

## Cathay Century Insurance Protection & Indemnity Insurance

### Table of contents

<b>PART 1</b>	<b>PROTECTION &amp; INDEMNITY (CLASS 1)</b>	<b>6</b>
<b>Section 1</b>	Illness, injury and loss of life (crew)	<b>6</b>
<b>Section 2</b>	Repatriation	<b>6</b>
<b>Section 3</b>	Substitutes and crew unemployment	<b>7</b>
<b>Section 4</b>	Personal effects	<b>7</b>
<b>Section 5</b>	Diversion expenses	<b>7</b>
<b>Section 6</b>	Illness, injury and loss of life (persons other than crew)	<b>7</b>
<b>Section 7</b>	Stowaways, refugees or persons rescued at sea	<b>8</b>
<b>Section 8</b>	Contracts and indemnities	<b>8</b>
<b>Section 9</b>	Cargo liabilities	<b>8</b>
<b>Section 10</b>	Collision with other ships and non contact damage	<b>10</b>
<b>Section 11</b>	Damage to property (including fixed and floating objects)	<b>11</b>
<b>Section 12</b>	Wreck removal	<b>11</b>
<b>Section 13</b>	Quarantine expenses	<b>12</b>
<b>Section 14</b>	Towage	<b>12</b>
<b>Section 15</b>	Pollution risks	<b>12</b>
<b>Section 16</b>	Special compensation for salvors	<b>13</b>
<b>Section 17</b>	General average	<b>13</b>
<b>Section 18</b>	Sue & labour and legal costs	<b>13</b>
<b>Section 19</b>	Fines	<b>14</b>
<b>Section 20</b>	Enquiry expenses	<b>15</b>
<b>Section 21</b>	Life salvage	<b>15</b>
<b>Section 22</b>	Risks incidental to shipowning	<b>15</b>

<b>PART 2</b>	<b>DEFENCE COVER FOR LEGAL COSTS (CLASS 2)</b>	<b>16</b>
<b>Section 23</b>	Risks covered	<b>16</b>
<b>Section 24</b>	Exclusions and limitations	<b>17</b>
<b>PART 3</b>	<b>WAR PROTECTION AND INDEMNITY COVER</b>	<b>18</b>
<b>Section 25</b>	Conditions	<b>18</b>
<b>Section 26</b>	Trading	<b>18</b>
<b>Section 27</b>	Exclusions and limitations	<b>18</b>
<b>Section 28</b>	Notice of cancellation and war automatic termination of cover	<b>18</b>
<b>PART 4</b>	<b>GENERAL TERMS AND CONDITIONS</b>	<b>20</b>
<b>Section 29</b>	Application of terms	<b>20</b>
<b>Section 30</b>	Application for insurance	<b>20</b>
<b>Section 31</b>	Certificate of insurance	<b>20</b>
<b>Section 32</b>	Exclusions and limitations	<b>20</b>
<b>Section 33</b>	Payments to the company	<b>22</b>
<b>Section 34</b>	Cesser of insurance and termination	<b>24</b>
<b>Section 35</b>	Effect of cesser of insurance	<b>24</b>
<b>Section 36</b>	Fleet insurance	<b>25</b>
<b>Section 37</b>	Double insurance	<b>25</b>
<b>Section 38</b>	Claims	<b>25</b>
<b>Section 39</b>	Maximum insured amount	<b>27</b>
<b>Section 40</b>	Deductibles	<b>27</b>
<b>Section 41</b>	Joint assureds and co-assureds	<b>28</b>
<b>Section 42</b>	Disputes between assureds	<b>29</b>
<b>Section 43</b>	Interest and set off	<b>29</b>
<b>Section 44</b>	Documentation	<b>29</b>
<b>Section 45</b>	Flag state & statutory regulations	<b>29</b>
<b>Section 46</b>	Classification	<b>29</b>
<b>Section 47</b>	Condition, other surveys and inspections	<b>30</b>

<b>Section 48</b>	Assignment	<b>31</b>
<b>Section 49</b>	Forbearance and waiver	<b>32</b>
<b>Section 50</b>	Admission and settlement	<b>32</b>
<b>Section 51</b>	Subrogation	<b>32</b>
<b>Section 52</b>	Notification and time limit	<b>32</b>
<b>Section 53</b>	Total asbestos exclusion	<b>32</b>
<b>Section 54</b>	Law and jurisdiction	<b>32</b>
<b>Section 55</b>	Insurance acts	<b>33</b>
<b>Section 56</b>	Sanctions limitation and exclusion clause	<b>33</b>
<b>Section 57</b>	Several liability clauses	<b>34</b>
<b>PART 5</b>	<b>ADDITIONAL COVER AND EXTENSION CLAUSES</b>	<b>35</b>
<b>Clause 1</b>	Specialist operations clause	<b>35</b>
<b>Clause 2</b>	Salvors clause	<b>35</b>
<b>Clause 3</b>	Towage liability clause	<b>35</b>
<b>Clause 4</b>	Bollard pull' clause	<b>36</b>
<b>Clause 5</b>	Passenger liability clause	<b>36</b>
<b>Clause 6</b>	Steel Cargo clause	<b>37</b>
<b>Clause 7</b>	Container clause	<b>37</b>
<b>Clause 8</b>	IMO cargoes clause	<b>38</b>
<b>Clause 9</b>	Dutch Crew clause	<b>38</b>
<b>Clause 10</b>	Deck Cargo clause	<b>38</b>
<b>Clause 11</b>	Claims control clause	<b>38</b>
<b>Clause 12</b>	Bagged Cargo clause	<b>38</b>
<b>Clause 13</b>	Contractor's Co-assurance	<b>39</b>
<b>PART 6</b>	<b>DEFINITIONS</b>	<b>40</b>

**PART 1:**  
**PROTECTION & INDEMNITY (CLASS 1)**

The Company shall indemnify the Assured against the Legal Liabilities, costs and expenses under this Class of Insurance, which are incurred in respect of and only in connection with the Operation of the Insured Vessel, arising from Events occurring during the Period of Insurance, as set out in sections 1 to 22 below.

## **Section 1            Illness, injury and loss of life (crew)**

1.1        Liabilities arising in respect of a Crew member of the Insured Vessel, whether under a contract of employment, a contract of service, a collective agreement or under a legal or statutory obligation, including the Maritime Labour Convention 2006 or equivalent domestic legislation by a State Party to the Convention, as follows:

1.1.1 the cost of medical treatment in relation to any illness or personal injury;

1.1.2 wages during said medical treatment;

1.1.3 compensation or damages for any illness, personal injury or death;

1.1.4 the cost of funeral and ancillary expenses necessarily incurred following death.

### *1.2 Exclusions and Limitations*

1.2.1 There shall be no recovery in respect of any costs and expenses arising out of or in consequence of a breach by the Assured of any contract of employment, contract of service or collective agreement relating to non-payment of wages or similar labour-related disputes, except where statutory obligations dictate otherwise.

1.2.2 There shall be no recovery in respect of any liabilities, costs and expenses incurred under the terms of a contract of employment, contract of service or collective agreement, unless these terms have previously been approved by the Company in writing and would not have arisen but for these terms.

1.2.3 There shall be no recovery in respect of any sums, whether proportional or not, recoverable under any Workmen's Compensation Act, Social Security Scheme, local statutory and/or obligatory insurances or any other ordinance passed on by the government of any country, nation or state.

## **Section 2            Repatriation**

2.1 Liability to pay repatriation expenses incurred under statutory obligation, including the Maritime Labour Convention 2006 or equivalent domestic legislation by a State Party to the Convention, or contract of service or employment in respect of a member of the Crew.

2.2 Liability to pay wages during a repatriation the Assured is liable for as per section 2.1 above.

### *2.3 Exclusions and Limitations*

2.3.1 There shall be no recovery where the expenses result from termination of a contract of service or employment, any breach by the Assured of any contract, agreement or statute or the sale of the Insured Vessel.

2.3.2 Notwithstanding section 38.13, the Company further will cover liability under the Maritime Labour Convention 2006, where applicable, to repatriate the Crew and settle the due wages and due entitlements to a Crew member if abandoned by the Assured and as stipulated in section 38.16.

## **Section 3            Substitutes and crew unemployment**

3.1 Liability to pay expenses necessarily incurred in securing or engaging, sending and

subsequently repatriating a substitute to replace a member of the Crew, who shall have died or been left behind in consequence of illness, injury, desertion or any other cause, where such expenses could not be reasonably avoided. Wages shall only be recoverable as part of the said expenses when payable to a substitute engaged abroad while awaiting or during repatriation.

3.2 Liability to pay wages to a member of the Crew during unemployment in consequence of the wreck or total loss of the Insured Vessel, not exceeding 2 months. This cover will include a contribution by the Company to the accommodation and any other subsistence or expenses whatsoever of a member of the Crew, for this same period.

3.2.1 Cover under this sub-section 3.2 is limited solely to a member of the Crew identified in the crew list of the Insured Vessel at the time of the wreck or total loss and to no other person.

## **Section 4            Personal effects**

Liability to pay the loss of or damage to Personal effects belonging to a member of the Crew on board of the Insured Vessel during her Operation.

### **4.1 Exclusions and Limitations**

4.1.1 No payment shall be made for theft or pilferage of Crew's Personal effects and there shall be no recovery in respect of cash, cheques, precious or rare metals or stones, diamonds, artworks, antiques, valuables or objects of a rare or precious nature.

4.1.2 No payment shall be made for any item with a value in excess of USD 2,500.-, unless agreed by the Company in writing.

## **Section 5            Diversion expenses**

5.1 Liability for costs incurred as a result of diversion or delay of the Insured Vessel which was made necessary for the following reasons:

- a. obtaining necessary medical treatment ashore of a sick or injured member of the Crew;
- b. awaiting a substitute for a deceased, sick or injured member of the Crew who has been landed for treatment;
- c. arranging the repatriation of a deceased member of the Crew;
- d. landing stowaways, refugees or persons saved at sea.

### **5.2 Exclusions and Limitations**

5.2.1 Cover under this section is limited to the Assured's net loss in respect of port charges, bunkers, insurance, stores, provisions and Crew wages.

5.2.2 There shall be no recovery under this section for loss of profit, hire, freight or sums otherwise incurred.

## **Section 6            Illness, injury and loss of life (persons other than Crew)**

6.1 Liability to pay damages or compensation for illness, personal injury or death of any person, other than an employee of the Assured, including hospital, medical or funeral expenses incurred in relation to such illness, injury or death where such liability arises on board the Insured Vessel or during her Operation.

6.2 Liability which the Assured incurs to a supernumerary as if such supernumerary was a member of the Crew; provided always that the Company shall have given their prior written approval of the presence on board of a supernumerary and the terms and conditions on which he is carried.

