

# STANDARD DUTCH CLAUSES FOR BUILDERS' RISKS 1995

<b>1</b>	<b>INSURED VALUE</b>	<b>1</b>
1.1	Whereas the value stated in the policy is provisional, it is agreed that the final contract price, or the total building cost, whichever is the greater, of the subject-matter of this insurance shall be the insured value.	2 3
1.2	Should the insured value, determined as above,	4
1.2.1	exceed the provisional value stated in the policy, the assured agree to declare to the underwriters hereon the amount of such excess and to pay premium thereon at the full policy rates, and the underwriters agree to accept their proportionate shares of the increase,	5 6 7
	or	8
1.2.2	be less than the provisional value stated in the policy, the sum insured by this insurance shall be reduced proportionately and the underwriters agree to return premium at the full policy rates on the amounts by which their respective lines are reduced.	9 10
1.3	Nevertheless, should the insured value exceed 125 % of the provisional value, then the limits of indemnity under this insurance shall be 125 % of the provisional value, any one accident or series of accidents arising out of the same event.	11 12
1.4	Notwithstanding the above it is understood and agreed that any variation of the value for insurance on account of a material alteration in the plans or fittings of the vessel or a change in type from that originally contemplated does not come within the scope of this clause and such variation requires the specific agreement of the underwriters.	13 14 15
<b>2</b>	<b>SCOPE OF INSURANCE</b>	<b>16</b>
2.1	<b>Construction rebuilding or repair</b>	17
2.1.1	The subject-matter of this insurance is covered whilst under construction rebuilding or repair	18
2.1.1.1	at the yard or yards and/or on the premises of the builders and/or repairers, as mentioned in the policy, and	19
2.1.1.2	every object, destined to become part of the subject-matter insured, also at the yard or yards and/or on the premises and/or in factories and/or buildings of sub-contractors co-contractors or suppliers and/or anywhere else within the country in which the principal yard and/or yards and/or premises is/are situated	20 21 22
	and whilst fitting out, docking and/or in all other situations, including tests and/or trials.	23
2.1.2	For the purpose of this policy the territory of The Netherlands, Belgium and Luxembourg is to be considered one country.	24
2.2	<b>Transits</b>	25
2.2.1	The subject-matter of this insurance is also covered whilst in transit between the locations mentioned in clause 2.1	26
2.2.2	Subject to the provision of clauses 2.2.3 and 2.2.4 hereinafter, raw and shaped materials, including finished objects and objects in course of construction, are covered during stay in yards, docks, workshops, on quays, in and/or on pontoons, craft and anywhere else in the world and whilst in transit between such locations, also if necessary for temporary storage or for any other purpose; provided always that the assured prove that the materials have been separated for the construction, rebuilding or repair of the subject-matter of this insurance or have been allocated thereto or are in some way or other recognizable as such.	27 28 29 30 31 32
	Templets, models, drawings and similar articles destined solely for the construction of the subject-matter of this insurance are for the purpose of this clause also to be considered materials.	33 34
2.2.3	Transports by land and/or by inland waterways and/or by air within the country of construction rebuilding or repair are covered without any additional premium.	35 36
	Shipments by sea and sendings from or to the countries outside the country of construction rebuilding or repair are covered without any additional premium as follows:	37 38
2.2.3.1	inward: from the moment at which the unloading from the last means of conveyance has started or so much later as the transport insurance placed elsewhere ends,	39 40
2.2.3.2	outward: up to the moment at which the loading into or on the first means of conveyance has finished or so much earlier as the transport insurance placed elsewhere commences.	41 42
2.2.4	Shipments by sea and other transits of materials not provided for under this clause 2.2 are covered provided previous notice be given to the underwriters and any additional premium required by them be agreed.	43 44
2.3	<b>Navigation</b>	45
2.3.1	With leave to proceed in tow or under own power to and from any wet or dry docks, harbours, ways, cradles and pontoons within the country of construction rebuilding or repair and to proceed in tow or under own power, loaded or in ballast, as often as required, for fitting out, docking, tests, trials or delivery, and if to sea within a distance by water of 250 nautical miles of the port or place where the vessel proceeds to the sea, or held covered at a premium to be arranged in the event of such distance being exceeded.	46 47 48 49 50
