is responsible on behalf of the policyholder to comply with the safety regulation or to supervise compliance therewith shall be identified with intent or negligence on the part of the policyholder as provided in the first subsection. The same shall apply to cases where such person is performing a service as seaman as referred to in the fourth subsection.
- 7 The provision in the sixth subsection shall also be complied with in situations where the regular survey referred to in the second subsection of section 44 has not been performed.
- 8 The status of co-owners of the ship shall be governed by the second subsection of section 84.

Insurance premium

Section 51 Payment of insurance premium

- 1 The policyholder shall be responsible for the payment of the insurance premium. The premium on a time policy shall fall due on the date of inception and the premium on a voyage policy shall fall due as soon as the contract is concluded. The premium on an annual policy is paid quarterly in advance in equal instalments. The instalments shall fall due on the first day of each quarter.

- 2 The insurer may agree to a due date other than that provided in the first subsection or the parties may agree on the due date by inserting an entry thereof on the premium invoice or in any other manner.
- 3 Any additional premium shall fall due as soon as the contract has been concluded.
- 4 If the premium on an annual policy is to be calculated for a period shorter than a year, the premium shall be calculated by dividing the full-year premium with the actual number of days included in the year and by multiplying the daily premium thus obtained by the number of days during which the insurance was in force.
- 5 The insured's obligation to pay insurance premiums is regulated by section 82.

Section 52 Delayed payment of insurance premium

- 1 If an insurance premium is not paid by the due date, the insurer may give written notice to terminate the insurance after seven days. The insurer shall be entitled to terminate the insurance regardless of the reason for the late payment.
- 2 If an insurance premium is not paid at the due date, penalty interest shall be paid for the period of the delay as provided in section 4 of the Interest Payment Act.
- 3 If the insurance premium is paid during the period of notice together with the penalty interest accrued, the notice of termination shall be without effect. The insurer shall mention this option in his notice of termination.
- 4 If an insurance premium is paid together with the penalty interest after the period of notice has expired, cover shall continue only if the insurer specifically consents thereto. Otherwise the insurance shall cease to be in force and the insurer shall only be entitled to a premium that would have been payable if the insurance had been granted, in respect of time policies, for the period during which it actually was in force and, in respect of voyage policies, for the shorter voyage during which it was in force.

Section 53 Lay-up returns

- 1 In accordance with the provisions of this section and the special conditions attached to the insurance contract, a return of premium is made on an annual policy for the period during which the vessel is laid up, prevented or otherwise withdrawn from service at a place approved by the insurer for at least 15 consecutive days. The lay-up period is calculated to begin at 00.00 on the day that follows the vessel's arrival at the approved place and end at 24.00 local time on the day preceding the vessel's departure. The lay-up period shall not be deemed to include the time needed for discharging or loading of cargo.
- 2 No return of premium is made if a recoverable total loss has occurred during the insurance period or if the insurer has during the same insurance period paid or is due to pay a claim for an amount which is larger than double the annual premium.
- 3 The lay-up period shall not be deemed to be interrupted by the vessel being moved in the port area. Neither shall the lay-up period of the vessel with no cargo be deemed to be interrupted by the vessel being moved to another approved port for the sole purpose of continuing lay-up in that port, but a full

premium shall be charged for the days needed for the removal. If the insurance period ends and a new insurance granted by the same insurer comes into force while the vessel is laid up, the return of premium shall be calculated for the full period during which the vessel is laid up.

- 4 If the vessel is repaired on account of a recoverable damage while laid up for at least 15 consecutive days, the number of days estimated to be needed for the repair of the damage shall be deducted from the lay-up period, and return of premium shall be made for the remaining lay-up period.
- 5 The return of premium shall be calculated at the end of the relevant insurance period. The policyholder shall submit his request for a return of premium in writing to the insurer within three months after the expiry of the insurance period. The request shall be accompanied by a specification of the lay-up and other circumstances of importance for the matter.
- 6 If the vessel is lying idle at a sheltered port for at least 15 consecutive days because of a strike or traffic congestion or waiting for orders, return of premium shall be made for the idle period, calculated on a pro rata temporis basis, yet for no more than half the annual premium.
- 7 No return of premium shall be made for any period during which the vessel is laid up or withdrawn from service while within excluded waters in accordance with section 41 or drydocked in a shipyard.

