

**SECTION A****01.01.08****RISKS INSURED:**

In consideration of the premium being paid as agreed hereunder, the Insurer will indemnify the Insured or the Insured's executors, administrators and/or successors for such loss and/or damage and/or expense as the Insured in respect of the vessel(s) named herein has become liable to pay and has paid in the capacity as agreed for the liabilities, risks, events and/or happenings described herein.

**1) Liabilities For Crew Members**

- I. Liability for loss of life or personal injury to or illness of any member of the crew of the vessel(s) named herein, excluding, unless otherwise agreed by an endorsement hereon, liability under any Compensation Act to any employee of the Insured, (other than a member of the crew) or in case of death to his beneficiaries or heirs.
- II. Liability for hospital, medical or other expenses necessarily and reasonably incurred in respect of loss of life, personal injury to or illness of any member of the crew of the vessel(s) named herein. Such liability shall include burial and repatriation expenses, when necessarily and reasonably incurred by the Insured.
- III. Liability for repatriation expenses of any member of the crew of the vessel(s) named herein, necessarily and reasonably incurred, under statutory obligation. There shall be no recovery where such expenses arise out of or ensue from the termination of any agreement in accordance with the terms thereof, or by mutual consent, or by sale of the said vessel(s), or by other act of the Insured. Wages shall be included in such expenses when payable under a statutory obligation, during unemployment due to the wreck or loss of a vessel named herein.
- IV. Liability for costs and expenses incurred in providing substitute crew where necessary, by reason of a loss insured under Section A 1) III.), above.
- V. Liability to pay damage or compensation for loss of or damage to the personal effects of any member of the crew. There shall be no recovery in respect of claims for cash, negotiable instruments, credit or charge cards, precious or rare metals or stones, jewellery or other valuables or objects of a rare or precious nature.

Where liability arises under the terms of a crew contract and would not have arisen but for those terms, that liability is not covered hereunder, unless and only to the extent that those terms shall have been approved by the Insurer in writing.

**2) Liabilities for Persons other than Crew**

Liability to pay damages or compensation for personal injury, illness or death of any person, other than the persons specified in Section A1) and hospital, medical or funeral expenses incurred in relation to such injury, illness or death, provided always that Cover under this Section is limited to liabilities arising out of a negligent act or omission on board or in relation to a vessel named herein or in relation to the handling of her cargo from the time of receipt of that cargo from the shipper or pre-carrier at the port of shipment until delivery of that cargo to the consignee or onward carrier at the port of discharge.



### **3) Liabilities for Damage caused to other Vessels**

- I. Liability for loss of or damage to any other vessel, craft, cargo or other property on such other vessel or craft, caused by collision with the vessel named herein, only insofar as such liability exceeds the Agreed Insured Hull Value of the vessel and its appurtenances immediately prior to such collision; or for such other proportion as may have been agreed in writing in advance by the Insurer.
  - a. Claims under this clause shall be settled on the principle of cross-liabilities.
  - b. Notwithstanding the foregoing, if any one or more of the various liabilities arising from such collision has been compromised, settled or adjusted without the written consent of the Insurer, the Insurer will be relieved of liability for any and all claims hereunder.
- II. Liability for loss of or damage to any other vessel, craft or to property on such other vessel or craft, not caused by collision, provided such liability does not arise by reason of a contract made by the Insured.

Where there would be a valid claim hereunder but for the fact that the damaged property belongs to the Insured, the Insurer will be liable as if such damaged property belonged to another but only to the extent of the excess over any amount recoverable under any other insurance relating to such property.

### **4) Liabilities for Loss or Damage to the Property of Third Parties**

Liability to third parties for damage to any dock, pier, harbour, jetty, buoy, lighthouse, breakwater, structure, beacon, cable, or to any fixed or movable object or property whatsoever, except another vessel or craft, or property on another vessel or craft.

Where there would be a valid claim hereunder but for the fact that the damaged property belongs to the Insured, the Insurer will be liable as if such damaged property belonged to another, but only to the extent of the excess over the amount recoverable under such other insurance(s) which may be in place.

### **5) Liabilities for the Removal of a Wreck**

Liability for the costs or expenses of, or incidental to, the removal of the wreck of a vessel named herein when such removal is compulsory by law, provided that:

- I. There shall be deducted from such claim for costs or expenses, the value of any salvage from or which might have been recovered from the wreck, inuring, or which might have inured, to the benefit of the Insured.
- II. The Insurer shall not be liable for such costs or expenses which would be covered by the Insured's Hull & Machinery policy as outlined in Section C clause (1) of this Policy or claims arising out of hostilities or war-like operations, whether before or after any declaration of war.