### **6.3 Exclusions and Limitations.**

6.3.1 Cover under this section is limited to liabilities arising out of a negligent act or omission on board or in relation to the Insured Vessel.

- 6.3.2 Liability to persons engaged with the handling of Cargo shall be limited from the time of receipt of that Cargo at the port of shipment till delivery of that Cargo at the port of discharge.
- 6.3.3 No claim shall be recoverable under this section where the liability arises under the terms of any contract or indemnity and would not have arisen but for those terms, unless those terms were previously approved by the Company in writing in accordance with section 8 (Contracts and Indemnities).

## **Section 7                    Stowaways, refugees or persons rescued at sea**

Costs and expenses, other than the costs of diversion of the Insured Vessel, necessarily incurred by the Assured in meeting his legal obligations in respect of stowaways, persons rescued at sea, or refugees, including the costs of maintaining, landing and where necessary repatriating such persons, but only to the extent as such sums are not recoverable under the Hull Policies or from Cargo owners or their insurers.

## **Section 8                    Contracts and indemnities**

Liability for loss of life, illness or personal injury, or for loss of or damage to property under the terms of any contract or indemnity made or given by the Assured in respect of facilities or services rendered or to be rendered to the Insured Vessel during her Operation, but only if and to the extent such terms have been agreed and cover for the liability has been approved by the Company in writing.

## **Section 9                    Cargo liabilities**

9.1 The liabilities, costs and expenses set out in paragraphs (a) to (d) when and to the extent that they relate to Cargo intended to be or being or having been carried in, on or by the Insured Vessel:

- a. Loss, shortage, damage, delay or other responsibility  
Liability for loss, shortage, damage, delay or other responsibility arising out of any breach by the Assured, or by any person for whose acts, neglect or default he may be legally liable, of his obligation to properly load, handle, stow, carry, keep, care for, discharge or deliver the Cargo or out of unseaworthiness or unfitness of the Insured Vessel.
- b. Discharging or disposing of damaged Cargo  
The additional costs and expenses over and above those which would have been incurred by the Assured in any event under the contract of carriage, which have been incurred by the Assured in discharging or disposing of damaged or worthless Cargo, but only if and to the extent that the Assured is unable to recover those costs from any other party.
- c. Failure of consignee to remove Cargo  
The liabilities and additional costs incurred by the Assured, over and above the costs which would have been incurred by him if the Cargo had been collected or removed, solely by reason of the total failure of a consignee to collect or remove Cargo at the port of discharge or place of delivery, but only if and to the extent that such liabilities or costs exceed the proceeds of sale of the Cargo and the Assured has no recourse to recover those liabilities or costs from any other party.
- d. Through or transshipment bills of lading  
Liability for loss, shortage, damage, delay or other responsibility in respect of Cargo carried by a means of transport other than the Insured Vessel, when the liability arises under a through or transshipment bill of lading, or other form of contract, approved by the Company in writing, which provides for carriage partly to be performed by the Insured Vessel.

## 9.2 Exclusions and Limitations

9.2.1 There shall be no recovery from the Company under this section in respect of liabilities, costs or expenses arising from:

- a. A bill of lading, way bill or other document containing or evidencing the contract of carriage, issued with the knowledge of the Assured, or his agent with an incorrect description of the Cargo or its quantity or its condition.
- b. The issue of a bill of lading or other document containing or evidencing the contract of carriage which contains any fraudulent misrepresentation, including but not limited to the issue of an antedated or postdated bill of lading.
- c. Delivery of Cargo carried under a negotiable bill of lading (including an electronic bill of lading) or similar document of title without production (or the equivalent thereof in the case of an electronic bill of lading) of that bill of lading or document by the person to whom delivery is made.
- d. Delivery of Cargo carried under a waybill or similar non-negotiable document to a party other than the party nominated by the shipper as the person to whom delivery should be made.
- e. Discharge of Cargo at a port or place other than in accordance with the contract of carriage.
- f. Late arrival or non-arrival of the Insured Vessel at a port or place of loading, or failure to load any particular Cargo, unless the late arrival or failure to load is caused by reasons beyond the Assured's control and arising under a bill of lading already issued.
- g. Loss of market.

### 9.2.2 Standard terms of carriage

There shall be no recovery from the Company in respect of liabilities, costs and expenses, which would not have been incurred by the Assured if the Cargo had been carried on terms no less favourable to the Assured than those laid down on the Hague-Visby Rules. In particular, there shall be no recovery from the Company in respect of liabilities arising under the Hamburg Rules, unless the Hamburg Rules are compulsorily applicable to the contract of carriage by operation of law.

### 9.2.3 Rare or precious Cargo

There shall be no recovery from the Company in respect of bullion, precious, semi-precious or rare metals or stones, plate, jewellery or other objects of a rare or precious nature, bank notes or other forms of currency, bonds or other negotiable instruments or specie, unless the Company has approved the carriage in writing.

### 9.2.4 Ad valorem bills of lading

Where the value of any Cargo is declared upon the bill of lading at a figure in excess of USD 2,500.- (or the equivalent in the currency in which the declared value is expressed) per unit, piece or package, the liability of the Company under this section shall not exceed USD 2,500.- per unit, piece or package, unless the Company has agreed in writing to provide cover at a higher value.

### 9.2.5 Property of the Assured.

If any Cargo lost or damaged on board of the Insured Vessel is the property of the Assured, he shall be entitled to recover from the Company the same amounts as would have been recoverable if the Cargo had belonged to a third party and that third party had concluded a contract of carriage with the Assured under the Company's standard terms of carriage stated above in section 9.2.2.

### 9.2.6 Deviation.



There shall be no recovery from the Company if the liability, costs or expenses arise as a result of or arise following a deviation from the contractually agreed voyage and if as a result of such a deviation the Assured is not entitled to rely on any defences or rights of limitation which would otherwise have been available to him to reduce or eliminate his liability. The Company may agree special cover at terms to be agreed, if the deviation is reported before it occurs.

#### 9.2.7 Deck Cargo.

There shall be no recovery from the Company for liability, costs or expenses in respect of Cargo carried on deck, except for containers where the Insured Vessel is designed and/or permanently fitted and equipped for the carriage of containers on deck and the Insured Vessel has written approval from the Classification Society for the carriage of containers on deck.

#### 9.2.8 Livestock.

There shall be no recovery from the Company for liability, costs or expenses arising out of the carriage of live animals.

#### 9.2.9 Electronic Trading System (E.T.S.).

There shall be no recovery from the Company for any liability, cost or expense arising from the use of any Electronic Trading System, other than when approved by the Company in writing, to the extent that such liability, cost or expense would not have arisen under a paper trading system.

### **Section 10 Collision with other ships and non contact damage**

#### 10.1 Collision with other ships

10.1.1 Liability to pay costs and damages to any other person arising out of the collision of the Insured Vessel and another vessel, but only to the extent that such liabilities are not recoverable under the collision liability clause contained in the Hull Policies and provided that it has been agreed in writing between the Company and the Assured prior to inception what proportion of the Insured Vessel's collision liability is covered under this section.

10.1.2 If a claim arises under this section in respect of a collision involving two vessels belonging wholly or partly to the same owner, the Assured shall be entitled to recover from the Company, and the Company shall have the same rights, as if the vessels had belonged to different owners.

10.1.3 In any instance in which both vessels involved in a collision are to blame and the liability of either or both vessels becomes limited by law, any recovery of the Assured from the Company will be settled on the principle of single liability. In all other instances, a claim for recovery by the Assured from the Company under this section shall be settled on the principle of cross liabilities, as if the owner of each vessel had been compelled to pay the other owner such proportion of the latter's damages or as may have been properly allowed in ascertaining the balance payable by or to the former.

#### 10.2 Non contact damage

Liability to pay for loss of or physical damage to any other ship or cargo or other property there in caused by the wash of the Insured Vessel.

#### 10.3 *Exclusions and Limitations*

10.3.1 There shall be no recovery from the Company of any deductible applicable under the Hull Policies.

10.3.2 Recovery from the Company under this section shall be limited to the excess, if any, of the amount which would have been recoverable under the Hull Policies if that vessel had been insured at a value which at the discretion of the Company would have been her full market value.

### **Section 11 Damage to property (including fixed and floating objects)**



11.1 Liability to pay damages or compensation for any loss of or damage to any property (including infringement of rights in connection with that property) whether on land or water and whether fixed or moveable, not being another ship or Cargo and incurred during the Operation of the Insured Vessel.

**11.2 Exclusions and Limitations**

11.2.1 No claim shall be recoverable under this section where the liability arises under the terms of any contract or indemnity and would not have arisen but for those terms, unless those terms were previously approved by the Company in writing.

11.2.2 No claim shall be recoverable under this section in respect of loss of or damage to property that is owned, leased or otherwise within the possession, custody or control of the Assured.

**Section 12 Wreck removal**

12.1 Costs or expenses relating to the raising, removal, destruction, lighting or marking of the wreck of the Insured Vessel, when such raising, removal, destruction, lighting or marking is compulsory by law or the costs thereof are legally recoverable from the Assured.

12.2 Costs or expenses relating to the raising, removal or destruction of any Cargo, equipment or other property being carried or having been carried on an Insured Vessel, not being oil or any other substance within the scope of section 15 of this policy, when such raising, removal, destruction, lighting or marking is compulsory by law or the costs thereof are legally recoverable from the Assured.

12.3 Liabilities incurred by the Assured as the result of any such raising, removal or destruction of the wreck of an Insured Vessel or any property as referred to in paragraphs 12.1 and 12.2 of this section, or any attempt thereat.

**12.4 Exclusions and Limitations**

12.4.1 In respect of a recovery from the Company under this section the value of the wreck and anything else salvaged shall be deducted and set off against the recoverable costs and expenses.

12.4.2 The Assured shall not have transferred its interest in the wreck prior to the raising, removal, destruction, lighting or marking of the wreck or prior to the incident giving rise to liability, save by abandonment with the Company's approval in writing.

12.4.3 The occurrence or event giving rise to the wreck of the Insured Vessel arose during the Period of Insurance of the Insured Vessel.

**Section 13 Quarantine expenses**

Liability to pay damages or compensation and/or additional expenses incurred by the Assured as a direct consequence of an outbreak of a contagious or infectious disease on the Insured Vessel during her Operation, including quarantine and disinfection expenses and the net loss to the Assured in respect of bunkers, insurance, wages, stores, provisions and port charges.