Section 54 Lapsing of insurable interest

If the policyholder's interest in the vessel terminates after the attachment of the insurer's liability for any reason other than change in ownership of the vessel, the insurance shall terminate. The insurer shall then be entitled to a premium that would have been payable if the insurance had been granted, in respect of time policies, for the period during which it actually was in force and, in respect of voyage policies, for the shorter voyage during which it was in force.

Compensation criteria and payment of claims

Section 55 Proof of loss and of its extent

- 1 If the policyholder claims compensation for any loss or damage, he shall prove that the loss or damage is recoverable and provide evidence of the extent of the loss or damage.
- 2 Subject to what is provided in these FHC 2001 Conditions, the insurer shall prove that the loss or damage has been caused by an event which is not covered by the insurance.

Section 56 Deductible

- 1 Whenever a claim is paid, the amount of the deductible mentioned in the insurance policy, applicable to full hull insurance (1/1 hull), shall be deducted from the claim. Any loss or damage occurred after the vessel's departure from a port and before the vessel's arrival at the next port and resulting from storm or navigation in ice shall be deemed to be one occurrence unless it is proved that the loss or damage is made up of several occurrences.

- 2 Notwithstanding the above, no deductible shall be applied to total loss, general average contribution, intentional sacrifice made and direct expense incurred in efforts made to salvage the vessel not carrying cargo provided that such sacrifice or expense would have been covered as general average had the vessel carried cargo, or to any of the prevention expenses referred to in section 64 and expenses arising from establishment of the loss or damage and from calculation of compensation due.
- 3 The deductible shall be deducted only after deduction of all other deductions provided in these FHC 2001 Conditions or in the insurance contract.

Section 57 Time and method of repairs

- 1 Before arranging for repairs of any damage that the insurer can be assumed to be liable for, the policyholder shall, where possible, agree with the insurer on the date and place of repairs and on the applicable method.
- 2 The insurer shall be entitled to decide on the parties to be invited to tender for the repairs and direct that the lowest tender be accepted. Notwithstanding this, such decision shall be both equitable and appropriate for the policyholder.
- 3 When the tenders received are compared, the cost of the removal, if any, of the vessel shall be added to the amounts of the tenders. The insurer shall be entitled to limit his liability to the lowest amount tendered, plus the cost of the removal of the vessel and 20 per cent per annum of the sum insured for hull insurance purposes calculated for the time that the policyholder saves by accepting another tender. If the policyholder has equitable grounds for opposing repairs at any particular shipyard that has tendered for the repairs, he shall be entitled to demand that the tender concerned be ignored.
- 4 If repairs are deferred without the insurer's written consent by longer than one year, the insurer shall not be liable for any increase in the cost of repairs resulting from price increase due to the deferral. If repairs are not made within six years from the date of the casualty, the policyholder's right to compensation is forfeited, subject to what may have been specifically agreed.
- 5 If complete repairs are likely to result in excessive costs and if it is possible by less extensive repairs or by use of material other than the original material to restore the vessel into a seaworthy condition and maintain its class, the insurer covers only the cost of such less extensive repairs. Notwithstanding this, the insurer shall be liable for the loss in the value of the vessel as a result of such less extensive repairs instead of complete repairs.
- 6 The cost of replacement of a propeller or of any metal part of the hull shall be covered only if it is not possible to fair, weld, join or otherwise repair the propeller or the hull part at a lower cost or if such replacement is required by the classification society or by the competent authority.
- 7 If the repairs are made more thoroughly or by use of material stronger or otherwise more expensive than is needed for restoring the vessel to the condition it was in before the casualty, the insurer covers the repair costs only after deduction of an equitable amount on account of the additional costs incurred.
- 8 If the repairs are made at a higher cost in an effort to gain time

or if other additional expenses are incurred for this reason, the additional costs shall be covered only if the repairs have saved the insurer other expenses.

- 9 If satisfactory repairs can be made at a lower cost or more appropriately at a repair place other than the place where the vessel is, the policyholder may not oppose removal of the vessel, provided that the vessel can be removed without any major inconvenience to the policyholder and that the insurer covers the cost of such removal in addition to the cost of repairs.
- 10 If the policyholder fails to obtain the insurer's instructions in the cases mentioned above or comply therewith, the insurer shall not be liable for any additional costs arising therefrom.