### **6) Liabilities in Respect of Cargo Carried on Board a Vessel**

Liability for claims, costs and expenses in respect of loss of or damage to cargo intended to be or being or having been shipped or carried on the vessel named herein arising as a result of a breach by the Insured of his obligations or duties as a carrier by sea.

All contracts of carriage entered into by the Insured shall be deemed for the purpose of this insurance subject to the Hague/Hague-Visby Rules or Hamburg Rules or equivalent domestic legislation or International Convention.



Liability hereunder will be limited to such as would exist if the Charter Party, Bill of Lading or Contract of Affreightment contained the following clause (in substitution for the clause commonly known as the New Jason Clause):

*“In the event of accident, danger, damage or disaster before or after commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequences of which, the ship-owner is not responsible, by statute or contract or otherwise, the shippers, consignees or owners of the cargo shall contribute with the ship-owner in General Average to the payment of any sacrifice, losses or expenses of a General Average nature that may be made or incurred, and shall pay salvage and special charges incurred in respect of the cargo.”*

When cargo is carried by a vessel named herein under a Bill of Lading or similar document of title subject or made subject to the Carriage of Goods by Sea Act, April 16<sup>th</sup> 1936 and the amendments thereto, liability hereunder shall be limited to such as is imposed by said Act, and if the Insured or a vessel named herein assumes any greater liability or obligation than the minimum liabilities and obligations imposed by such Act, such greater liability or obligation will not be covered under this insurance.

When cargo is carried by a vessel named herein under a charter party, Bill of Lading or Contract of Affreightment not subject or made subject to the Carriage of Goods by Sea Act, April 16 1936 and the amendments thereto, liability hereunder shall be limited to such as would exist if the said Charter party, Bill of Lading, or contract of affreightment contained the following clauses:

- I. a clause limiting the Insured's liability for total loss or damage to goods shipped to Two Hundred and Fifty (USD250) United States Dollars per package, or in the case of goods not shipped in packages, per customary freight unit, and providing for pro rata adjustment on such basis for partial loss or damage thereto.
- II. a clause exempting the Insured and a vessel named herein from liability for losses arising from un-seaworthiness, even though existing at the beginning of the voyage, provided that due diligence shall have been exercised to make the vessel seaworthy and properly manned, equipped and supplied.
- III. a clause providing that the Carrier shall not be liable for claims in respect of cargo unless notice of claim is given within the time limit in such Bill of Lading and suit is brought thereon within the limited time prescribed therein;
- IV. and such other protective clauses as are commonly in use in the particular trade; provided the incorporation of such clauses is not contrary to law.

The foregoing provisions as to the contents of the Bill of Lading and the limitation of the Insured's liability may, however, be waived or altered by the Insurer on such terms as may be agreed in writing.

The Insured shall not accept any duties or obligations greater than those which would be imposed on him under such a contract, or which represent any waiver of any right of limitation save and except with the prior written approval of the Insurer.

There shall be no recovery in respect of liabilities costs or expenses arising from:-

- I. The discharge and/or delivery of cargo at a port or place other than that named in the Bill of Lading or other contract of carriage;
- II. The discharge and/or delivery of cargo without production of the original Bill of Lading;



- III. The issue of an antedated or post-dated Bill of Lading for the loading of cargo on a date prior to or subsequent to the date on which cargo was actually loaded, shipped or received for shipment;
- IV. The issue of a Bill of Lading in which the quality and/or condition of cargo is improperly or inadequately described with the knowledge of the Master or Owner of the vessel;
- V. The carriage of cargo on-deck where under-deck Bills of Lading have been issued or the nature and/or value of the cargo or shippers instructions proscribe on-deck carriage;
- VI. The failure of the vessel to arrive or its late arrival at a port or place either to load or discharge cargo and/or its failure to load or to load a full and complete cargo;
- VII. The lien or sale of cargo or other property for any purpose;
- VIII. Inherent defect or other vice of the cargo or delay in delivery of the cargo or loss of market or import licence in respect of such cargo;
- IX. Loss or damage to property or cargo owned by the Insured or Affiliated/Associated Companies;
- X. Loss of or damage to or injury or sickness arising out of the carriage of livestock or other live animals whether on or under deck of the vessel.

### ***Ad Valorem Bills of Lading***

Unless and only to the extent that a special cover has been agreed in writing by the Insurer, there shall be no recovery in respect of any payments to cargo claimants of amounts exceeding whichever is the higher of USD2,500 per unit, piece or package or the limitation per unit, piece or package specified in the standard terms of carriage in respect of shipments of goods carried under an ad Valorem Bill of Lading, Waybill or other document containing or evidencing the contract of carriage in which the value of the relevant unit, piece of package has been stated to be in excess of USD2,500 or such sums as may be deemed the equivalent amount under domestic legislation or International Convention.