**Section 14 Towage**

14.1 Towage of the Insured Vessel

- 14.1.1 Liability under the terms of a contract for the customary towage of the Insured Vessel for the purpose of entering or leaving a port or manoeuvring within the port during the ordinary course of trading.
  - 14.1.2 Liability in the ordinary course of trading if the Insured Vessel is habitually towed from port to port or from place to place.
  - 14.1.3 Liability under the terms of a contract for towage of an Insured Vessel other than customary towage, but only if and to the extent that cover for such liability has been agreed by the Company in writing.
- 14.2 Towage by the Insured Vessel  
Liability arising from the towage of another ship or object is only recoverable from the Company, if agreed by the Company in writing.

## **Section 15 Pollution risks**

- 15.1 The liabilities, losses, damages, costs and expenses set out below under (a) to (d) when and to the extent that they are caused by or incurred in consequence of the accidental or threatened accidental discharge or escape from the Insured Vessel, of oil or any other substance incurred during her Operation:
- a. Liability for loss, damage or contamination.
  - b. The costs of any measures reasonably taken for the purpose of avoiding or minimizing pollution or any resulting loss or damage together with any liability for loss of or damage to property caused by measures so taken.
  - c. The costs of any measures reasonably taken to prevent an imminent danger of the accidental discharge or escape from the Insured Vessel of oil or any hazardous substance which may cause pollution.
  - d. The costs or liabilities incurred as a result of compliance with any order or direction given by any government or authority for the purpose of preventing or reducing pollution or the risk of pollution, provided always that such costs or liabilities are not recoverable under any other insurance.
- 15.2 *Exclusions and Limitations*
- 15.2.1 No claim shall be recoverable under this section where the Assured is solely held liable as owner of the Cargo.
  - 15.2.2 Any Certificate of Insurance or confirmation of cover pursuant to this policy shall not be deemed to be evidence of financial responsibility under the Oil Pollution Act of 1990 or any similar federal or State law and may not be shown or tendered to the United States Coast Guard or any federal or State agency as evidence of financial responsibility or evidence of insurance. The Company does not consent to be a guarantor.
  - 15.2.3 In respect of recovery from the Company under this section the value of any property that is or may be deemed to be a hazardous substance which may cause pollution and in respect of which the Assured has obtained any proceeds of sale or other financial recovery whatsoever shall be deducted from and set off against the Company's liability to pay.

## **Section 16 Special compensation for salvors**

- 16.1 Liability to pay special compensation to a salvor in respect of the Insured Vessel under the provisions of Article 14 of the International Convention on Salvage 1989, or under a Lloyd's Open Form of salvage agreement, or any standard form of salvage agreement approved by the Company, or under the Special Compensation P&I Club's (SCOPIC) clause.

## 16.2 *Exclusions and Limitations*

- 16.2.1 No claim shall be recoverable under this section insofar as such special compensation is payable by any third party also having an interest in property which is the subject of salvage services.
- 16.2.2 No claim shall be recoverable from the Company if the Company has not been notified of the salvage requiring Event by the Assured within 24 hours from the time in which they gained knowledge or could have been reasonably expected to gain knowledge.
- 16.2.3 In respect of a recovery from the Company under this section the value of the wreck or of any related appurtenances, equipment, Cargo, bunkers and apparel in respect of which the Assured has obtained any proceeds of sale or other financial recovery whatsoever shall be deducted from and set-off against the Company's liability to pay.

## **Section 17            General average**

- 17.1 Unrecoverable general average contributions - Cargo  
The proportion of general average expenditure (including salvage) and special charges which the Assured is entitled to claim from Cargo interests or from some other party to the maritime adventure, but which are not legally recoverable solely by reason of a breach of the contract of carriage.
- 17.2 Ship's proportion of general average – Hull  
Ship's proportion of general average expenditure (including salvage) and sue and labour expenses which are not recoverable under the Hull Policies and Excess Liabilities by reason of the value of the Insured Vessel being assessed for contribution to general average or salvage at a sound value in excess of the insured value under such policies. If the amount insured under the Hull Policies is less than the proper value, then the proper value shall be determined by the Company in their sole discretion and the Assured shall only be entitled to recover the excess of the amount which would have been recoverable under the Hull Policies if the Vessel had been insured at the proper value.

## **Section 18            Sue & labour and legal costs**

- 18.1 Costs, including legal costs, and expenses reasonably incurred by the Assured, on the occurrence of an Event or matter liable to give rise to a claim, in avoiding or seeking to avoid or minimize any liability or expenditure or loss against which it is insured by the Company, provided that no such costs or expenses shall be recoverable unless either they have been incurred with the Company's prior agreement or the Company determines that such costs or expenses were reasonably incurred.
- 18.2 Unless otherwise agreed the costs and expenses incurred under section 18.1 shall bear the same Deductible as the liability or expenditure so avoided or reduced would have borne.
- 18.3 *Exclusions and Limitations*  
There shall be no recovery from the Company in respect of costs and expenses:
- a. Which are claimable in general average.
  - b. Which result from the Insured Vessel being overloaded or improperly stowed.
  - c. Which are incurred in order to make the Insured Vessel seaworthy to receive the Cargo.
  - d. Which form part of the daily running of the Insured Vessel.
  - e. For work which could have been carried out by the Crew or by reasonable use of the Insured Vessel and her equipment.

## **Section            19 Fines**

- 19.1 Liability for fines imposed by any court, tribunal, or authority of competent jurisdiction upon the Assured or upon any person for whom the Assured is legally liable to reimburse, for any of the following:
- a. Short or over delivery of Cargo or for failing to comply with regulations concerning declarations relating to goods or Cargo or to the Insured Vessel's documents.
  - b. Accidental pollution by oil or other substance.
  - c. Smuggling or any infringement of any customs law or regulation relating to the Cargo or the Insured Vessel.
  - d. Breach of immigration laws or regulations.
  - e. Any act, neglect or default, other than those specified above, of any servant or agent of the Assured in the course of their duties in respect of the Insured Vessel.

## 19.2 Exclusions and Limitations

There shall be no recovery from the Company in respect of:

- 19.2.1 Overloading of the Insured Vessel.
- 19.2.2 The presence on board the Insured Vessel of a greater number of Passengers than is legally permitted.
- 19.2.3 Contravention of any law, regulation or requirement in respect of fishing.
- 19.2.4 Entry of the Insured Vessel into prohibited waters.
- 19.2.5 Disregarding of routing regulations.
- 19.2.6 Criminal activity of which the Assured had actual or constructive knowledge, recklessly disregarded or failed to take reasonable steps to prevent.
- 19.2.7 Failure to maintain the Insured Vessel's life saving and/or navigational equipment and/or to keep prescribed certificates on board.
- 19.2.8 Landing of a member of the Crew, stowaway or refugee without permission of the necessary authorities.
- 19.2.9 Inspection fees, including follow-up survey fees or fines of any sort arising out of or relating to a Port State Control detention or other order.
- 19.2.10 Infringement of MARPOL regulations where the ship's oily water separator or similar pollution prevention device has been bypassed or rendered inoperable.

## **Section 20            Enquiry expenses**

Expenses reasonably incurred at the discretion of the Company by the Assured in defending itself and/or protecting its interests before a formal enquiry into a casualty involving the Insured Vessel during her Operation.

## **Section 21            Life salvage**

Sums which are legally payable to third parties by reason of their having saved, or attempted to save, the life of any person on or from the Insured Vessel, but only to the extent as such sums are not recoverable under the Hull Policies or from Cargo owners or their insurers.

## **Section 22            Risks incidental to shipowning**

The Company may cover, in its absolute discretion, the Assured's liabilities, losses or

expenses to third parties, being parties other than the Assured, Joint (or Co-)Assured or Associated persons, which are incidental to the business of shipowning and which are not specified or expressly excluded in this Policy of Insurance, but only to such extent that the Company may decide on any request under this section in its sole discretion.

## **PART 2:**

### **DEFENCE COVER FOR LEGAL COSTS (CLASS 2)**

The standard cover is set out in section 23 below and is subject always to the terms and conditions of this policy and the provisions of the General Terms & Conditions mentioned in part 3 and the provisions of section 24 below. The Company shall indemnify the Assured against the reasonable and necessary legal costs and expenses, which are incurred in relation to the Operation of the Insured Vessel, arising from Events occurring during the Period of Insurance.

The Company has the liberty to exclude, limit, modify or otherwise alter the standard cover by special terms, which have been agreed between the Company and the Assured and if so agreed any special terms will appear on the Certificate of Insurance.

#### **Section**

#### **23 Risks covered**

23.1 The reasonable and necessary legal costs and legal expenses incurred in

establishing or resisting claims and disputes, including any such costs and expenses which the Assured may become liable to pay to any other party, arising in respect of:

- 23.1.1 Hire or off-hire, freight, deadfreight, laytime, demurrage, despatch or other claim or dispute relating to the Charter Party, Bill of Lading or other contract of carriage in respect of the Insured Vessel.
- 23.1.2 Supplies to the Insured Vessel.
- 23.1.3 Charges, disbursements and accounts received from agents, stevedores, customs, brokers, harbour authorities or other servants of the Assured.
- 23.1.4 Loading, stowing, trimming, discharging, lightening of Cargo on, or from the Insured Vessel.
- 23.1.5 Loss of, damage to or detention of the Insured Vessel.
- 23.1.6 General or particular average contributions or charges.
- 23.1.7 Salvage or towage services rendered to the Insured Vessel.
- 23.1.8 Representation of the Assured at official investigations or other inquiries in relation to the Insured Vessel.
- 23.1.9 Actions by, or against Passengers intended to be or being or having been carried on the Insured Vessel, provided the carriage of Passengers was approved by the Company.
- 23.1.10 Actions by, or against, Crew members, or their personal representatives, dependants or stowaways.
- 23.1.11 Actions by, or on behalf of, a State or any public body against the Assured or the Insured Vessel, but not taxes or dues payable in countries where the ship is registered or where the Assured is resident or where the Assured has a permanent place of business.
- 23.1.12 Amounts due from or to insurers, other than the Company.
- 23.1.13 Sale and purchase of the Insured Vessel.
- 23.1.14 Actions by or against builders and/or repairers of the Insured Vessel.
- 23.1.15 Any other issue or matter in connection with the Insured Vessel.  
Any claim under this section must have arisen from occurrences or circumstances, which have taken place after the Attachment Date under this policy and must be notified to the Company within the Period of

## **Section 24**

### **Exclusions and Limitations**

- 24.1 There will be no recovery under this insurance, if:
  - 24.1.1 The claim, liability or dispute would or could have been covered under the Assured's Protection & Indemnity cover.
  - 24.1.2 There is no reasonable relationship between the amount in dispute or the prospects of successfully obtaining payment (due to financial position of the other party or otherwise) and the costs which are likely to be incurred.
  - 24.1.3 The claim or position adopted by the Assured is tainted with illegality or serious impropriety, or is based on conduct or matters which give rise to an exclusion of cover under either this or any other policy of insurance concluded between the Assured and the Company, including the Company's General Terms and Conditions incorporated therein.
- 24.2 Any recovery under this Class of Insurance shall be subject always to the following:
  - 24.2.1 The Company shall be entitled in its absolute discretion to support the Assured in connection with any claim or dispute referred to in section 23 to such stage or extent and in such manner and on such terms as the



Company may think fit, including but not limited to a term that the amount that the Assured will be reimbursed by the Company shall be capped at a particular amount or alternatively that the Assured shall not be reimbursed in respect of any specified amount or proportion of the costs and expenses incurred or to be incurred.