Section 58 Bottom painting

- 1 The insurer covers the cost of painting any submarine parts of the vessel to the extent that such parts are affected by repairs of damage covered by the insurance.
- 2 Compensation for damage caused to the vessel by ice in accordance with the first subsection of section 9 shall not include bottom painting or boottopping, unless the vessel has been painted with special paint for navigation in ice.

Section 59 General expenses during repairs

- 1 After a recoverable casualty, compensation shall be paid for the period that the vessel is delayed by a survey or repairs of damage for all costs necessitated by the repairs such as harbour dues, cost of towage and pilotage to and from the shipyard, degassing, drydocking, watchmen from shore, electric current and water for the refrigerating machinery. Notwithstanding this, no compensation shall be paid for wages or maintenance of the vessel's master, officers or crew or any other costs of running the vessel.
- 2 In the event of a delay caused by the insurer in order to invite tenders for repairs or acceptance of tenders or in the event of removal of the vessel in accordance with the ninth subsection of section 57, compensation shall be paid not only for the costs listed in the first subsection but also for the loss of time due to the delay, the loss of time calculated from the date the invitation was sent to the date the tender was accepted at 20 per cent per annum of the sum insured for hull insurance purposes.
- 3 If during the period referred to in the first subsection any person other than a member of the shipowner staff engages in repair, maintenance or classification work which is not covered by the insurance, the policyholder shall notify the insurer of such work and of the nature and extent of the work. The recoverable general expenses referred to in the first subsection shall then be divided between the insurer and the policyholder in proportion to the time that would have been consumed to repair the recoverable damage separately and consecutively, on the one hand, and the time that would have been consumed to repair other damage separately and consecutively, on the other hand.

Section 60 Temporary repairs

- 1 The insurer shall pay compensation for costs arising from temporary repairs of recoverable damage, if permanent repairs

cannot at all or without significantly higher costs be made at the place where the vessel is and temporary repairs are needed for the removal of the vessel. In all other cases the costs of temporary repairs are covered only to the extent that other recoverable costs are thereby saved to the insurer.

- 2 Compensation shall also be paid for all temporary repairs needed in cases where permanent repairs are deferred at the request of the insurer.

Section 61 Compensation for unrepaired damage

- 1 Compensation for unrepaired damage shall be paid only if the policyholder proves that he has, in connection with the sale of the vessel, another change of owner or total loss, sustained a loss because of the damage. Such cases shall be governed, where applicable, by what is provided in these FHC 2001 Conditions about compensation for repairs and specifically what is provided in the fifth subsection of section 48, bearing in mind that the compensation shall not exceed the amount that would have been payable for the damage, excluding docking and other costs, if repairs had been made. When the damage is estimated, agreement between the policyholder and a third party shall not constitute sufficient proof of the extent of the loss or damage.
- 2 The policyholder shall not be entitled to transfer his right to receive compensation from the insurer for any unrepaired damage.

Section 62 Compensation for loss or damage sustained while the insured vessel has been used for salvage

- 1 The right to compensation for loss or damage sustained by the vessel while used for salvage is regulated by section 40.
- 2 The insurer's liability to pay compensation shall terminate to the extent that the loss or damage is covered by the salvage award or other remuneration. If it does not cover the full amount of the loss or damage, the remuneration shall be divided between the insurer and the policyholder in proportion to the recoverable part of the loss or damage and the nonrecoverable part of the loss or damage to the vessel. If the insurer has paid the underlying claim before the remuneration is paid, the insurer shall be subrogated to the policyholder's right to the remuneration accordingly.
- 3 No damage to towing or mooring gear shall be covered by the insurer.

Section 63 Compensation for total loss

- 1 Compensation for total loss shall amount to the agreed value of the vessel as provided in section 22.
- 2 If the insurer pays compensation for total loss, he shall be entitled to the policyholder's right to the vessel, unless the insurer waives this right before paying the claim. If the insurer waives this right, he shall not be entitled to deduct the salvage value, if any, of the vessel from the amount of compensation. If the vessel is transferred to the insurer, the policyholder shall deliver all available documents concerning the vessel together with a deed of transfer to the insurer.

3 In paying compensation for total loss, the insurer shall be entitled to deduct any unpaid premiums not fallen due on the insurance. If the insurance has been taken out as a time policy for a period less than a year or as a voyage policy and the full-year premium is mentioned in the policy, the difference between the annual premium and the premium already paid shall be deducted from the total loss compensation.