### ***Rare and Valuable Specie Cargo***

Unless and to the extent that special cover has been agreed in writing by the Insurer there shall be no recovery in respect of claims relating to the carriage of specie, bullion or rare items of a precious nature including bank notes or other forms of currency, bonds or other negotiable instruments.

### ***Heavy Lift Structures carried on-deck***

If the Insured with the agreement of the Insurer carries any structure on-deck, cover hereunder shall only apply if:

- I. the structure is separately insured under a cargo policy no less wide than the Institute Cargo Clauses 'A' (CL 252) or equivalent with the Insured being named as an Insured or Co-Insured under such policy; or
- II. in the contract of carriage the Insured has disclaimed all liability for loss of or damage to the structure carried howsoever arising and in addition has obtained an indemnity from the owners of the structure and a waiver of subrogation from any and all Insurers of the said structure including but not limited to responsibility for such removal of the structure howsoever or by whomsoever caused.



## **Reefer Cargo**

It is warranted reefer vessel machinery is Classed and Class maintained, and all parts of a refrigerated vessels machinery will remain in class during the policy period.

### **Paperless Trading Clause**

There shall be no recovery from the Insurer in respect of any liability, cost or expense whatsoever or howsoever arising, whether directly or indirectly, out of or in consequence of:

- I. the Insured's participation in or use of any system or contractual arrangement the predominant purpose of which is to replace paper-based documentation in shipping and/or international trade with electronic messages, including, without limitation, the Bolero system (any such system or arrangement being referred to in this clause as a 'paperless system'), or
- II. a document which is created or transmitted under a paperless system which document contains or evidences a contract of carriage, or
- III. the carriage of goods pursuant to such a contract of carriage,

save to the extent that the Insurer in its sole discretion may determine that such liability, cost or expense would have arisen and would have been covered by the Insurer if the Insured had not participated in or used a paperless system and any contract of carriage had been contained in or evidenced by a paper document.

For the purpose of this clause a 'document' shall mean anything in which Information of any description is recorded, including, but not limited to, computer or other electronically generated information.

## **7) Liabilities for Pollution**

Liability for claims and incidental expenses in relation to:-

- I. damages or compensation payable for pollution or the threat thereof, including costs and expenses incurred by the Insured in performing any measures reasonably taken to avoid, minimise or clean up pollution and any losses or damage incurred as a result of such measures;
- II. any measures reasonably taken to comply with the order of any Government or Authority to avoid, minimise or clean up pollution, unless such liabilities and incidental expenses are, or would but for the policy of insurance, be recoverable under other policies in respect of a Vessel named herein.

Under this clause, there shall be no recovery for liability for pollution or contamination arising out of waste dumping or incineration carried out from or on a Vessel named herein.

## **8) Fines and Penalties**

Liability for fines and penalties, including expenses necessarily and reasonably incurred in avoiding or mitigating the same. Provided, however the Insurer shall not be liable to indemnify the Insured against any such fines or penalties resulting directly or indirectly from the failure, neglect, or default of Insured or his managing officers or agents to exercise due diligence in preventing the same or to ensure compliance with such regulations as may become applicable in respect of the seaworthiness of vessels or to safety of life, property and the environment.



## **9) TOWAGE LIABILITIES**

- I. Liability under the terms of a contract for the customary towage of a Vessel, including:
  - a. towage for the purpose of entering or leaving port or manoeuvring within the port during the ordinary course of trading; or
  - b. towage of vessel(s) as are habitually towed in the ordinary course of trading from port to port or from place to place.
- II. Towage of a vessel named herein other than customary towage  
Liability under the terms of a contract for towage of a vessel other than customary towage covered under paragraph (I.) of this Section but only if and to the extent that cover has been agreed by the Insurer in writing hereon.
- III. Towage by a vessel named herein  
Liability arising out of towage of another vessel or object by a vessel named herein but only if and to extent:
  - a. cover for such liability has been agreed by the Insurer in writing. PROVIDED THAT unless agreed by the Insurer in writing such cover shall be deemed to exclude liability for all losses howsoever arising on the part of the vessel named herein for loss of, damage to, or wreck removal of the towed vessel or object or any cargo or property thereon or
  - b. such towage was necessary for the purpose of saving or attempting to save life or property at sea.

## **10) STOWAWAYS AND REFUGEES**

Subject to a Limit of Liability of USD50,000 each single voyage and subject always to the Combined Single Limit, cover is provided for liabilities and expenses incurred by the Insured in discharging his obligations towards or making necessary arrangements for deserters, stowaways, refugees or persons saved at sea, including rescue expenses, but only if and to the extent that the Insured is legally liable for the expenses or they are incurred with the agreement of the Insurer.