24.2.2 The Company shall be entitled at any time in its absolute discretion to discontinue its support or to refuse further support in connection with any claim or dispute referred to in section 23, notwithstanding any previous decision by the Company to support the same.

24.2.3 Notwithstanding section 38.8 of part 4 of this insurance, the Company shall have an absolute discretion as to the conduct of any claim or dispute referred to in section 23 and may at any time direct an Assured and its appointed lawyers, surveyors or other persons to take whatever course in connection therewith as the Company may at its sole discretion require and upon such terms as the Company may deem appropriate and to continue or discontinue any legal proceedings.

24.2.4 In the event of a failure by the Assured to act as directed by the Company whether under this sub-section 24.2 or howsoever, the Assured shall not be entitled to be reimbursed by the Company in respect of any legal costs and expenses so incurred unless and insofar as the Company shall, in its absolute discretion, otherwise determine.

24.3 The Company shall be entitled either directly on its own behalf or with the full cooperation of the Assured to take all such steps as it deems appropriate to satisfy itself that the legal costs and expenses incurred in respect of this part 2 are reasonable. The Company shall have full authority and right to make enquiry of any appointed lawyers and to negotiate with them, to require a full schedule of costs and disbursements and to tax or assess the same as the Company in its sole discretion shall consider appropriate whether formally or otherwise and the Assured shall provide all consents as may be necessary in this regard.

24.4 Where a dispute falls within this Policy, the Assured shall not settle or compromise the dispute or make any admissions without the prior approval of the Company, failing which the Company may in its absolute discretion decline cover and/or require reimbursement from the Assured forthwith of any legal costs and/or expenses that it has already incurred in respect of the dispute. If a claim by the Assured has been compromised or settled on terms that either are inclusive of legal costs or make no provision as to costs, the Company shall in its absolute discretion be entitled to determine what part of any sum thus received by the Assured shall be deemed attributable to legal costs, and require that part to be paid forthwith to the Company to the extent that the Company has already incurred such costs.

### **PART 3:** **WAR PROTECTION AND INDEMNITY COVER**

#### **Section 25**

#### **Conditions**

Subject always to the exclusions hereinafter referred to and the provisions of this Policy of Insurance, the Company shall indemnify the Assured against all the Legal Liabilities, costs and expenses under part 1, and part 2 if taken out, which are incurred in respect of the operation of the Insured Vessel, arising from Events occurring during the Period of Insurance and caused by:

25.1 war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power;

25.2 capture, seizure, arrest, restraint or detainment;

25.3 derelict mines, torpedoes, bombs or other derelict weapons of war;

25.4 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions;

25.5 any terrorist or any person acting maliciously or from a political motive;



25.6 confiscation or expropriation.

**Section 26            Trading**

Worldwide (unrestricted but excluding Iran) subject to 7 days' Notice of Cancellation.

**Section 27            Exclusions and Limitations**

Loss, damage, liability or expense arising from:

- 27.1 requisition, either for title or use, or pre-emption;
- 27.2 capture, seizure, arrest, restraint or detainment confiscation or expropriation by or under the order of the government or any public or local authority of the country in which the Vessel is owned or registered;
- 27.3 arrest, restraint, detainment, confiscation or expropriation under quarantine regulations or by reason of infringement of any customs or trading regulations;
- 27.4 the operation of ordinary judicial process, failure to provide security or to pay any fine or penalty or any financial cause;
- 27.5 loss, damage, liability or expense covered by the Institute Time Clauses- Hulls 1/11/95 (including 3/4ths Collision Liability Clause amended to 4/4th) or which would be recoverable thereunder but for Clause 12 (Deductible) thereof;
- 27.6 any claim for any sum recoverable under any other insurance on the Vessel or which would be recoverable under such insurance but for the existence of this insurance;
- 27.7 any claim for expenses arising from delay except such expenses as would be recoverable in principle in English law and practice under the York-Antwerp Rules 1994.

**Section 28            Notice of cancellation and war automatic termination of cover**

- 28.1 Cover hereunder may be cancelled by either the Company or the Assured giving 7 days' notice (such cancellation becoming effective on the expiry of 7 days from midnight of the day on which notice of cancellation is issued by or to the Company). The Company agrees however to reinstate cover subject to agreement between the Company and the Assured prior to the expiry of such notice of cancellation as to new rate of premium and/or conditions and/or warranties.
- 28.2 Whether or not such notice of cancellation has been given cover hereunder in respect of the risks of war, shall terminate automatically:
  - 28.2.1 upon the occurrence of any hostile detonation of any weapon of war employing atomic or nuclear fission and/ or fusion or other like reaction or radioactive force or matter wheresoever or whensoever such detonation may occur, whether or not the insured vessel(s) may be involved, and this insurance excludes loss, damage, liability or expense arising from such occurrence;
  - 28.2.2 upon the outbreak of war (whether there be a declaration of war or not) between any of the following countries: United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China and this insurance excludes loss, damage, liability or expense arising from such outbreak of war;
  - 28.2.3 in respect of any vessel, in connection with which cover is granted hereunder, in the event of such vessel being requisitioned either for title or use and this insurance excludes loss, damage, liability or expense arising from such requisition.
- 28.3 Cover in respect of the risks of war shall not become effective if, subsequent to acceptance by the Company and prior to the intended time of attachment of risk,

there has occurred any event which would have automatically terminated cover under the provisions of this section.

- 28.4 In the event either of cancellation by notice or of automatic termination of this insurance by reason of the operation of this Termination Clause, or of the sale of the Vessel, a pro rata net return of premium shall be payable to the Assured.

## **PART 4: GENERAL TERMS AND CONDITIONS**

### **Section 29            Application of terms**

Any contract of insurance effected pursuant to the Marine Liability Policy for Shipowners shall incorporate the general terms and conditions and the terms and conditions of Class of Insurance 1 and Class of Insurance 2. The terms and conditions set out in each Class of Insurance in this policy shall prevail over the general terms and conditions in the event of a conflict between them, but any terms appearing in the Certificate of Insurance shall prevail above all others.

### **Section 30            Application for insurance**

The contract of insurance between the Company and the Assured shall rely on the information and particulars provided by the Assured in the form supplied by the Company at the time of applying for insurance.

### **Section 31            Certificate of insurance**

- 31.1 On acceptance of the application for insurance by the Company, a Certificate of Insurance will be issued by the Company evidencing the terms and conditions of the contract of insurance between the Company and the Assured, which shall also state:

- 31.1.1 Name of Assured on whose behalf the Insured Vessel is insured, the name of the Ship manager of the Insured Vessel and name of any Co-assured.
- 31.1.2 The Class of Insurance and any special terms and/or warranties.
- 31.1.3 The name and main details of the Insured Vessel(s).
- 31.1.4 The Attachment Date of the Insured Vessel(s) and the Period of Insurance.
- 31.1.5 The maximum amount insured.
- 31.1.6 The applicable Deductibles.
- 31.2 If at any time during the Period of Insurance the terms relating to any Insured Vessel vary the Company will issue an endorsement stating the terms and effective date of such variation. Any change of information related to the Insured Vessel mentioned in the Certificate of Insurance or information that will influence the insurance risk shall be notified to the Company forthwith.
- 31.3 Every Certificate of Insurance issued by the Company shall be conclusive evidence as to the terms of the contract of insurance or as to the variation of such terms as the case may be.

## **Section 32**

### **Exclusions and limitations**

- 32.1 The Assured shall not be entitled to recover under any part or Class of Insurance, if:
  - 32.1.1 The Assured has failed to exercise reasonable care in the chartering, ownership, operation or management of the Insured Vessel.
  - 32.1.2 The Assured has failed to promptly provide the Company or its nominated representative with any information or documentation relating to any claim or dispute under this policy.
  - 32.1.3 The claim or dispute is between Joint Assureds or between Associated persons.
  - 32.1.4 The claim or dispute arose out of or consequent upon the Insured Vessel carrying illegal goods, contraband, blockade running or the Assured recklessly or intentionally employed or caused the Insured Vessel to be employed in an unlawful or unduly hazardous or improper trade or voyage or that the Cargo carried and/or the method of its securing or unsecuring, carriage, loading, discharging, inspection, maintenance, treatment or lack thereof during the voyage or discharging was unduly hazardous, patently inappropriate or improper.
  - 32.1.5 The liabilities, costs, losses or expenses are caused by:
    - a. War, civil war, revolution, rebellion, insurrection, terrorist act or civil strife arising therefrom, or any hostile act by or against a belligerent power;
    - b. Capture, seizure, arrest, restraint or detention (barratry and piracy excepted) and the consequences thereof or any attempt thereat;
    - c. Any weapons of war, unless by reason of transport on the Insured Vessel;
    - d. Nuclear risks;
    - e. Cargoes that are not carried in accordance with the specific international guidelines applicable including, but not limited to, the IMDG, IBC or IMSBC Code; or which are carried on vessels that do not comply with the requirements as set for the carriage of such Cargoes;
    - f. Wilful misconduct on the part of the Assured, such misconduct being an act intentionally done, or a deliberate omission by the Assured, with knowledge that the performance or omission will probably result in injury, or an act done or omitted in such way as to allow inference of a reckless disregard of the probable consequences.
  - 32.1.6 The Insured Vessel has been, or is intended to be, employed in trades or areas other than those agreed with the Company.
  - 32.1.7 The liability is imposed on the Assured as punitive or exemplary damages,

howsoever described.

32.1.8 The claim, liability or expenses are covered under any other policy.

32.1.9 The claim is in respect of liability, losses, costs and expenses incurred during the course of performing Specialists Operations, to the extent that these arise 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 Specialist Operations by the Assured or the fitness for purpose and quality of the Assured's work, products or services, including any defect in the Assured's work, products or services; or
- c. Any loss of or damage to the contract work including, but not limited to materials, components, parts, machinery, fixtures, equipment and any other property which is or is destined to become a part of the completed project which is the subject of the contract under which the ship is working, or to be used up or consumed in the completion of such project. This exclusion shall not apply to liabilities, losses, costs and expenses incurred by the Assured in respect of:
  - i. Loss of life, injury or illness of Crew and other personnel on board the Insured Vessel; or
  - ii. The wreck removal of the Insured Vessel; or
  - iii. Oil pollution from the Insured Vessel;  
but only to the extent that such liabilities, losses, costs and expenses are covered by the Company in accordance with the policy wording.