2.3.2	Any limitation of liability of the tug under the towage contract shall not prejudice the rights of the assured.	51
2.3.3	Held covered in case of deviation or change of voyage, provided notice be given to the underwriters immediately after receipt of advices and any amended terms of cover and any additional premium required by them be agreed.	52 53

<b>3</b>	<b>PERIOD OF INSURANCE</b>	<b>54</b>
3.1	Risk to commence from the date mentioned in the policy, but	55
3.1.1	if any work has been carried out before such date, the underwriters to be advised accordingly and premium to be revised if necessary;	56 57
3.1.2	unless expressly agreed otherwise risk on machinery etc. to commence from the time of delivery at the yard or on the premises of the builders.	58 59
3.2	Risk to terminate at midnight of the day of delivery to owners if prior to expiry of the period mentioned in the policy, provided the vessel is in a port in the country of construction rebuilding or repair. If at that moment the vessel is not in such port, risk is to terminate at midnight of the day on which the vessel arrives in the first safe port in the country of construction rebuilding or repair, after the vessel has definitely been taken over by the owners.	60 61 62 63
3.3	If, however, after that moment any work and/or repair and/or alteration is still to be carried out, this insurance is to continue on the same conditions on behalf of such assured as is responsible for or interested in such work, repair or alteration, until said work, repair or alteration have been completed, but within the time limit mentioned in the policy.	64 65 66
3.4	Held covered at a premium to be arranged in the event of delivery to owners being delayed beyond the period mentioned in the policy, but in no case shall any additional period of cover extend beyond 30 days from completion of builders' trials and/or tests.	67 68
<b>4</b>	<b>PERILS</b>	<b>69</b>
4.1.1	Subject always to its terms, conditions and exclusions this insurance is against all risks of loss of or damage to the subject-matter insured caused and discovered during the period of this insurance including the cost of repairing replacing or renewing any defective part condemned solely in consequence of the discovery therein during the period of this insurance of a latent defect. In no case shall this insurance cover the cost of renewing faulty welds.	70 71 72 73
4.1.2	In no case shall this insurance cover loss of or damage to paint, coating or primer attributable to its inherent vice or nature and/or faulty or negligent application, treatment, processing, priming or finishing and/or deficient adhesion, wear and tear, corrosion or any action of corrosive substances, and/or caused by or arising from defects in and/or the nature and/or surface preparation of the materials to which the paint, coating or primer is applied.	74 75 76 77
4.2	In case of failure of launch, the underwriters to bear all subsequent expenses incurred in completing the launch, including any expenditure cost and the like appertaining thereto and/or proximately or remotely arising therefrom, including any expenses incidental to sticking or any other failure or accident in launching or to the relaying of ways and repair of any damage to ways and/or ground and/or any other property or materials belonging to the assured or others at the yard or elsewhere arising from any accident in launching or otherwise.	78 79 80 81 82
4.3	The extra expenses of a repeated test or trial trip to be paid if the assured prove that the repetition is solely the consequence of a damage recoverable under this insurance.	83 84
4.4	With leave to fire missiles, torpedoes and the like, but no claim to attach hereto for loss of or damage to same or to the vessel unless the accident results in the total loss of the vessel.	85 86
<b>5</b>	<b>EARTHQUAKE AND VOLCANIC ERUPTION EXCLUSION</b>	<b>87</b>
	In no case shall this insurance cover loss damage liability or expense caused by earthquake or volcanic eruption. This exclusion applies to all claims including claims under clauses 11, 13, 14, 15 and 18.	88 89
<b>6</b>	<b>POLLUTION HAZARD</b>	<b>90</b>
	This insurance covers loss of or damage to the vessel caused by any governmental authority acting under the powers vested in it to prevent or mitigate a pollution hazard, or threat thereof, resulting directly from damage to the vessel for which the underwriters are liable under this insurance, provided such act of governmental authority has not resulted from want of due diligence by the assured, the owners, or managers of the vessel or any of them to prevent or mitigate such hazard or threat. Master, officers, crew or pilots not to be considered owners within the meaning of this clause 6 should they hold shares in the vessel.	91 92 93 94 95
<b>7</b>	<b>FAULTY DESIGN</b>	<b>96</b>