Section 64 Loss prevention costs

- 1 The insurer covers any reasonable expenses or sacrifice arising from unexpected, unusual and justifiable action taken, when a recoverable casualty has occurred or is impending, in an effort to minimise or avert recoverable loss or damage which is not general average and does not result from salvage of a vessel carrying no cargo in circumstances where the loss or damage would, according to the York-Antwerp Rules 1994, be recoverable as general average if the vessel had carried cargo.
- 2 Regardless of what is provided in the first subsection, the insurer covers the policyholder's liability to pay a salvage award even if the general average rules were not applied as provided in section 12 or even if the insurance had not been agreed to cover general average as provided in section 12. Compensation shall then be paid only to the extent that the salvage award relates to salvage of the vessel. The insurance shall not cover other participants' contributions to the salvage award.

Section 65 Limits of compensation

- 1 The insurer shall be liable for any loss or damage sustained by the vessel, subject to the exclusions provided in these FHC 2001 Conditions, up to the sum insured for hull insurance purposes per any one occurrence.
- 2 Even if the sum insured for hull insurance purposes were exceeded, the insurer shall be liable to pay compensation for the following expenses, to the extent that they are covered by the insurance:
 - (a) loss prevention expenses in accordance with section 64 up to a separate compensation limit which equals the sum insured for hull insurance purposes;
 - (b) the vessel's contribution to general average;
 - (c) reasonable cost of securing rights to compensation from a third party and of defending claims made by a third party and of providing collateral for damages claimed;
 - (d) reasonable cost of providing collateral for the vessel's contribution to salvage award;
 - (e) cost of average adjustment; and
 - (f) interest in accordance with section 72.
- 3 In addition to what is provided in the first and second subsections, the insurer shall per any one occurrence be liable for compensation payable for each separate loss or damage under the policyholder's collision liability as provided in section 13, including interest and costs incurred or sacrifices made to avert and minimise such loss or damage, up to the sum insured for hull insurance purposes.
- 4 If the insurer is liable to pay compensation for only part of the loss or damage caused by a combination of perils as referred to in section 16, the insurer's liability shall be limited to a

corresponding part of the maximum amounts of compensation mentioned in the first, second and third subsection.

Section 66 Insurance against extended collision liability

Contrary to what is provided in the third subsection of section 65, the vessel can be insured under a separate policy against collision liability of the kind referred to in section 13 up to the limit of liability for the vessel.

Section 67 Insurer's right to be discharged from further liability

- 1 After the occurrence of loss or damage, the insurer shall be entitled to be discharged from further liability by paying
 - (a) the full sum insured;
 - (b) the amount that may be claimed in excess of the above in order to ensure that the policyholder's liability to a third party is fulfilled, also up to the sum insured under the hull policy and up to such increased amount as may have been agreed upon according to section 66; and
 - (c) any expense or reasonable sacrifice that the policyholder has incurred or made or committed himself to in order to avert or minimise a loss before receipt from the insurer of a notice that the insurer wishes to exercise the right referred to hereunder.
- 2 In the cases referred to in the first subsection, what remains of the insured object shall not be credited in favour of the insurer. The principle of indemnity referred to in section 17 shall be applied to the assessment of the amount of compensation due.
- 3 If the insurer exempts himself from further liability, he shall be entitled to all unpaid premiums which have not fallen due on the insurance. If the insurance has been taken out as a time policy for a period less than a year or as a voyage policy and the full-year premium is mentioned in the policy, the difference between the annual premium and the premium already paid shall be deducted from the mentioned compensation.

Section 68 Excluded expenses

- 1 The insurer shall not pay compensation for the policyholder's efforts, travel expenses, costs of agent's services or any other expenses incurred by the policyholder while securing his own interests in connection with any loss or damage or repairs.
- 2 Where no compensation is paid for loss or damage sustained by the insured object, no compensation shall be paid for any expenses arising from the loss or damage either.

Claims and claims handling

Section 69 Policyholder's duty of disclosure in connection with a claim

- 1 The policyholder shall as soon as is possible after the occurrence of a recoverable casualty give the insurer all such documents and information as may be of importance for the assessment of the insurer's liability and as are reasonably obtainable.
- 2 If after the occurrence of a recoverable casualty the policyholder fraudulently discloses, fails to disclose or conceals any

circumstance which is of importance for the assessment of the casualty or another insured event, his right to compensation for the casualty or event is forfeited, unless it is deemed reasonable under the circumstances that compensation or partial compensation shall nonetheless be paid.