32.1.10 The claim is in respect of liability, losses, costs and expenses arising out of the carriage of Passengers, unless agreed by the Company in writing prior to attachment.

32.1.11 The liability arises under the terms of any contract or indemnity and would not have arisen but for those terms, unless those terms were previously approved by the Company in writing.

32.2 Institute radioactive contamination, chemical, biological, bio-chemical and electromagnetic weapons exclusion clause [CL. 370].

32.2.1 This clause shall be paramount and shall override anything contained in this insurance inconsistent therewith.

32.2.2 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 or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
- d. The radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. 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;

e. Any chemical, biological, bio-chemical, or electromagnetic weapon.

### 32.3 Institute Cyber Attack Exclusion Clause [CL. 380].

32.3.1 Subject only to section 32.3.2 below, in no case shall this insurance cover loss, damage, liability or expense directly or indirectly caused or contributed to by or arising from the use or operation, as a means of inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

32.3.2 Where this section is endorsed on policies covering risks of war, civil war, revolution, rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, section 32.3.1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software program or any other electronic computer system in the launch and/or guidance and or firing mechanism of any weapon or missile.

### 32.4 Hull Policies

32.4.1 There shall be no recovery under any part or Class of Insurance in respect of any liabilities, costs or expenses which would be recoverable under the Insured Vessel's Hull Policies.

32.4.2 There shall be no recovery under any part or Class of Insurance in respect of any deductible provided for under the terms of the Insured Vessel's Hull Policies.

## Section 33

### Payments to the company

33.1 Section 53 of the Marine Insurance Act shall not unless otherwise agreed apply.

33.2 The Assured shall pay the premium strictly as required by the Company in the Certificate of Insurance or as the Company shall specify from time to time. Time shall be of the essence as regards any due date as hereinafter defined.

33.2.1 If the Certificate of Insurance or other written notification by the Company requires payment to be made in full by a given date or within the period there set out this shall be the due date by which the Assured must pay.

33.2.2 If the Certificate of Insurance or other written notification by the Company requires payment to be made in instalments by a series of dates or periods as there set out, then each date or period shall count as a due date by which the Assured must pay although it is expressly agreed that the instalment payments do not render the policy severable.

33.3 The Company may require the Assured to pay all or any part of any premium due in such currency as the Company may specify.

33.4 No claim of any kind whatsoever by the Assured against the Company shall constitute any right of set-off against the premiums or other sums due to the Company or shall entitle the Assured to withhold or delay payment of any premiums or other sums due under this policy on the due date.

33.5 Where the Assured has failed to pay, either in whole or in part, any premium or other sums due to the Company by a due date notwithstanding that, in relation to instalment payments, the Assured may have paid any prior amount(s) by the due date(s), the Company shall have the right to serve a notice upon the Assured requiring him to pay the premium by any date specified in such notice, not being less than seven days from the date on which notice is given. If the Assured fails to make such payment in full on or before the date so specified, this insurance shall be cancelled forthwith without further notice or any other formality. The effect of such cancellation shall be as set out in section 35.1 below. Notwithstanding that the insurance has been cancelled by virtue of this section, the Assured shall be liable

for all or any amounts which have fallen due under this policy prior to such cancellation.

- 33.6 The Company shall be entitled, once premiums and other sums have become due and payable, to commence an action against the Assured or any other liable person, for the recovery of these amounts.
- 33.7 The Assured shall indemnify the Company and hold it harmless in respect of any liability, cost or expense incurred or amount paid by the Company in respect of any Insurance Premium Tax for which the Assured is liable.
- 33.8 For the avoidance of doubt, in relation to schedule payments the Assured may not elect or seek to appropriate any one premium payment to a particular schedule payment. Its obligation is to pay each schedule payment as it falls due in strict rotation. The Company may serve a notice pursuant to section 33.5 in respect of any failure to pay by a due date and its right of cancellation pursuant to section 33.5, and the effect thereof pursuant to section 35.1, shall subsist and there shall be no waiver in respect thereof even if an earlier or later schedule payment(s) has been made by a due date(s). Should the Assured electronically transmit funds after a due date or after the notice period specified in the Company's notice under section 33.5 has expired then the acceptance of such funds is conditional only and the Company in its sole discretion may unequivocally accept or reject the late payment. In the event that the Company rejects the late payment then this insurance shall be effectively cancelled as from the expiry of the notice period and section 35.1 shall be fully effective.

## **Section 34**

### **Cesser of insurance and termination**

The Assured shall cease to be insured by the Company in respect of all Insured Vessels upon the happening of any of the following:

#### **34.1 In respect of the Assured:**

- 34.1.1 If there is a change of management or ownership of the Insured Vessel.
- 34.1.2 If the Assured is served in accordance with section 33.5 with a notice by the Company requiring him to pay any amount due to the Company and he fails to pay such amount on or before the date specified in such notice.
- 34.1.3 Where the Assured is an individual, upon his death or if a receiving order shall be made against him or if he shall become bankrupt or make any composition or arrangement with his creditors generally or if he shall become incapable by reason of mental disorder of managing and administering his property and affairs.
- 34.1.4 Where the Assured is a corporation, upon the passing of any resolution for voluntary winding up (other than voluntary winding up for the purposes of company or group reorganisation) or upon an order being made for compulsory winding up or upon dissolution or upon a receiver or manager of all or part of the corporation's business or undertaking being appointed or upon possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge.

#### **34.2 In respect of the Insured Vessel:**

- 34.2.1 If the Insured Vessel becomes a total loss or is accepted under the Hull or



War Risks Policies as being a constructive, compromised or arranged total loss. The Company will then be entitled to receive full annual premium and any outstanding payment will become immediately due in case the Insured Vessel becomes a total loss or is accepted under the Hull or War Risks Policies as being a constructive, compromised or arranged total loss.

34.2.2 If the Insured Vessel is missing for 10 days from the date she was last heard of, or upon her being posted at Lloyd's as missing, whichever shall be the earlier.

34.2.3 If the Insured Vessel is requisitioned by a State or government authority.

#### 34.3 Termination by the Company

The Company may terminate cover of any or all of the Assured's vessels covered, on such notice in writing as the Company may decide where, in the opinion of the Company, the Assured has exposed or may expose the Company to the risk of being or becoming subject to a sanction, prohibition, restriction or other adverse action by a state or international organisation or competent authority.

### **Section 35                    Effect of cesser of insurance**

35.1 If the cesser of the insurance occurs because of a cancellation for failure to pay premiums, the Assured shall cease to be insured as from the Attachment Date and the Company shall not be liable for any claims of whatsoever nature in respect of any Insured Vessel under this policy, whether the incident giving rise to such claim occurred before or after the cesser of this insurance and notwithstanding the Company may have admitted liability for or appointed lawyers, surveyors or any other person to deal with any claims or the Company has posted or promised security.

The Assured must in all cases make alternative arrangements for the defence or prosecution of any claims and for the provision of substitute security and do all things necessary to take over and handle any claims as prudent uninsured.

35.2 If the cesser of insurance occurs for any other reason, the Company shall remain liable for all claims under this policy arising from any incident which occurred before the cesser but shall be under no liability in respect of any claim arising out of any occurrence or Event after the cesser.

### **Section 36                    Fleet insurance**

If it is agreed between the Assureds and the Company that if the Insured Vessels are subject to Fleet Insurance then the debts of any one Assured in respect of any such Insured Vessel shall be treated as a debt to the Company of all other Assureds whose vessels are or were insured as part of the same fleet and the Company shall be entitled to act as if all the vessels forming part of the fleet were entered by the same Assured.

### **Section 37                    Double insurance**

37.1 There shall be no recovery from the Company of any claim in respect of liabilities or expenses which are recoverable under any other insurance effected by the Assured.

37.2 The Company shall not be liable for any franchise, deductible or deduction of a similar nature borne by the Assured under such other insurance.

### **Section 38                    Claims**

38.1 Upon the occurrence of any casualty, Event or matter liable to give rise to a claim by the Assured against the Company, it should be the duty of the Assured and his agents to take and continue to take all such steps as may be reasonable for the purpose of averting or minimizing any expense or liability in respect of which he may be insured by the Company. If the Assured commits any breach of this obligation the Company may reject any claim by him.

38.2 It is a condition precedent to the Company's liability hereunder that the Assured



shall give prompt notice in writing to the Company of any claim, dispute, matter or Event which has arisen or has occurred and which is liable to give rise to a claim under this policy, and shall provide the Company with all relevant facts of which the Assured has knowledge at the time of any notification.

- 38.3 If the Assured makes any request for payment under this policy knowing it to be fraudulent or false in any respect (or in circumstances where it ought reasonably to be known to be so) or where the Assured colludes with a third party with a view to making a fraudulent claim hereunder then this policy shall be rendered automatically void and the Assured will forfeit all benefit under it and it shall be of no further effect. The Company shall be entitled to retain all and any premium already paid and to obtain a full indemnity from the Assured in respect of any costs and disbursements incurred by the Company in relation to the claim and in relation to the investigation of the Assured's conduct.
- 38.4 If the Assured becomes insolvent during the course of any claim to which the Company has given support, the Company shall thereupon reserve the right to withdraw that support forthwith.
- 38.5 The Assured must at all times promptly provide the Company of any documents, reports, evidence or other information relevant to any claim, dispute, matter or Event which has led or which is liable to lead to a claim under this policy, and which are in the possession or power of the Assured or his agents or otherwise within his knowledge.
- 38.6 When so requested by the Company, the Assured shall promptly produce, or cause his agents promptly to produce, all such documents or information of whatsoever nature which are or may be relevant to the Assured's claim or intended claim.
- 38.7 The Assured shall permit the Company or his appointed agent or servant to interview any servant or agent or other person who may have been working for the Assured at the material time or at any time thereafter or whom the Company considers likely to have any direct or indirect knowledge of the matter giving rise to a claim under this policy.
- 38.8 Any lawyer, surveyor or other expert or adviser shall be selected by the Company. The Company may, at its sole discretion, approve or decline any suggestions of the Assured in this regard. A lawyer, surveyor, expert or other adviser so selected shall be appointed and employed solely on the basis:
- 38.8.1 That they are employed by the Assured who shall be deemed their principal.
- 38.8.2 That they have standing instructions from the Assured at all times to give advice and report to the Company directly without prior reference to the Assured and shall produce to the Company any and all relevant documents or information obtained by them whether from the Assured or howsoever and whether or not such advice, reports, documents or information would otherwise be the subject of legal or any form of privilege as if they had been appointed to act at all times and had at all times been acting on behalf of the Company and the Company may at any time whatsoever rely upon such advice, reports and documentation or information as it in its absolute discretion deems fit, including but not limited to, the provision of further support and on coverage under the policy.
- 38.8.3 That notwithstanding section 38.8.2 above, any reports or advices given pursuant to this section shall not bind the Company to any course of action.
- 38.8.4 That they shall provide costs and disbursement estimates to the Company at the Company's request. If so advised by the Company in writing, no legal costs and expenses shall be incurred by them without the Company's express prior approval.
- 38.9 The Company is under no obligation to provide bail or other security on behalf of the Assured, but from time to time the Company may in its sole discretion decide to provide bail or other security on such terms and in such form as the Company in its sole discretion may consider appropriate.