## **11) DIVERSION EXPENSES**

Expenses incurred as a result of diversion or delay of a vessel named herein (over and above the expenses that would have been incurred but for the diversion or delay) solely for the following purposes:

- I. Securing necessary treatment ashore of sick or injured persons aboard the vessel named herein.
- II. Awaiting a substitute for a sick or injured seaman who has been landed ashore for treatment.

## **12) LIABILITIES ARISING OUT OF LIFE SALVAGE**

Sums legally due to third parties by reason of the fact that they have saved or attempted to save the life of any person on or from a vessel named herein but only if and to the extent that such payments are not recoverable under the Hull & Machinery Policy of a vessel named herein or from cargo owners or underwriters.



### **13) General Average**

Liability for, or loss of, cargo's proportion of General Average, including special charges, in so far as the Insured cannot recover the same from any other source solely by reason of a breach of the contract of carriage; subject however, to the exclusions of Section A subsection 6) and provided that if the Charter Party, Bill of Lading, or Contract of Affreightment does not contain the New Jason Clause set out in Section A Subsection 6) in which case the Insurer's liability hereunder shall be limited to the extent as would have existed if such clause were contained therein.

### **14) Additional Contractual Liabilities**

Liabilities, costs and expenses insofar as such liabilities, costs and expenses would be covered under the other paragraphs of Section A, but which arise under the terms of an indemnity or contract made by the member.

#### **PROVIDED ALWAYS THAT:-**

- I. the terms of such indemnity or contract shall have been approved by the Insurer in writing and the Insured shall have undertaken to pay such additional premium as may be required by the Insurer
- II. cover under this paragraph shall be limited to such sum and to such of the liabilities, costs and expenses covered under Section A and not otherwise excluded in this policy as may be agreed from time to time between the Insured and the Insurer and endorsed thereon.

### **15) Special Cover for Salvors**

Liabilities, costs and expenses which an Insured being a professional salvor, may incur arising out of salvage operations performed or to be performed by the Insured and which arise out of the operation of and in respect of the Insured's interest in a vessel named herein where their vessel is a salvage tug or other vessel intended to be used in salvage operations, but only where such cover has been first agreed in writing with the Insurer and on such terms as the Insurers may think fit.

PROVIDED ALWAYS THAT such liabilities, costs and expenses relate to the risks specified in the other paragraphs of Section A.

### **16) Sue and Labour Costs and Expenses**

Costs, charges and expenses reasonably incurred and paid by the Insured in defending any liabilities insured against hereunder in respect of the vessel named herein, subject to the agreed deductibles applicable and subject further to the conditions and limitations hereinafter provided.



## SECTION B

### RISKS EXCLUDED

Notwithstanding anything to the contrary contained herein it is hereby understood and agreed that cover hereunder shall in no instance apply to:-

- I. Any loss, damage, liability or expense sustained by reason of capture, seizure, arrest, restraint or detainment, or the consequence of military, naval or air action by force of arms, including mines and torpedoes or other missiles or engines of war, whether of enemy or friendly origin, or sustained in consequence of placing the vessel in jeopardy as an act or measure of war taken in the actual process of a military engagement; and any such loss, damage and expense shall be excluded from this Policy without regard to whether the Insured's liability therefore is based on negligence or otherwise and whether before or after a declaration of war.
- II. Any loss damage liability or expense arising from:
  - a) piracy, including kidnap and ransom, and/or
  - b) terrorism; and/or
  - c) steps taken to prevent, suppress, control or reduce the consequence of any actual, attempted, anticipated, threatened, suspected or perceived terrorism.

For the purpose of this clause, 'terrorism' means any act(s) of any person(s) or organisation(s) involving:

- i. the causing, occasioning or threatening of harm of whatever nature and by whatever means
  - ii. putting the public or any section of the public in fear, in circumstances in which it is reasonable to conclude that the purpose(s) of the person(s) or organisation(s) concerned are wholly or partly of a political, religious, ideological or similar nature.
- III. Any loss damage liability or expense arising from:-
    - a) the cancellation or breach of any charter, bad debts, fraud of agents, insolvency, loss of freight hire or demurrage, or as a result of the breach of any undertaking to load any cargo, or
    - b) the use of a vessel named herein, by or on behalf of the Insured or with the knowledge, connivance, complicity or reckless disregard of the Insured, in any unlawful trade or act, including but not limited to the carriage of contraband, or in any trade or act which exposes the vessel named herein or the Insured to any unreasonable or unnecessary risk or hazard, or in any trade in breach of sanctions imposed by or with the authority of the United Nations Organisation, or in the running of any blockade.
  - IV. Any loss, damage, liability or expense unless otherwise agreed in writing, or claim arising out of or having relation to the towage of any other vessel or craft, whether under agreement or not, unless such towage was to assist such other vessel or craft in distress to a port or place of safety, provided however, that this clause shall not apply to claims under this Policy for loss of life or personal injury to passengers and/or members of the crew of the vessel named herein arising as a result of towing.