	Notwithstanding anything to the contrary which may be contained in the policy or the clauses attached thereto, this insurance includes loss of or damage to the subject-matter insured caused and discovered during the period of this insurance arising from faulty design of any part or parts thereof but in no case shall this insurance extend to cover the cost or expense of repairing, modifying, replacing or renewing such part or parts, nor any cost or expense incurred by reason of betterment or alteration in design.	97 98 99 100
<b>8</b>	<b>DEDUCTIBLE</b>	<b>101</b>
8.1	No claim arising from a peril insured against shall be payable under this insurance unless the aggregate of all claims arising out of each separate accident or occurrence (including claims under clauses 11, 13, 14, 15 and 18) exceeds the amount of the deductible mentioned in the policy, in which case this sum shall be deducted. Nevertheless the expense of sighting the bottom after stranding, if reasonably incurred specially for that purpose, shall be paid even if no damage be found.	102 103 104 105
	This clause 8 shall not apply to	106
8.1.1	a claim for total and/or constructive and/or arranged and/or compromised total loss of the subject-matter insured	107
8.1.2	transit risks by sea or by air, provided an additional premium has been paid or, in the event of such claim, to any associated claim under clause 18 arising from the same accident or occurrence.	108 109

8.2	Claims for damage by heavy weather occurring during a single sea passage between two successive ports shall be treated as being due to one accident. In the case of such heavy weather extending over a period not wholly covered by this insurance the deductible to be applied to the claim recoverable hereunder shall be the proportion of the above deductible that the number of days of such heavy weather falling within the period of this insurance bears to the number of days of heavy weather during the single sea passage.	110 111 112 113 114
	The expression "heavy weather" in this clause 8.2 shall be deemed to include contact with floating ice.	115
8.3	The term "claim" in this clause 8 shall be construed as the gross claim, irrespective of any recovery from third parties.	116
8.4	Excluding any interest comprised therein, recoveries against claims which are subject to the above deductible shall be shared by the assured and the underwriters in the proportion that the above deductible bears to the difference between the aggregate of all claims and the total of the deductible.	117 118 119
8.5	Interest comprised in recoveries shall be apportioned between the assured and the underwriters, taking into account the sums paid by the underwriters and the dates when such payments were made, notwithstanding that by the addition of interest the underwriters may receive a larger sum than they have paid.	120 121 122
<b>9</b>	<b>UNREPAIRED DAMAGE</b>	<b>123</b>
9.1	The measure of indemnity in respect of claims for unrepaired damage shall be the reasonable depreciation in the market value of the vessel at the time this insurance terminates arising from such unrepaired damage, but not exceeding the reasonable cost of repairs.	124 125 126
9.2	In no case shall the underwriters be liable for unrepaired damage in the event of a subsequent total loss (whether or not covered under this insurance) sustained during the period covered by this insurance or any extension thereof.	127 128
9.3	The underwriters shall not be liable in respect of unrepaired damage for more than the insured value at the time this insurance terminates.	129 130
<b>10</b>	<b>CONSTRUCTIVE TOTAL LOSS</b>	<b>131</b>
10.1	In ascertaining whether the subject-matter insured is a constructive total loss, the insured value shall be taken as the repaired value and nothing in respect of the damaged or break-up value shall be taken into account.	132 133
10.2	No claim for constructive total loss based upon the cost of recovery and/or repair shall be recoverable hereunder unless such cost would exceed the insured value. In making this determination, only the cost relating to a single accident or sequence of damages arising from the same accident shall be taken into account.	134 135 136
<b>11</b>	<b>GENERAL AVERAGE AND SALVAGE</b>	<b>137</b>
11.1	This insurance covers the vessel's proportion of salvage, salvage charges and/or general average, reduced in respect of any under-insurance, but in case of general average sacrifice of the vessel the assured may recover in respect of the whole loss without first enforcing their right of contribution from other parties.	138 139 140
11.2	Adjustment to be according to the law and practice obtaining at the place where the adventure ends, as if the contract of affreightment contained no special terms upon the subject; but where the contract of affreightment so provides the adjustment shall be according to the York-Antwerp Rules.	141 142 143