- 3 When claiming compensation for the occurrence of a recoverable casualty, the policyholder shall give the insurer at the insurer's request any such information as may be needed on any other insurance policies that the policyholder may have taken out to insure the same interest against the same risk. Failing this, and in the absence of such information given earlier, the insurer is exempted from liability.

Section 70 Insurer's claims handling

- 1 The insurer shall pay claims in accordance with the insurance contract within one month from the date of receipt by the insurer of the notification of the occurrence of a recoverable casualty. If the notification is not accompanied by the documents and information mentioned in the first subsection of section 69, the insurer shall pay the claim within 14 days from the date of receipt by the insurer of such further information.
- 2 If the amount of the claim is contested, the insurer shall nonetheless pay the uncontested portion of the claim within the period mentioned in the first subsection.
- 3 If the claim is not paid within the period mentioned in the first subsection, the insurer shall pay penalty interest on the claim in accordance with section 4 of the Interest Payment Act, calculated from the date at which the claim should have been paid at the latest.

Section 71 Payment of general average claim

If any loss or damage is attributable to general average and is therefore to be covered in full or in part by a third party as a participant in the average, the policyholder shall be entitled, without waiting for the average adjustment, to receive compensation from the insurer for the loss or damage sustained under this insurance, provided that the policyholder has taken all the measures that may be required for preserving and securing the right to general average contribution from any other party to the average. If the general average contribution is not forthcoming because of failure to take such measures, the policyholder shall be liable to the insurer for the average contribution that is thus not received.

Section 72 Interest on average expenses

The insurer shall pay annual interest in accordance with the second subsection of section 3 of the Interest Payment Act on all recoverable average expenses paid by the policyholder as a result of a particular average, calculated from the date at which the invoice was paid to the date at which the insurer pays compensation.

Section 73 Advances and collateral

- 1 The insurer shall not be obliged to advance any recoverable average expenses incurred by the policyholder. If the insurer, nonetheless, makes such an advance, he shall be entitled to annual interest on the advance in accordance with the second

subsection of section 3 of the Interest Payment Act, calculated from the date the advance is made to the date the claim is paid.

- 2 If a third party makes a claim against the policyholder for salvage award or damages and if collateral is required in order to prevent arrest or secure release of the vessel, the insurer shall provide the collateral, providing the claim can be deemed to be covered by the insurance. The insurer shall not, however, be obliged to provide collateral to secure a claim for a salvage award for an amount any higher than the vessel's share of the salvage award.
- 3 An advance made or a collateral provided by the insurer may not be invoked as evidence of the insurer's liability.

Section 74 Set-off against policyholder's liabilities

- 1 The insurer shall be entitled to set off any advance, compensation or return of premium to be paid to the policyholder against any sum that has fallen due for payment by the policyholder.
- 2 The insurer's right of set-off against the insured's liabilities is regulated by section 86.

Section 75 Currency applicable to average expenses

- 1 Compensation for average expenses denominated in euros shall be paid in euros regardless of the currency in which the insurance contract was concluded.
- 2 If any average expenses denominated in a currency other than the euro have been paid in a currency other than the currency of the insurance contract, compensation for the expenses shall be paid in euros. The amount shall be converted into euros at the official selling rate quoted or at another rate deemed reasonable on the date at which the average expenses were paid or, if payment has been delayed with no reasonable cause and the exchange rate has risen, at the rate quoted on the date at which the average expenses should have been paid. If the insurer pays compensation for average expenses which have not been paid, the amount shall be converted into euros at the exchange rate quoted on the date of issue of the insurer's adjustment.
- 3 If the currency of average expenses is the same as the currency of the insurance contract but other than the euro, compensation shall be paid in the currency of the insurance contract.
- 4 Average expenses shall also refer to the policyholder's contribution to general average.

Claims and limitation

Section 76 Time limit for making a claim to insurer

The policyholder's right to compensation is forfeited, if no claim is made to the insurer within one year from the date at which the policyholder, master or chief engineer discovered or should have discovered the loss or damage, yet within three years at the latest from the occurrence of the loss or damage.

Section 77 Time limit for claim adjustment

If the insurer has rejected a claim in full or in part, sections 90 to 92 shall apply.