- V. Any claim for loss of life or personal injury in relation to the handling of cargo where such claim arises under a contract of indemnity between the Insured and his sub-contractor.
- VI. Any liability imposed on the Insured as punitive or exemplary damages, howsoever described.
- VII. Any claim for illness, personal injury or death, or loss of, damage to, or loss of use of property directly or indirectly caused by asbestos and/or lead, or any claim arising by reason of or in connection with:
  - a) Occupational Disease suffered by any person.
  - b) Cumulative Injury suffered by any person.
  - c) Death of any person caused by or contributed to by Occupational Disease or Cumulative Injury.
- VIII. Any claim relating to loss damage liability or expense incurred by the Insured during the course of performing specialist operations unless otherwise agreed in writing. Specialist operations include but are not limited to dredging, salvage, well-stimulation, cable or pipe laying, construction, installation or maintenance work, core sampling, depositing of spoil, professional oil spillage response training (but excluding fire-fighting) to the extent that such loss, damage, liability or expense arises as a consequence of:
  - a) claims brought by any party for whose benefit the work has been performed, or by any third party (whether connected with any party for whose benefit the work has been performed or not) in respect of the specialist nature of the operations; or
  - b) the failure to perform such operations by the Insured, or the fitness for purpose and quality of the Insured's work, products or services including any defect in the Insured's work products or services; or
  - c) any loss of or damage to the contract work;
 Provided that this exclusion shall not apply to any claim in respect of:
  - d) loss of life, injury or illness of crew and other personnel on board a vessel named herein, and
  - e) wreck removal of a vessel named herein, as defined in Section A subsection 5)
- IX. Any claim arising out of waste incineration or disposal operations carried out by the Insured;
- X. Any claim arising out of the operation by the Insured of submarines, mini submarines or diving bells;
- XI. Any claim arising in respect of divers or diving operations;
- XII. Any claim arising from directly or indirectly caused by or associated with Human T-Cell Lymphotropic Virus type III (HIVL III) or Lymphadenopathy Associated Virus (LAV) or the mutant derivatives or variations thereof or in any way related to Acquired Immune Deficiency Syndrome or any syndrome or condition of a similar kind howsoever it may be named;



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

- a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel.
- b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.
- c) any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
- d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical scientific or other similar peaceful purposes.

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

- a) any chemical, biological, bio-chemical or electromagnetic weapon
- b) the use or operation, as a means for inflicting harm, of any computer, computer, system, computer software programme, computer virus or process or any other electronic system.

XV. Any claim for medical expenses, costs, fees or any related expense or any other liability whatsoever arising out of illness or injury in any way related to or caused by exposure to the sun or the suns rays either suddenly or cumulatively.

XVI. **U.S. Oil Pollution Exclusion Clause.** Excluding any loss, damage, cost, liability, expense, fine, penalty or punitive damage resulting from or arising under the U.S. Oil Pollution Act of 1990 and/or Comprehensive Environmental Response Compensation and Liability Act of 1980 and/or Federal Water Pollution Control Act and/or any other similar Federal and/or State Law, Act and/or Regulation or amendment thereof.

XVII. In respect of **Fishing and Fish Processing Vessels**, the following clauses shall also apply:

Notwithstanding anything to the contrary contained in the Policy it is hereby understood and agreed that this Policy is subject to the following exclusions and that this cover shall not apply to:

- a) any costs, liabilities and expenses arising from a vessel named herein entering prohibited waters or engaging in unlawful fishing;
- b) any claims for loss of or damage to the nets and gear of any vessel including those of the Insured;
- c) any claim for loss of, or damage to or liability in respect of a vessel, including the vessel named herein, caused by the nets and gear.
- d) any claim in connection with cargo and/or catch whatsoever whether or not on board a vessel named herein.



## **SECTION C**

### **GENERAL CONDITIONS OF THIS INSURANCE**

#### **1) Hull and Machinery Policy**

Unless otherwise agreed in writing by the Insurer it is a condition of this insurance that the Insured has in effect throughout the duration of this Policy a Hull & Machinery cover for the Agreed Hull Value of the vessel and on terms and conditions no less wide than the Institute Hull Form(s) - 1.10.83 or 1.11.95 (including the four-fourths Running Down Clause), and the Institute War and Strikes Clauses 1.11.95 (CL 281).

#### **2) Affiliated and Associated Companies Clause**

Should any claim in respect of an Insured named in this policy be made or enforced through an affiliated, associated or subsidiary Company of such Insured, the Insurer shall, if so requested by the Insured, indemnify such Company against any loss which as a consequence thereof such Company shall have incurred in that capacity, provided always that nothing herein contained shall be construed as extending to any amount which would not have been recoverable from the Insurer, by the Insured, had such claim been made or enforced against him. Once the Insurer has made such indemnification it shall not be under any further liability and shall not make any further payment to any person or Company whatsoever, including the Insured, in respect of that claim.