11.3	When the vessel sails in ballast, not under charter, the provisions of the York-Antwerp Rules, 1994 (excluding rules XX and XXI) shall be applicable, and the voyage for this purpose shall be deemed to continue from the port or place of departure until the arrival of the vessel at the first port or place thereafter other than a port or place of refuge or a port or place of call for bunkering only. If at any such intermediate port or place there is an abandonment of the adventure originally contemplated the voyage shall thereupon be deemed to be terminated.	144 145 146 147 148
11.4	No claim under this clause 11 shall in any case be allowed where the loss was not incurred to avoid or in connection with the avoidance of a peril insured against.	149 150
<b>12</b>	<b>ASSIGNMENT</b>	<b>151</b>
	No assignment of or interest in this insurance or in any moneys which may be or become payable thereunder is to be binding on or recognised by the underwriters unless a dated notice of such assignment or interest signed by the assured, and by the assignor in the case of subsequent assignment, is endorsed on the policy and the policy with such endorsement is produced before payment of any claim or return of premium thereunder.	152 153 154 155
<b>13</b>	<b>COLLISION LIABILITY</b>	<b>156</b>
13.1	The underwriters agree to indemnify the assured for any sum or sums paid by the assured to any other person or persons by reason of the assured becoming legally liable by way of damages for	157 158
13.1.1	loss of or damage to any other vessel or property on any other vessel	159
13.1.2	delay to or loss of use of any such other vessel or property thereon	160
13.1.3	general average of, salvage of, or salvage under contract of, any such other vessel or property thereon,	161
	where such payment by the assured is in consequence of the vessel hereby insured coming into collision with any other vessel.	162

13.2	The indemnity provided by this clause 13 shall be in addition to the indemnity provided by the other terms and conditions of this insurance and shall be subject to the following provisions:	163 164
13.2.1	Where the insured vessel is in collision with another vessel and both vessels are to blame then, unless the liability of one or both vessels becomes limited by law, the indemnity under this clause 13 shall be calculated on the principle of cross-liabilities as if the respective owners had been compelled to pay to each other such proportion of each other's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the assured in consequence of the collision.	165 166 167 168
13.2.2	In no case shall the underwriters' total liability under clauses 13.1 and 13.2 exceed their proportionate part of the insured value of the vessel hereby insured in respect of any one such collision.	169 170
13.3	The underwriters will also pay the legal costs incurred by the assured or which the assured may be compelled to pay in contesting liability or taking proceedings to limit liability, with the prior written consent of the underwriters.	171 172
<b>EXCLUSIONS</b>		173
13.4	Provided always that this clause 13 shall in no case extend to any sum which the assured shall pay for or in respect of	174
13.4.1	removal or disposal of obstructions, wrecks, cargoes or any other thing whatsoever	175
13.4.2	any real or personal property or thing whatsoever except other vessels or property on other vessels	176
13.4.3	the cargo or other property on, or the engagements of, the insured vessel	177
13.4.4	loss of life, personal injury or illness	178
13.4.5	pollution or contamination of any real or personal property or thing whatsoever (except other vessels with which the insured vessel is in collision or property on such other vessels).	179 180
<b>14</b>	<b>SISTERSHIP</b>	181
14.1	Should the vessel hereby insured come into collision with or receive salvage services from another vessel belonging wholly or in part to the same owners or under the same management, the assured shall have the same rights under this insurance as they would have were the other vessel entirely the property of owners not interested in the vessel hereby insured; but in such cases the liability for the collision or the amount payable for the services rendered shall be referred to a sole arbitrator to be agreed upon between the underwriters and the assured.	182 183 184 185 186
14.2	This insurance also to cover loss of or damage to any property, not being another vessel, belonging wholly or in part to the assured, but not being or becoming part of the vessel hereby insured, whether the assured is responsible for such loss or damage or not, provided the loss or damage be caused by the vessel hereby insured and be discovered during the period of this insurance. The liability of the underwriters by virtue of clause 15 and the liability of the underwriters for claims mentioned in this clause 14.2 will for any event be limited to the amount for which clause 15 gives cover.	187 188 189 190 191