Termination of contract

Section 78 Grounds for termination by insurer

1 The insurer shall be entitled to terminate the insurance contract before the expiry of the insurance period in the following cases:

- (a) where the vessel proves to be of such a weak or unsuitable construction that it cannot be deemed seaworthy for such trades or cargoes for which it is used;
- (b) where the vessel is used in such a manner as may, with regard to the type, size and draught and to the season of the year and other circumstances affecting the matter, be deemed to involve a risk different from the one contemplated when the insurance contract was concluded;
- (c) where the vessel has become unseaworthy as a result of a casualty or any other event and the policyholder does not have the vessel restored to a seaworthy condition within a reasonable time;
- (d) where the vessel enters excluded waters, without notifying the insurer and in circumstances where such deviation cannot be deemed permissible according to the second subsection of section 41, or where the policyholder fails to have the vessel surveyed as referred to in the fourth subsection of section 41 in case it enters excluded waters;
- (e) where the vessel is used for illegal imports or exports or for any other illegal purpose, unless the policyholder neither was nor should have been aware thereof at such a time that it would have been possible for him to intervene;
- (f) where war breaks out and the vessel is not insured against war risks or is insured against such risks for a lower sum or on conditions less comprehensive than those of the insurance contract;
- (g) where the policyholder insures the interest against the same perils with another insurer regardless of the fact that he has taken out a full hull insurance for an agreed value from the insurer;
- (h) where the policyholder has intentionally or through gross negligence caused or attempted to cause an occurrence of an insured event;
- (i) where the vessel is time-chartered to another person and that is deemed to involve a risk other than that contemplated at the time the insurance contract was concluded or where the policyholder bareboat charters the vessel or where the policyholder discontinues to be a bareboat charterer;
- (j) where the vessel is requisitioned by state authorities.

2 The insurer shall also be entitled to terminate the insurance contract before the expiry of the insurance period in the following cases:

- (a) where a majority holding in the shipping partnership that owns the vessel changes hands;
- (b) where a new manager is appointed to run the shipowner business or part thereof under a contract made with registered owner or chartered owner of the vessel for the account of either owner or where the principal owner of a shipping partnership changes;

- (c) where the policyholder is declared bankrupt; and
- (d) where the value of the vessel has changed substantially since the issuance of the insurance on account of business fluctuations.

3 In addition to what is provided in the first and second subsections, the insurer shall be entitled to terminate the insurance contract before the expiry of the insurance period in the following cases:

- (a) where the policyholder has given incorrect information at the time the insurance contract was concluded even in cases where he neither was nor should have been aware of the true circumstances;
- (b) where the risk has been increased by developments other than those listed in the first and second subsections;
- (c) where the policyholder has violated safety regulations and there is reason to fear that safety regulations will not be complied with in the future either;
- (d) where after the occurrence of an insured event the policyholder fraudulently gives the insurer incorrect or incomplete information which is of importance for the assessment of the insurer's liability.

4 The insurer's right to terminate the insurance contract on account of a delay in the payment of insurance premium is regulated by the first subsection of section 52.

Section 79 Grounds for termination by policyholder

1 The policyholder shall only be entitled to terminate the insurance contract on the grounds mentioned in the second subsection.

2 The policyholder shall be entitled to terminate the insurance contract before the expiry of the insurance period

- (a) where the insurer goes bankrupt, is put into liquidation or seeks debt adjustment;
- (b) where the policyholder bareboat charters the vessel to another person or where the policyholder discontinues to be a bareboat charterer;
- (c) where the value of the vessel has changed substantially since the issuance of the insurance on account of business fluctuations;
- (d) where the insurer fails to pay an undisputed portion of a claim in accordance with these FHC 2001 Conditions;
- (e) under the Insurance Companies Act in connection with a merger or a transfer of insurance portfolio.

Section 80 Notice of termination and period of notice

1 After becoming aware of the existence of any of the grounds for termination referred to in sections 78 and 79, the insurer or the policyholder shall without undue delay give written notice to terminate the insurance contract. If the insurer or the policyholder fails to do this, his right to give notice is forfeited. The insurer's right of termination shall not, however, be forfeited if the policyholder has fraudulently failed to fulfil the duty of disclosure according to section 27, 30 or 69. If the policyholder terminates the insurance contract under item (e) of the second

subsection of section 79, notice of termination shall, however, be governed by the Insurance Companies Act.