#### **3) Co-Insured Clause**

It is understood and agreed that, where required by written contract, the Insured may be granted the privilege of including hereunder other parties as additional Insured(s).

Notwithstanding the fact that such parties as advised are herein named in their capacity as Co-Insured in this Policy, this cover will only extend insofar as they may be found liable to pay in the first instance for liabilities which are properly the responsibility of the Insured, and nothing herein contained shall be construed as extending cover in respect of any amount which would not have been recoverable hereunder by the Insured had such claim been made or enforced against him. Once indemnification hereunder has been made there shall be no further liability hereunder to make any further payment to any person or company whatsoever, including the Insured, in respect of that claim.

#### **4) No Lay-Up Returns**

Unless otherwise agreed by the Insurer in advance, this insurance provides for Cancelling Returns Only.

#### **5) Cancellation**

- I. This insurance may be cancelled by the Insurer or the Insured upon thirty (30) days written or telegraphic notice being given. The Insurer may send notice to the Insured's Broker of Record at the time and such notice shall be deemed valid notice for all purposes hereunder from the date of sending.

If Notice of Cancellation has been given because of non payment of premium the following applies:

- a. The premium payable is as set out in this policy
- b. Time is of the essence in relation to the payment of premium and/or any other charge due to be paid by the Insured to the Insurer hereunder. For the avoidance of doubt, this contract is continuous for the whole of the period and is not severable or divisible according to the periods of the instalment payments.



- c. The due and punctual payment of all premium payments (and any other charge) due to the Insurer hereunder shall be a condition precedent to any liability of any kind whatsoever on the part of the Insurer under the Policy
  - d. In the event that, in breach of such obligations, payment of premium (and/or other charge) is not made on or before the due date for payment:
    - i. the Insurer shall have the right to cancel this insurance (and all cover provided hereunder) by notifying the Insured in writing, which notice shall be to the Insured's broker of record for the time being; the Insurer shall not give less than 14 days prior notice of cancellation to the Insured via the broker;
    - ii. if the premium due is paid in full to the Insurer before the notice period expires, the notice of cancellation shall automatically be revoked; if not, this insurance shall automatically terminate at the end of the notice period;
    - iii. upon such termination, the Insurer shall have no liability of any kind whatsoever under the policy, whether past, present, future or contingent; for the avoidance of doubt, this means that the Insurer shall have no liability for any claim whatsoever under this policy, whether the claim has been made by the Insured and paid by the Insurer, or made and unpaid, or unmade and unpaid, and that in the event that the Insurer has paid a claim the Insurer shall be entitled to recover that payment from the Insured; and
    - iv. the Insurer shall have the right to retain any and all premium (and any other charge) paid by the Insured to the Insurer.
- II. This Insurance shall terminate automatically without notice in the event that the Insured, being an individual:
- a. dies
  - b. becomes bankrupt
  - c. is subject of a receiving order, schedule, arrangement or composition with his creditors
  - d. ceases to be able to manage his business by reason of mental illness or incapacity

This Insurance shall terminate automatically without notice in the event that the Insured, being a corporation:

- e. is the subject of a compulsory winding up order or resolution for its voluntary winding up
- f. is dissolved
- g. is the subject of the appointment of a Receiver, Administrator or manager in respect of all or part of its business
- h. initiates any proceedings to achieve legal protection from its creditors

The Insured (or in the case of an individual Insured who dies, his personal representative) shall notify the Insurer in writing forthwith on the occurrence of an event referred to in this Clause.



- III. Unless the Insurer agrees in writing to maintain or reinstate cover in respect of the vessel, on the same or on varied or restricted terms, cover in respect of any vessel named herein shall cease without notice on the occurrence of any of the following:
- a. sale of the vessel
  - b. divestment or assignment by the Insured of part or all of his interest in the vessel named herein
  - c. change of manager or Flag state in respect of the vessel named herein
  - d. mortgage or pledge or other hypothecation of the vessel named herein
  - e. relinquishing of possession or control of the vessel named herein by the Insured or foreclosure by a mortgagee bank in respect of the vessel named herein
  - f. total loss of the vessel whether actual; constructive, on tender by the Insured of notice of abandonment to the vessel's Hull & Machinery insurers; compromised or agreed with the vessel's Hull & Machinery insurers,
  - g. In circumstances where the Insurer concludes that the vessel named herein is a total loss and notifies the Insured in writing accordingly.
  - h. A vessel named herein cannot be located or contacted for a consecutive period of ten days.