<b>15</b>	<b>PROTECTION AND INDEMNITY</b>	192
15.1	The underwriters agree to indemnify the assured for any sum or sums paid by the assured to any other person or persons by reason of the assured becoming legally liable, as owner of the vessel, for any claim, demand, damages and/or expenses, where such liability is in consequence of any of the following matters or things and arises from an accident or occurrence during the period of this insurance:	193 194 195 196
15.1.1	loss of or damage to any fixed or movable object or goods or merchandise or property or other thing or interest whatsoever, other than the vessel, arising from any cause whatsoever in so far as such loss or damage is not covered by clause 13	197 198
15.1.2	any attempted or actual raising, removal or destruction of any fixed or movable object or property or other thing, including the wreck of the vessel, or any neglect or failure to raise, remove, or destroy the same	199 200
15.1.3	liability assumed by the assured under contracts of customary towage for the purpose of entering or leaving port or manoeuvring within the port	201 202
15.1.4	loss of life, personal injury, illness or payments made for life salvage.	203
15.2	The underwriters agree to indemnify the assured for any of the following arising from an accident or occurrence during the period of this insurance:	204 205
15.2.1	the additional cost of fuel, insurance, wages, stores, provisions and port charges reasonably incurred solely for the purpose of landing from the vessel sick or injured persons or stowaways, refugees, or persons saved at sea	206 207
15.2.2	additional expenses brought about by the outbreak of infectious disease on board the vessel or ashore	208
15.2.3	finer imposed on the vessel, on the assured, or on any master officer crew member or agent of the vessel who is reimbursed by the assured, for any act or neglect or breach of any statute or regulation relating to the operation of the vessel, provided that the underwriters shall not be liable to indemnify the assured for any fines which result from any act neglect failure or default of the assured their agents or servants other than master officer or crew member	209 210 211 212
15.2.4	the expenses of the removal of the wreck of the vessel from any place owned, leased or occupied by the assured	213
15.2.5	legal costs incurred by the assured, or which the assured may be compelled to pay, in avoiding, minimising or contesting liability with the prior written consent of the underwriters.	214 215

<b>EXCLUSIONS</b>	<b>216</b>
15.3 Notwithstanding the provisions of clauses 15.1 and 15.2 this clause 15 does not cover any liability cost or expense arising in respect of:	217 218
15.3.1 any direct or indirect payment of the assured under workmen's compensation or employers' liability acts and any other statutory or common law, general maritime law or other liability whatsoever in respect of accidents to or illness of workmen or any other person employed in any capacity whatsoever by the assured or others in on or about or in connection with the vessel or her cargo materials or repairs	219 220 221 222
15.3.2 liability assumed by the assured under agreement expressed or implied in respect of death or illness of or injury to any person employed under a contract of service or apprenticeship by the other party to such agreement	223 224
15.3.3 punitive or exemplary damages, however described	225
15.3.4 cargo or other property carried, to be carried or which has been carried on board the vessel but this clause 15.3.4 shall not exclude any claim in respect of the extra cost of removing cargo from the wreck of the vessel	226 227
15.3.5 loss of or damage to property, owned by builders or repairers or for which they are responsible, which is on board the vessel	228
15.3.6 liability arising under a contract or indemnity in respect of containers, equipment, fuel or other property on board the vessel and which is owned or leased by the assured	229 230
15.3.7 cash, negotiable instruments, precious metals or stones, valuables or objects of a rare or precious nature, belonging to persons on board the vessel, or non-essential personal effects of any master, officer or crew member	231 232
15.3.8 fuel, insurance, wages, stores, provisions and port charges arising from delay to the vessel while awaiting a substitute for any master, officer or crew member	233 234
15.3.9 fines or penalties arising from overloading or illegal fishing	235
15.3.10 pollution or contamination of any real or personal property or thing whatsoever.	236
15.4 The indemnity provided by this clause 15 shall be in addition to the indemnity provided by the other terms and conditions of this insurance.	237 238
15.5 Where the assured or the underwriters may or could have limited their liability the indemnity under this clause 15 in respect of such liability shall not exceed underwriters' proportionate part of the amount of such limitation.	239 240