- 2 A written notice of termination shall explicitly state the grounds for termination and the date at which the contract is to terminate.
- 3 If the insurer terminates the insurance contract for any of the reasons mentioned
 - (a) in the first subsection of section 78, the insurance shall cease to be in force with immediate effect after the insurer has dispatched the notice of termination;
 - (b) in the first subsection of section 78, the insurance shall cease to be in force 14 days after the insurer has dispatched the notice of termination.
- 4 If the vessel is at sea at the termination of the insurance in accordance with the first, second or third subsection of section 78, cover shall continue until such time as the vessel is anchored or moored in the customary manner at the first port and for 24 hours following the arrival at the port.
- 5 In the cases mentioned in items (b) and (i) of the first subsection of section 78 and in items (a), (b) and (c) of the second subsection of section 78, the policyholder shall notify the insurer thereof without undue delay. Duty of notification in the case of double insurance shall be governed by section 23 and the third subsection of section 69.
- 6 If the policyholder terminates the insurance contract for any of the reasons mentioned
 - (a) in item (a) of the second subsection of section 79, the insurance shall cease to be in force with immediate effect after the policyholder has dispatched the notice of termination;
 - (b) in items (b), (c) and (d) of the second subsection of section 79, the insurance shall cease to be in force 14 days after the policyholder has dispatched the notice of termination;
 - (c) in accordance with item (e) of the second subsection of section 79, the insurance shall cease to be in force as provided in the Insurance Companies Act.

Section 81 Premium due on policy termination

- 1 If the insurance ceases to be in force before the expiry of the insurance period by reason of the insurer giving notice of termination in accordance with items (d), (e), (g) or (h) of the first subsection of section 78 or in the third subsection of section 78, the insurer shall be entitled to a premium that would have been payable if the insurance had been granted, in respect of time policies, for the period during which the policy actually was in force and, in respect of voyage policies, for the shorter voyage during which the policy was in force.
- 2 If the insurance ceases to be in force before the expiry of the insurance period for a reason other than those referred to in the first subsection, the premium shall be calculated only for the period during which the policy actually was in force.
- 3 The insurer shall return the part of the premium to which he is entitled according to the first or second subsection if he is not entitled to it.
- 4 Calculation of premium in cases where the insurance has been terminated by reason of a delay in the payment of premium is regulated by the first subsection of section 52.

Insured persons

Section 82 Insurance of mortgagee's or another third party's interest

- 1 The insurance shall not be in force in favour of another insured than the policyholder, unless a named insured has been endorsed on the policy or affixed as an addendum to the policy. Such other insured may be a mortgagee or another third party.
- 2 The provisions of these FHC 2001 Conditions concerning the policyholder shall also apply to the insured, subject to the following exclusions:
 - (a) the insured shall not be bound by the duty of disclosure imposed in section 27 in connection with the conclusion of the contract, unless he was aware that his interest was insured as provided in the first subsection;
 - (b) the insured shall not be obliged to pay any insurance premium, unless specifically so agreed;
 - (c) the insured shall not be entitled to any return of premium, unless he has paid the premium to which the return premium relates;
 - (d) the insured shall not be entitled to terminate the insurance contract before the expiry of the insurance period.

Section 83 Identification between the insured and his assistants

Identification between the policyholder and his assistants in accordance with sections 49 and 50 shall also apply to identification between the insured and his assistants.

Section 84 Identification with several insured persons

- 1 The insurer may not invoke against the policyholder or the insured intent or negligence on the part of another insured in respect of any of the circumstances referred to in section 49, unless such other insured has power of decision over the operation of the vessel. Identification similar to that applied to the policyholder according to section 50 shall be applied to such other insured.
- 2 Identification in accordance with the first subsection shall also apply to co-owners of the vessel.
- 3 If the insured is bound by the duty of disclosure imposed in item (a) of the second subsection of section 82, the first and second subsections shall apply to identification.

Section 85 Identification between policyholder and insured persons

The insurer may invoke the policyholder's intent or negligence against the insured providing, however, that what is provided in sections 49 and 50 is taken into account in respect of identification between the policyholder and his assistants.

Section 86 Right of set-off and status of insured persons

The insurer shall be entitled to set off any advance, compensation or return of premium due to the insured against any sum that has fallen due for payment by the policyholder.