The Insured shall notify the Insurer in writing forthwith on the occurrence of any circumstance or event referred to in this Clause.

Where cover ceases pursuant to this Clause the Insurer shall be liable only in respect of any claim arising prior to the time when cover ceases. However, where cover ceases by virtue of total loss of the Vessel, the Insurer shall also be liable in respect of any claims which arise directly by reason of the casualty giving rise to the vessel named herein becoming a total loss. In the event of the Vessel named herein being a total loss, the premium is deemed earned, payable in full and no return will be due.

## **6) Owner's Limitation**

It is expressly understood and agreed if and when the Insured under this Policy has any interest other than as a ship-owner in the vessel or vessels named herein, in no event shall the Insurer be liable hereunder to any greater extent than if such Insured were the owner and entitled to all the rights of limitation to which a ship-owner is entitled.

## **7) Law, Practice and Dispute Resolution**

This insurance shall be governed by and construed in accordance with English Law and, in particular, be subject to and incorporate the terms of the Marine Insurance Act 1906 and any statutory modification thereto. This insurance, including any dispute arising under or in connection with it, shall also be subject to the exclusive jurisdiction of the High Court in London.

## **8) Classification Clause**

The Insured warrants that any vessel named herein is at the time of inception of this policy classed with a Classification Society approved by the Insurer, and shall remain so classed throughout the policy period.



The Insured further warrants that it shall:

- I. comply with the Rules of that Classification Society, and comply with any recommendation or requirement issued by it in accordance with those Rules within any period or by any date stated by that Classification Society for compliance.
- II. notify and secure the Insurer's approval in writing of any intended change of Classification Society in respect of any Vessel named herein, stating in full all outstanding requirements, recommendations and restrictions to which the Vessel is subject.
- III. notify the Classification Society as soon as practicable of any event or circumstance which may affect Class the Vessel named herein, including but not limited to any event or circumstance which might cause the Classification Society to impose a requirement or make a recommendation under its Rules.

It is a condition precedent to liability under this policy that the Insured:

- IV. discloses to the Insurer all information and documents that the Insurer may require relating to the Class of the vessel, including but not limited to information and documents relating to any requirements or recommendations imposed, any special survey or dry-docking of the Vessel named herein, and the granting of any extensions by the Classification Society under its Rules.
- V. authorises a nominated representative of the Insurer, if so required, to inspect and copy the Class records of the Vessel named herein and provide such representative copies of any other information or documents that the Classification Society may hold.

In the event of a failure by the Insured to comply with any warranty provided for under this Clause in respect of the Vessel named herein, the remedies provided for under the Marine Insurance Act 1906 shall apply and, in addition, the Insurer may:

- VI. cancel the cover provided under this policy in respect of a Vessel named herein by notice in writing to the Insured. Such cancellation shall take effect from the date of such notice, or
- VII. vary or restrict the terms on which cover under this policy is provided.

## **9) Flag State**

The Insured warrants that any vessel named herein complies at the time of inception of this policy with all requirements of the vessel's Flag State including those relating to:

- I. the construction, condition, manning and equipping of the vessel.
- II. the maintenance of valid statutory certificates issued by or on behalf of the vessel's Flag State.

It is a condition precedent to liability under this policy that any Vessel named herein has complied with such requirements throughout the policy period. In the event of a failure by the Insured to comply with any Warranty provided for under this Clause in respect of any Vessel named herein, the remedies provided for under the Marine Insurance Act 1906 shall apply and, in addition, the Insurer may:

- III. cancel cover provided under this policy by notice in writing to the Insured. Such cancellation shall take effect from the date of such notice, or
- IV. vary or restrict the terms on which cover under this policy is provided.



## **10) International Safety Management (ISM) Code**

Where the requirements of SOLAS requires an Insured named hereunder to be ISM Compliant it is a Warranty under this Policy that the Insured and any Vessel named herein is ISM compliant and remains so throughout the duration of the agreed Policy Period.

In the event of any claim arising hereunder, the Insurer will require production of a copy of the Safety Management Certificate (SMC) and the Document of Compliance (DOC) and the Designated Person will be required to produce a statement confirming that all aspects of the Code for which he has specific responsibility have been carried out in accordance with the provisions of the Code.

## **11) Bail or other Security**

The Insurer shall be under no obligation to provide bail or other security to obtain the release of, or prevent arrest or attachment of a vessel named herein or other property. Where the Insurer agrees to provide such bail or other security it may do so on such terms as it may consider necessary or appropriate. Such terms will include:

- I. the provision of collateral by the Insured in the terms specified by the Insurer and
- II. entitlement by the Insurer to a commission of 1% on the amount of any bail or other security provided where a risk or claim is only partly insured or uninsured and
- III. entitlement by the Insurer to all the costs and expenses incurred in securing and/or defending bail provided on behalf of the Insured or any other Insurer.