15.6 In no case shall the underwriters' liability under this clause 15 in respect of each separate accident or occurrence or series of accidents arising out of the same event, exceed their proportionate part of the insured value of the vessel.	241 242
15.7 PROVIDED ALWAYS THAT	243
15.7.1 prompt notice must be given to the underwriters of every casualty event or claim upon the assured which may give rise to a claim under this clause 15 and of every event or matter which may cause the assured to incur liability costs or expense for which he may be insured under this clause 15	244 245 246
15.7.2 the assured shall not admit liability for or settle any claim for which he may be insured under this clause 15 without the prior written consent of the underwriters.	247 248
<b>16 OTHER INSURANCE</b>	<b>249</b>
Should any loss or damage covered under this policy be insured under any other contract of insurance at the time such loss or damage arises, the present policy to be only supplementary and therefore only to cover an excess, if any, not covered under such other contract of insurance.	250 251 252
<b>17 NOTICE OF CLAIM</b>	<b>253</b>
In the event of loss damage liability or expense which may result in a claim under this insurance, prompt notice shall be given to the underwriters prior to repair, so that a surveyor may be appointed to represent the underwriters should they so desire.	254 255
<b>18 DUTY OF THE ASSURED (SUE AND LABOUR)</b>	<b>256</b>
18.1 In case of any loss or misfortune it is the duty of the assured and their servants and agents to take such measures as may be reasonable for the purpose of averting or minimising a loss which would be recoverable under this insurance.	257 258
18.2 Subject to the provisions below and to clause 8 the underwriters will contribute to charges properly and reasonably incurred by the assured their servants or agents for such measures. General average, salvage charges (except as provided for in clause 18.4) collision defence or attack costs and costs incurred by the assured in avoiding, minimising or contesting liability covered by clause 15 are not recoverable under this clause 18.	259 260 261 262
18.3 Measures taken by the assured or the underwriters with the object of saving, protecting or recovering the subject-matter insured shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.	263 264
18.4 When a claim for total loss of the subject-matter insured is admitted under this insurance and expenses have been reasonably incurred in saving or attempting to save the subject-matter insured and other property and there are no proceeds, or the expenses exceed the proceeds, then this insurance shall bear its pro rata share of such proportion of the expenses, or of the expenses in excess of the proceeds, as the case may be, as may reasonably be regarded as having been incurred in respect of the subject-matter insured.	265 266 267 268 269
18.5 The sum recoverable under this clause 18 shall be in addition to the loss otherwise recoverable under this insurance but shall in no circumstances exceed the amount insured under this insurance in respect of the vessel.	270 271

The following clauses shall be paramount and shall override anything contained in this insurance inconsistent therewith.	272
<b>19 WAR EXCLUSION</b>	273
In no case shall this insurance cover loss damage liability or expense caused by	274
19.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power	275
19.2 capture seizure arrest restraint or detainment (barratry and piracy excepted), and the consequences thereof or any attempt thereat	276 277
19.3 derelict mines torpedoes bombs or other derelict weapons of war.	278
<b>20 STRIKES EXCLUSION</b>	279
In no case shall this insurance cover loss damage liability or expense caused by	280
20.1 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions	281
20.2 any terrorist or any person acting from a political motive.	282
<b>21 MALICIOUS ACTS EXCLUSION</b>	283
In no case shall this insurance cover loss damage liability or expense arising from	284
21.1 the detonation of an explosive	285
21.2 any weapon of war	286
and caused by any person acting maliciously or from a political motive.	287
<b>22 NUCLEAR EXCLUSION</b>	288
In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from	289 290
22.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel	291 292
22.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof	293 294
22.3 any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.	295
<b>23 PENALTY EXCLUSION</b>	296
In no case shall this insurance cover financial losses, including but not limited to	297
23.1 penalties, fines	298
23.2 loss of earnings, demurrage	299
and the like, however described, arising directly or indirectly from the late delivery of the subject-matter insured, whether resulting from a physical loss or damage covered under this insurance or not.	300 301