- 38.10 Where legal steps or other proceedings are undertaken by lawyers or other parties appointed by the Assured or its agents, the Company has the discretion to decline to pay for such legal services. The Company furthermore has the right to control or direct the conduct of handling of any case or legal and other proceedings relating to any matter in respect whereof legal and other costs are covered and to require the Assured to settle, compromise or otherwise dispose of the case or legal and other proceedings in such manner and upon such terms as the Company deems necessary. The Company shall be under no liability to reimburse an Assured for costs incurred before the Company has been notified of a claim under the cover.
- 38.11 The provision by the Company of bail or other security, or otherwise acting on behalf of the Assured, shall not constitute an admission of liability by the Company for the claim in respect of which the bail or other security is given.
- 38.12 The provision by the Company of bail or other security is always subject to payment to the Company of the applicable Deductible(s) and all outstanding premiums.
- 38.13 It is a condition precedent to the Assured's right of recovery under this policy with regard to any claim by the Assured in respect of any loss, expense or liability, that the Assured shall first have discharged any loss, expense or liability.
- 38.14 Where the Company has indemnified the Assured for any claim under this policy, the Company shall be entitled to any recovery from a third party in respect of that claim and the Assured shall, upon first request of the Company, provide all documents to enable the Company to exercise the Assured's rights of recovery.
- 38.15 Where the Assured as a consequence of an event which is covered by the Company obtains extra revenue, saves expenses or avoids liability or loss which otherwise would have been incurred and which would not have been covered by the Company, the Company shall be entitled to recover from the Assured or retain from any sum which would otherwise be payable to the Assured, an amount equivalent to the benefit obtained by the Assured.
- 38.16 Notwithstanding section 38.13, where the Assured has failed to discharge a legal liability to pay damages or compensation for personal injury, illness or death of a crew member, or costs of repatriation, due wages and other due entitlements under the Maritime Labour Convention 2006 or any materially similar enactment, the Company shall discharge or pay such claim on the Assured's behalf directly to such Crew member or dependent thereof, provided always that:
- a. The Crew member or dependent has no enforceable right of recovery against any other party and would otherwise be uncompensated,
  - b. The amount payable by the Company shall under no circumstances exceed the amount which the Assured would otherwise have been able to recover from the Company under the policy and the Assured's terms of cover as per this Certificate of Insurance, and
  - c. Any payment in respect of costs of repatriation, due wages or other due entitlements made under this provision shall be done by the Company as agent of the Assured only and the Assured shall be liable to reimburse the Company for the full amount of such payment.
- 38.17 Where an Assured or Co-assured is entitled to limit any liability covered by the Company, there shall be no recovery in respect of such liability for more than the amount to which liability could have been limited.

## **Section 39**

### **Maximum insured amount**

- 39.1 The maximum liability of the Company under this policy in respect of each

accident or occurrence relating to the Insured Vessel and falling within the Period of Insurance shall be limited to the amount(s) specified in the Certificate of Insurance.

39.2 Where more than one limit applies, the Company's liability shall not exceed the lowest applicable limit.

## **Section 40**

### **Deductibles**

40.1 Any claim recoverable under this policy shall be limited to the excess of the Deductibles specified in the Certificate of Insurance.

40.2 The Assured shall pay the Deductible on or before the date specified by the Company.

40.3 Where an Assured has failed to pay, either in whole or in part, any amount due from the Assured to the Company, the Company shall have the right to serve a notice upon the Assured requiring him to pay such amount by any date specified in such notice, not being less than seven (7) days from the date on which notice is given. If the Assured fails to make such payment in full on or before the date so specified, the insurance of the Assured shall be cancelled forthwith without further notice or formality. Notwithstanding that the insurance has been cancelled by virtue of this clause, the Assured shall be liable for all or any amounts which have fallen due under this policy prior to such cancellation.

40.4 The Company shall be entitled, once Deductibles have become due and payable, to commence an action against the Assured or any other person liable, to recover any unpaid Deductible.

## **Section 41**

### **Joint assureds and co-assureds**

#### **41.1 Joint Assureds**

41.1.1 The Company may accept an Insured Vessel owned by more than one party or managed by another company than the Assured, in which case each party shall be a Joint Assured.

41.1.2 Joint Assureds shall be jointly and severally liable to pay all amounts due to the Company.

41.1.3 If an application is made for two or more vessels forming part of a fleet through a Ship Manager with a view to obtaining terms which would not have been available had the vessels been offered for insurance separately, such insurance may be accepted on the basis that the Ship Manager shall sign the appropriate Application Form and be treated as a Joint Assured and shall together with the Assured be jointly liable as Assured.

#### **41.2 Co-assureds**

41.2.1 The Company may agree to extend cover under the Policy of Insurance to a Co-assured named in the Certificate of Insurance.

41.2.2 The cover afforded to the Assured shall extend only insofar as such Co-assured may be found liable to pay in the first instance for loss or damage which is properly the responsibility of the Assured (or, in the case of Defence cover, insofar as such Co-assured may be required to resist a claim arising from such a liability), and nothing herein contained shall be construed as extending cover in respect of any amount which would not have been recoverable from the Company by the Assured had the claim in respect of such loss or damage been made or enforced against him.

41.2.3 A Co-assured shall not be liable for amounts due to the Company by the Assured, unless they approach the Company for cover in which case they will be jointly and severally liable to pay all amounts due to the Company.

#### **41.3 Terms of cover**

41.3.1 Any payment by the Company to the Assured or any one of the Joint Assureds, or any Co-assured, shall be deemed to be complete payment to

the Assured and to all Joint Assureds and Co-assureds jointly and shall fully discharge the obligations of the Company in respect of that payment.

41.3.2 The contents of any communication between the Company and the Assured, or any Joint Assured or any Co-assured, shall be deemed to be within the knowledge of the Assured and all Joint Assureds and Co-assureds.

41.3.3 Any failure by the Assured, or any Joint Assured, or any Co-assured to comply with any of the obligations under this Policy of Insurance, shall be deemed to be a failure of the Assured and all Joint Assureds and Co-assureds.

41.3.4 Any conduct or omission (including misrepresentation or non-disclosure) by the Assured, or any Joint Assured or any Co-assured, which would have entitled the Company to reject or reduce any claims shall be deemed to have been the failure of the Assured and all Joint Assureds and Co-assureds.

41.3.5 The Company shall not cover any liability, loss, expense or costs in respect of any dispute between the Assured and any Joint Assured, Co-Assured or Affiliate, or between Joint Assureds, or between Co-assureds and Affiliates.

41.3.6 The total liability of the Company in respect of any one Event, to the Assured, and to any Joint Assured or Co-assured shall not exceed such sum as would have been recoverable from the Company only by the Assured.

41.3.7 In the event that the total liability of the Company is less than the total sum claimed by the Assured and by any Joint Assured or Co-assured, the Company shall be entitled to apportion payment in proportion to the respective amounts claimed.

## **Section 42**

### **Disputes between assureds**

In the event of a dispute between Assureds insured with the Company, the Company may insist that the dispute in question shall be submitted to the Company and/or to a legal, technical or other expert appointed by the Company, for an opinion prior to the commencement of court proceedings or arbitration. Any such opinion may not be referred to in any subsequent proceedings, but may be taken into account by the Company in determining to what extent the Company shall cover the costs of either Assured.

## **Section 43**

### **Interest and set off**

43.1 In no case whatsoever shall interest be paid on any amount due from the Company.

43.2 The Company shall be entitled to set off any amount due from the Assured against any amount due to the Assured.

## **Section 44**

### **Documentation**

It is warranted that the Insured Vessel, its Crew and its Cargo shall, at all times, be properly documented, unless otherwise agreed in writing between the Assured and the Company. Should the Insured Vessel at any time to the knowledge of the Assured or any of its officers, or should any of them be reckless in relation thereto, carry false papers relating to the operation of the Vessel, the qualifications, number or competence of the Crew, or as to the nature or condition of the cargo then this policy shall be rendered automatically void and the Assured will forfeit all benefit under it and it shall be of no further effect.

## **Section 45**

### **Flag state & statutory regulations**

45.1 It is warranted that the Insured Vessel is registered in a particular country and sails under a particular flag and/or management and shall remain so during the entire Period of Insurance.

45.2 It is warranted that the Assured shall comply with all statutory regulations, laws, and directions relating to the construction, adaptation, condition, fitment and equipment of the Insured Vessel throughout the entire Period of Insurance.



- 45.3 It is warranted that the Assured shall maintain the validity of all statutory or other certificates as are issued by or on behalf of the Insured Vessel's flag State in relation to the International Safety Management (ISM) Code and the International Ship and Port Facility Security (ISPS) Code throughout the entire Period of Insurance.
- 45.4 It is warranted that the Insured Vessel is to be crewed and manned in accordance with the statutory regulations, laws and directions applying to the Insured Vessel by virtue of its registry or flag and shall comply with the statutory regulations, laws or decrees relating to crewing and manning in each port which the Insured Vessel visits, whether or not in the course of its employment.

## **Section 46**

### **Classification**

- 46.1 It is warranted that the Insured Vessel is and shall remain throughout the Period of Insurance fully classed with a Classification Society approved by the Company, and that any change of Classification Society shall forthwith be notified to the Company in writing. The Assured shall fully and timely comply with all rules, recommendations and requirements of the Classification Society and will promptly report to the Classification Society and the Company any incident or condition in connection with the Insured Vessel.
- 46.2 The Assured irrevocably authorises the Company to inspect and copy information relating to the maintenance of classification either in the Assured's possession or in the possession of the Classification Society and the Assured will at the request of the Company confirm in writing that the Company is entitled to inspect and copy such records of the Classification Society for whatever purpose the Company may deem necessary.
- 46.3 It is warranted that during the Period of Insurance the Insured Vessel shall be classed and maintained in class without any extensions or postponements from the Classification Society of their survey dates. It is further warranted that any recommendations by the Classification Society in relation to the Insured Vessel will be complied with immediately.