The Insurer will in no circumstances provide cash deposits by way of bail or other security



## SECTION D

### **Claim Notification Procedures and Rights of the Insurer and Insured in relation to the handling of Claims**

- I. In the event of any occurrence which may result in loss, damage and/or expense for which the Insured is or may become liable, the Insured will give prompt notice thereof and forward to the Insurer as soon as practicable after receipt thereof, all communications, processes, pleadings and other legal papers or documents relating to such occurrence.
- II. The Insured shall not make any admission of liability, either before or after any occurrence which may result in a claim for which the Insurer may be liable. The Insured shall not interfere in any negotiations of the Insurer, for settlement of any legal proceedings in respect of any occurrences for which the Insurer may be liable under this Policy, provided, however, that in respect of any occurrences likely to give rise to a claim under this Policy, the Insured is obliged to and shall take such steps to protect his (and/or the Insurer's) interests as would reasonably be taken in the absence of this or similar insurance. If the Insured shall fail or refuse to settle any claim as authorised by the Insurer, the liability of the Insurer to the Insured shall be limited to the amount for which settlement could have been made.
- III. Whenever required by the Insurer, the Insured shall assist in the securing of information and evidence and in obtaining witnesses and shall co-operate with the Insurer in the defence of any claim or suit or procedure or in the appeal from any judgement in respect of any occurrence as hereinbefore provided.
- IV. The Insurer shall have the right at its sole discretion to control or direct the conduct of any claim or legal or other proceedings relating to any liability, loss, damage, costs or expenses which might fall within the scope of this Policy.
- V. The Insurer shall not be liable for the cost or expense of prosecuting or defending any claim or suit unless the same shall have been incurred with its written consent or where the Insurer shall be satisfied that such approval could not have been obtained under all the circumstances without unreasonable delay, or that such costs and charges were reasonably and properly incurred, such costs or expenses being subject to the applicable deductible. The cost and expense of prosecuting any claim in which the Insurer shall have an interest by subrogation or otherwise, shall be divided between the Insured and the Insurer, proportionately to the amounts which they would be entitled to receive respectively, if the suit should have been successful.
- VI. The Insurer shall be liable for the excess where the amount of any deductible under this Policy is exceeded by
  - a. the cost of investigating and/or successfully defending any claim or suit against the Insured based on a liability or an alleged liability of the Insured covered by this Insurance, or
  - b. the amount paid by the Insured either under a judgement or an agreed settlement based on the liability covered herein including all costs, expenses of defence and taxable disbursements.
- VII. The Insurer shall be subrogated to all rights which the Insured may have against any other person or entity, in respect of any payment made under this Policy, to the extent of such payment. The Insured shall, upon the request of the Insurer, execute all documents necessary to secure to the Insurer such rights.



- VIII. The Insurer shall be entitled to take credit for any profit accruing to the Insured by reason of any negligence or wrongful act of the Insured's servants or agents up to the measure of their loss, or to recover for its own account from third parties any damage that may be provable by reason of such negligence or wrongful act.
- IX. Where the Insured is, irrespective of this insurance, covered or protected by another insurer against any loss or claim which would otherwise have been paid under this Policy, there shall be no contribution by the Insurer on the basis of double insurance or otherwise.
- X. No claim or demand against the Insurer under this Policy shall be assigned or transferred, and no person, excepting a legally appointed Receiver of the property of the Insured, shall acquire any rights hereunder nor shall an Insured cause there to be any other assignment or transfer of cover or liability to any other party whatsoever.
- XI. No claim for recovery or indemnity may be made against the Insurer by the Insured
- a. unless such claim is made against the Insurer within one year after the final judgement or decree is entered in any litigation against the Insured or
  - b. in case the claim against the Insured arises without the entry of a final judgement or decree, such claim is brought within one year from the date of payment.
- XII. The Insurer shall not be liable for any claim not presented with proper proof of loss after the expiration six (6) months from the date of payment thereof.

NOTWITHSTANDING anything else to the contrary contained in this Policy, it is hereby agreed that the Insurer hereunder is not liable for any loss, damage, injury, expense, cost or claim whatsoever which otherwise would be recoverable under this Policy, unless notice of such loss, damage, injury, expense, cost or claim or circumstances which have not but may give rise to a claim against the Insured is given in writing within 36 months from the expiry date of this Policy.

If the aforesaid 36 month period relating to written notification to the Insurer is invalidated during the period of this Policy by any law to which the Insured is subject, then such period shall be deemed to be amended to the minimum period permitted by such law.

**This Policy is one of indemnity and this principle may only be varied at the sole discretion of and on terms to be decided by the Insurer.**