Section 87 Insurance of specific interests

- 1 The insured may protect himself against the insurer's right of set-off by a separate insurance policy.
- 2 The insured shall be entitled on specifically agreed conditions to keep the policy in force by paying an unpaid insurance premium.
- 3 The insured may protect his interests by a separate policy to ensure that the insurer cannot deny his liability for loss or damage sustained by the insured as a result of action on the part of another insured in accordance with section 84. The same shall apply to the policyholder's action in accordance with section 85.
- 4 Under the policy taken out as provided in the third subsection, the insurer shall not be entitled to set off any amounts due from the policyholder or another insured.
- 5 Under the policy taken out as provided in the third subsection, the insurer shall not be entitled to reduce his liability or to be exempted from liability as referred to in section 23.
- 6 The policyholder may take out a separate policy to cover situations where the hull insurance is not in force owing to circumstances that depend on the insured. The insurer shall then have no right to reduce his liability or be exempted from liability as referred to in section 23.

Section 88 Duty to notify lien holders

The insurer shall notify lien holders of the termination of his liability and of any agreement or action which limits his liability only if he has specifically undertaken to do so.

Average adjustment

Section 89 Average Adjuster's adjustment of claim

If the insurer or policyholder so wishes while the insurer is handling a claim in accordance with section 70, the claim shall be referred for adjustment to the Finnish Average Adjuster.

Section 90 Average Adjuster's adjustment of rejected claim

- 1 If the insurer rejects a claim in full or in part, the insurer shall notify the policyholder that the policyholder shall refer the claim for adjustment to the Finnish Average Adjuster within a time limit under penalty of forfeiture of his right against the insurer. Such time limit shall be at least one year calculated from the date at which the policyholder received written notice of the insurer's decision and of this time limit.
- 2 The insurer shall attach to his decision on a claim appeal instructions which explicitly state the time limit within which the claim is to be referred for adjustment to the Finnish Average Adjuster.

Section 91 Average Adjuster's costs and fee

The insurer shall be liable for the expenses incurred by the Average Adjuster and for the Adjuster's fee, even in cases where the policyholder has requested adjustment, unless the policyholder's claim is manifestly unfounded.

Section 92 Costs incurred by the parties in connection with average adjustment

Either of the parties may present a claim to the effect that the other party be ordered to reimburse the costs incurred by the claiming party in connection with the average adjustment. The Average Adjuster may then order the other party to reimburse the costs incurred by the claiming party either in full or in part, with due consideration, where applicable, of what is provided in the Code of Judicial Procedure about reimbursement of legal expenses. This shall not, however, apply to expenses incurred by the Average Adjuster or to the Adjuster's fee.

Annex

TRADING WATERS

1. The following trading waters are excluded from the insurance:

- (1) arctic waters north of 72°00' northern latitude and east of 45°00' eastern longitude as well as Greenland and Jan Mayen;
- (2) eastern coast of North America with rivers and islands north and west of the line drawn from 55°00' northern latitude and 60°00' western longitude to the southern end of the cape of Greenland;
- (3) western coast of North America with rivers and islands north of 54°30' northern latitude and west of 130°50' western longitude;
- (4) the Behring Sea and East Asian waters north of 46°00' northern latitude and west of 180°00' longitude and therefrom north of the line 54°30' northern latitude and 150°00' western longitude, thereafter waters north of 54°30' northern latitude up to 130°50' western longitude;
- (5) waters south of 50°00' southern latitude as well as the Prince Edward Islands, Crozet Islands and Kerguelen Islands, providing, however, that waters needed to go round the Cape Horn and through the Magallanes Strait and to the Falkland Islands are included in the trading waters, and
- (6) waters where lights have been extinguished or light vessels withdrawn owing to ice conditions.

2 Conditional trading waters include the following:

- (1) the White Sea within the line drawn from Cape Sviatoi to Cape Kanin during 1 November to 11 May;
- (2) the St. Lawrence Estuary within the lines drawn from Cape St. Charles to Cape Bauld, from Cape North to Cape Ray and from Port Mulgrave to Port Hastings and the St. Lawrence Seaway east of Montreal during 1 December to 5 April;
- (3) the Great Lakes and waters west of Montreal;
- (4) waters from Cape St. Charles up to 55°00' northern latitude.

If you have any questions,
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