## **Section 47**

### **Condition, other surveys and inspections**

The provisions of this section shall not derogate from the warranties of the Assured in relation to those matters set out in sections 44, 45 and 46. This section contains the entitlement of the Company to review the condition of the Insured Vessel at any time throughout the Period of Insurance and in appropriate circumstances to amend, suspend or terminate the insurance coverage provided.

- 47.1 All references herein to a "Condition Surveyor" shall be to a surveyor who shall be nominated by the Company yet appointed by the Assured or, at the Company's option, a Company Staff Surveyor. The Condition Surveyor must report directly to the Company as the Surveyor's Principal, with a copy to the Assured. The Assured alone shall be responsible for the Condition Surveyor's fees and for the attendance of the Condition Surveyor on board the Insured Vessel in order to comply with any survey warranty time limits.
- 47.2 The Assured shall provide the Company with all information, documents and photographic or other evidence including VDR and other electronic data, Class records, if any, as to the condition, maintenance and operation of the Insured Vessel, including her whereabouts, prior to inception and throughout the entire Period of Insurance and on renewal as the Company may reasonably request. It is a continuing non-delegable obligation upon the Assured promptly to notify and to provide the Company with all relevant documentation concerning any incident or matter that may affect the Insured Vessel's condition during the Period of Insurance including, but not limited to, intervention by Port State Control, a casualty, a direction or other order by a State or port regulatory authority that requires repairs, improvement or some remedial step to the Insured Vessel. A failure by the Assured to comply with this subclause may entitle the Company to treat the policy as at an end or to limit or exclude its liability thereunder.
- 47.3 The Assured shall strictly comply with any survey warranty set out in the Certificate

of Insurance relating to the Insured Vessel. In the cases of a survey warranty for new entry or a survey warranty for renewal the Company may on a held covered basis or on such other terms as it in its sole discretion may decide, require the Insured Vessel to be surveyed by a Condition Surveyor on a date and at a place satisfactory to the Company, but at the Assured's expense and always within the survey warranty's time limit which shall be the Assured's sole responsibility. The Report of the Condition Surveyor shall, if competently carried out, form part of the Company's Risk Assessment.

- 47.4 The Assured shall permit the Company, at any time and in addition to any survey warranty requirements pursuant to 47.3 above, to carry out a survey or surveys (including follow-up surveys) of the Insured Vessel by a Condition Surveyor at the Assured's expense on a date and at a place satisfactory to the Company.
- 47.5 In the light of the Company's Risk Assessment following any survey pursuant to 47.3 and/ or 47.4 above the Company shall advise whether the Insured Vessel is in a fit and proper condition and, in the case of a survey warranty pursuant to 47.3 above, whether the same has been fully complied with and the subjectivity removed. Alternatively in the light of the Company's Risk Assessment the Company shall be entitled:
- 47.5.1 To impose conditions and/or restrictions or otherwise vary the Policy of Insurance as the Company may, in its sole discretion, deem appropriate including, without limitation, the exclusion of all or part of the perils insured against under Part 1 (Class 1) of the Policy, on provision to the Assured of the Company's Risk Assessment Report. Any condition, restriction, variation or exclusion shall remain in full force and effect unless and until the Company advises the Assured that the Company is satisfied that the Assured has complied with the recommendations of the Risk Assessment Report whether as to repairs or such other action and within such time as may be specified by the Company.
- 47.5.2 To suspend the Policy of Insurance immediately on provision to the Assured of the Risk Assessment Report when the Assured shall have no right to recover from the Company in respect of any insured peril, liability, costs or expense occurring or incurred during the period commencing from the date and time the Company informed the Assured of the suspension until the Company advises the Assured that it is satisfied that the Assured has complied with the recommendations of the Risk Assessment Report as to repairs or such other action as necessary, when coverage shall be reinstated for the residue of the Policy period but in no circumstances retrospectively during the period of suspension.
- 47.5.3 To terminate the Policy of Insurance immediately when the Assured shall cease to be insured. In the case of a survey warranty for new entry or for renewal the assured shall cease to be insured from inception. In all other cases the Company shall tender an appropriate pro-rata premium return, if applicable, as soon as reasonably practicable.
- 47.5.4 Should the Assured decline to accept the suspension of the Policy of Insurance ("the suspension") pursuant to Section 47.5.2 above or to accept any condition, restriction, variation or exclusion imposed by the Company pursuant to section 47.5.1 above ("the amended terms") then it shall have the option of terminating the Policy of Insurance within 7 days of its receipt of the Company's advice of the suspension or of the amended terms when the Company shall tender an appropriate pro-rata premium return, if applicable, as soon as reasonably practicable.
- 47.5.5 In all cases the Company's decision shall be recorded by endorsement that

shall confirm, vary, suspend or terminate the Policy of Insurance as the case may be and on the terms there set out.

47.6 The Company's Condition Survey Guidelines, as from time to time amended and the Company's Risk Assessment Reports insofar as they relate to the Insured Vessel, shall be patent to the Assured as the basis of the Company's assessments pursuant to section 47.5 above.

47.7 Any recommendations or observations of a Condition Surveyor acting under any part of any one of the sub-clauses set out herein shall be treated as within the actual knowledge of the Assured.

#### **Section 48           Assignment**

48.1 No insurance provided by the Company and no interest in any contract between the Company and the Assured may be assigned without the written consent of the Company, who shall have the right in its sole discretion to give or refuse such consent without stating any reason or to give consent upon any such terms or conditions as the Company may think fit.

48.2 The Company shall be entitled, before paying any claim to an assignee of the Assured, to deduct or retain such amount as the Company may then estimate to be sufficient to discharge any liabilities of the Assured to the Company, whether existing at the time of the assignment or having accrued or being likely to accrue thereafter.

#### **Section 49           Forbearance and waiver**

No act, omission, course of dealing, forbearance, delay or indulgence by the Company, whether by its officers, servants, agents or otherwise, shall be treated as a waiver of any of his rights in respect of any of the terms and conditions in this policy.

#### **Section 50           Admission and settlement**

The Assured shall make no admission of liability nor settle any claim or dispute or proceedings instituted by or against it without prior written approval of the Company. If the Assured admits liability or settles the claim or dispute without such prior written approval or refuses to settle the claim, notwithstanding that the Company shall have required it to do so, the Company shall not be liable to indemnify the Assured and the Assured will be liable to refund the Company all or part of any costs paid by the Company either to the Assured or to lawyers, surveyors or other persons.

#### **Section 51           Subrogation**

51.1 The Company shall be subrogated to all the rights which the Assured may have against any other person or entity, in respect of any payment or promise of payment made in accordance with this policy, to the extent of such payment or that promise of payment, and the Assured shall, upon the request of the Company, execute all documents necessary to secure to the Company such rights.

51.2 The Company shall have the right to sue in the name of the Assured, and the Assured shall execute all papers and documents in connection therewith, as requested by the Company, and shall lend all assistance to the prosecution of any suit. The balance of any amount recovered after full reimbursement of the Company for its loss and all expenses incurred shall be paid to the Assured. Compliance with this requirement may, in the Company's discretion, be made a condition of the payment of a loss.

#### **Section 52           Notification and time limit**

Without prejudice to the duty of prompt notification contained in section 38.2, the Assured's claim against the Company shall be extinguished and the Company shall be under no further liability in respect thereof, if an Assured:

- a. Fails to notify the Company of any casualty, Event or claim referred to in section 38.2 within one year after he has knowledge thereof or ought to have had knowledge thereof or;
- b. fails to submit a claim to the Company for reimbursement of any liabilities, costs or



expenses within one year after discharging the same.

## **Section 53**

### **Total asbestos exclusion**

There shall be no recovery from the Company in respect of any liabilities, costs and expenses directly or indirectly arising out of, resulting from or in consequence of, or in any way involving asbestos, or any materials containing asbestos in whatever form or quantity.

## **Section 54**

### **Law and jurisdiction**

54.1 This policy shall be governed by and construed in accordance with English Law.

54.2 The High Court in London shall have exclusive jurisdiction to hear and determine any claim or dispute under this policy.

54.3 The Insurance provided by the Company shall not, nor is it intended to, confer any right or benefit on any third party under the Contracts (Rights of Third Parties) Act 1999 or any similar provision, enactment or principle of law contained in the laws of any State which purports to do so.

## **Section 55**

### **Insurance acts**

55.1 This policy and all contracts of insurance made by the Company shall be subject to and incorporate the provisions of the Marine Insurance Act 1906 and the Insurance Act 2015 of the United Kingdom and any statutory modification thereof except insofar as such Acts or modifications may have been expressly excluded by this policy or by any term of such contracts.

55.2 The following provisions of the Insurance Act 2015 ("the Act") are excluded from this policy and any contract of insurance as follows:

- a. Section 8 of the Act, on remedies for breach of duty of fair presentation, is excluded. As a result any breach of the duty of fair presentation shall entitle the Company to avoid the policy, regardless of whether the breach of the duty of fair presentation is innocent, deliberate or reckless.
- b. Section 10 of the Act, on breach of warranty, is excluded. As a result all warranties in this policy or any contract of insurance must be strictly complied with and if the Assured or any insured party fails to comply with any warranty the Company shall be discharged from liability from the date of the breach, regardless of whether the breach is subsequently remedied.
- c. Section 11 of the Act, on terms not relevant to the actual loss, is excluded. As a result the policy and all terms of the contract of insurance between the Company and the Assured and any insured party, including terms which tend to reduce the risk of loss of a particular kind, loss at a particular location and/ or loss at a particular time, must be strictly complied with and if the Assured or any insured party fails to comply with any such term, the Company's liability may be excluded, limited or discharged in accordance with this policy notwithstanding that the breach could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.
- d. Section 13 of the Act, on remedies for fraudulent claims in group insurance, is excluded. As a result the Company shall be entitled to exercise its right to terminate the contract of insurance in respect of the Assured and all insured parties in the event that a fraudulent claim is submitted by or on behalf of the Assured and/or any insured party and/or any affiliated or associated company of the Assured.
- e. Section 13A of the Act, on implied term on payment of claims, is excluded. As a result the policy and the contract of insurance between the Company and the Assured and any insured party shall not be subject to nor shall the Company be in

breach of any implied term that they will pay any sums due in respect of a claim within a reasonable time save where the breach is deliberate or reckless and Section 13A of the Act is excluded to this extent.

- f. Section 14 of the Act, on good faith, is excluded. As a result, the contract of insurance between the Company, the Assured and any insured party shall be deemed to be a contract of the utmost good faith, and any breach of the duty of the utmost good faith shall entitle the Company to avoid the contract of insurance.

## **Section 56**

### **Sanctions limitation and exclusion clause**

The Company shall not be deemed to prove cover and shall not be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the Company to any sanction, prohibition or restriction under United Nations resolutions or trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

## **Section 57**

### **Several liability clauses**

A contract of insurance effected pursuant to the Marine Liability Policy for Shipowners may incorporate one of the following sub-sections as will appear on the Certificate of Insurance.:

#### **57.1 Several Liability Clause I [CL. LSW 1001]**

##### **a. Insurance**

The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any cosubscribing insurer who for any reason does not satisfy all or part of its obligations.

##### **b. Reinsurance**

The subscribing reinsurers' obligations under contracts of reinsurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing reinsurers are not responsible for the subscription of any co-subscribing reinsurer who for any reason does not satisfy all or part of its obligations.

#### **57.2 Several Liability Clause II [CL. LMA 5096]**

##### **Insurance or Reinsurance**

The liability of an insurer under this contract is several and not joint with other insurers party to this contract. An insurer is liable only for the proportion of liability it has underwritten. An insurer is not jointly liable for the proportion of liability underwritten by any other insurer. Nor is an insurer otherwise responsible for any liability of any other insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by an insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown in this contract.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is an insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together).

The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise

responsible for any liability of any other insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA.

The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Although reference is made at various points in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

## **PART 5:**

### **ADDITIONAL COVER AND EXTENSION CLAUSES**

In addition to the risks covered under part 1 of this policy wording, the Protection and Indemnity cover can be extended with the following optional clauses at terms and conditions to be approved and confirmed by the Company in writing prior to commencement of such risk.

#### **Clause 1      Specialist operations clause**

Notwithstanding the exclusion in section 32.1.9.a of the General Terms and Conditions of this policy, cover is extended to include claims in respect of the specialist nature of the operations.

#### **Clause 2      Salvors clause**

1. Liabilities which an Assured, being a professional salvor, may incur, arising out of salvage operations performed by him where the Insured Vessel is a salvage tug or other ship intended to be used in salvage operations, but only where such cover has been first agreed by the Company. Such liabilities must relate to the risks set out in part 1 of this policy.
2. Liabilities in respect of oil pollution arising out of salvage operations where such liabilities do not arise in relation to the Insured Vessel but arise in connection with the Assured's business as a professional salvor.
3. Liabilities other than oil pollution arising out of salvage operations where such liabilities do not arise in relation to the Insured Vessel but arise in connection with the Assured's business as a professional salvor.

#### *Exclusions and Limitations*

There shall be no recovery under paragraphs 2 and 3 for liabilities insured under contract where they would not have arisen but for the existence of such a contract, unless they are assumed in respect of sub-contractors' tortious and/or statutory liability. There shall be no recovery under paragraphs 1 to 3 for liabilities:

- a. For which the Assured is covered if the Insured Vessel is entered for standard risks with the Company or another insurer affording equally wide cover;
- b. Relating to any of the risks which are excluded in the Assured's Certificate of Insurance, unless otherwise agreed by the Company.

#### **Clause 3      Towage liability clause**

The coverage is hereby extended to include those liabilities, costs and expenses, including those assumed by reason of contract, to the extent they may be incurred by

the Assured during the course of performing towage.

Unless otherwise specifically agreed in writing by the Company there is neither liberty to tow rigs or platforms nor to tow under contract governed by American law.

The contracts set out under sections (a) and (b) of this clause (below) are approved provided that they are not amended so as to increase the liability of the Insured Vessel. In countries where the terms of those contracts would not be enforceable at law the Company may approve, on a case by case basis, contracts in which the Assured contracts on the basis most likely to be effective in upholding the right to limit liability provided always that the towage contract should not impose upon the tug any liability for the negligence of any other party

a. Where there is a contract with the owner of the tow:

1. the United Kingdom, Netherlands, Scandinavian or German standard towage conditions;
2. the international Ocean Towage Agreement's "Towhire" or "Towcon" conditions;
3. Lloyd's Standard Form of Salvage Agreement 1980 (LOF 1980), or Lloyd's Standard Form of Salvage Agreement 1990 (LOF 1990), or Lloyd's Standard Form of Salvage Agreement 1995 (LOF 1995), or Lloyd's Standard Form of Salvage Agreement 2000 (LOF 2000);
4. terms as between the owner of the Insured Vessel on the one part, and the owner of the tow and the owners of any cargo or property on board the tow on the other part, that each shall be responsible for any loss or damage to his own vessel, cargo or other property on his own vessel and for the loss of life or personal injury of his own employees or contractors, without any recourse whatsoever against the other, that is "knock for knock" terms.

b. Where there is no direct contractual relationship with the owner of the tow, a charter, which contains:

1. "Knock for knock" terms, as in note 4 above, covering the property of co-ventures or other contractors of the charterers as well as the property of the charterer themselves.
2. A separate clause within the charter requiring that all towage be carried out on terms no less favourable than "knock for knock" terms.

#### **Clause 4**

##### **Bollard pull clause**

The cover is extended to continue during Bollard Pull tests, carried out by Port Authorities from time to time, subject to tugs registered Bollard Pull not being exceeded. There is no cover for damage to the equipment used in the test.

#### **Clause 5**

##### **Passenger liability clause**

The cover is extended to include liability, costs and expenses arising out of the carriage of Passengers in accordance with the terms and conditions as set out below:

A. Liability to pay damages or compensation:

1. For personal injury, illness or death of a Passenger including hospital, medical or funeral expenses incurred in relation to such injury, illness or death including the costs of forwarding the injured or ill Passengers to destination or return port of embarkation and maintenance of such Passengers ashore. In this paragraph funeral expenses shall include the repatriation of dead bodies.
2. To Passengers on board the Insured Vessel arising as a consequence of a casualty to that vessel, including the cost of forwarding Passengers to destination or return port of embarkation and of maintenance of such Passengers ashore.
3. For loss of or damage to the baggage or personal effects of a Passenger.
4. For loss of or shortage or damage to accompanying property, including but not limited to cars, motorbikes or other vehicles carried under the contract, belonging to

or carried under the direction or order of one or more Passengers.

- B. The net cost to the Assured (over and above the expenses that would have been incurred but for the diversion or delay) of fuel, insurance, wages, stores, provisions and port charges during a diversion of the Insured Vessel reasonably undertaken for the purpose of securing the necessary treatment ashore of ill or injured Passengers on board the Insured Vessel.
- C. The net cost to the Assured (over and above the expenses that would have been incurred but for the outbreak of the infectious disease) of fuel, insurance, wages, stores and provisions and port charges, reasonably incurred as a direct consequence of an outbreak of infectious disease amongst Passengers or in relation to Passengers, including quarantine and disinfection expenses.
- D. Liability which the Assured may incur, under the terms of an indemnity or contract relating to facilities or services provided in relation to the maintenance or entertainment of Passengers.
- E. Fines imposed in respect of the Assured Vessel by any court, tribunal or authority in accordance with part 1, section 19 (Fines) notwithstanding the exclusions and limitations thereof.

Provided always that:

- a. There shall be no right of recovery under any paragraph of this clause unless and only to the extent that the Company has agreed to provide cover under this clause or under specified paragraphs thereof upon such terms and conditions as they think fit and the Certificate of Insurance has been endorsed accordingly.
- b. There shall be no right of recovery from the Company in respect of claims relating to cash, cheques, creditcards, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature, unless and only to the extent that the Company have agreed to provide cover upon such terms and conditions as they think fit and the Certificate of Insurance has been endorsed accordingly.
- c. In the case of loss of or damage to the baggage or personal effects of a Passenger, there shall be no right of recovery from the Company in respect of any article, which in the opinion of the Company is not an essential or normal requirement of a Passenger.
- d. The Company may reject or reduce a claim under paragraph (c) of this clause if it considers that having regard to all the circumstances of the case it was unreasonable or imprudent for the Insured Vessel to have entered or remained at any port or place where such vessel was likely to be subject to disinfection or quarantine.
- e. There shall be no right of recovery from the Company under this clause in respect of the contractual liability of an Assured for death or injury to a Passenger whilst on an excursion, or proceeding to or from the Assured Vessel in the circumstances where a separate contract has been entered into by the Passenger for the excursion or passage, whether or not with the Assured, or whether or not the Assured has waived any or all rights of recourse against any subcontractor or other third party.
- f. There shall be no right of recovery from the Company under this clause in respect of liabilities for personal injury, illness or death, or loss or damage to property, delay or any other consequential loss sustained by any Passenger, by reason of carriage by air, except where such liability occurs during repatriation by air of injured or ill Passengers, or of Passengers following a casualty to the Insured Vessel.

## **Clause 6**

### **Steel cargo clause**

It is warranted that each voyage the Assured at his expense appoints a Company approved surveyor to:

- Approve that the hatches and holds are fit for carriage of steel cargoes.
- Survey each Cargo prior to loading.



The Bills of Lading shall be claused with the findings of the Surveyor. In the event that either loss of or damage to the Cargo leads to a claim on the Company, the costs of the survey shall form part of the claim and be subject to the Deductible accordingly.

**Clause 7**

**Container clause**

If containers are being carried: Warranted certified container lashing plan and certified container lashing equipment to be on board.

**Clause 8**

**IMO cargoes clause**

Warranted vessel to be approved by the Classification Society to carry IMO Cargoes. IMO Cargoes to be stowed, cared for, trimmed and discharged strictly in accordance with IMDG Code and port authority regulations or other local regulations, being this approved under the Charter Party and done with the knowledge and consent of the Master and/or owners.

**Clause 9**

**Dutch Crew clause**

Excluding all claims arising from loss of life, personal injury or illness, or loss of Personal effects of any Crew member where such liability arises or the costs or expenses are incurred under the terms of a crew contract or other contract of service or employment, which follows or goes beyond the Collective Labour Agreements and which are capable of being covered by the Dutch Social Insurance Institutions such as “Zee – risico 1967” and/or “Het Noorden” and/or “UWV” on the widest conditions of cover available therefrom.

The Assured’s right of recovery to remain fully intact with regard to recourse actions, and claims for special damages, as well as in respect of the liability for costs and expenses not normally covered by the Dutch Social Insurance Institutions such as extraordinary funeral and repatriation expenses of dead bodies, substitution and diversion, in accordance with the applicable Policy of Insurance.

A contract of employment or other contract of service or employment drafted in accordance with the Collective Labour Agreement shall be deemed to be a contract “seen and approved” by the Company.

**Clause 10**

**Deck Cargo clause**

Cargo Liability has been extended to include additional liabilities to Cargo whilst carried on deck and also when carried under contract (Class of Insurance 1, part 1, section 9), subject always to Limit of Liability: USD 200,000, any one accident or occurrence and Deductible of USD 10,000 each single voyage, notwithstanding the contents of Class of Insurance 1, part 1, section 9.2.7.

Following wording to be added by the Assured to each and every Bill of Lading stating that the Cargo is being carried on deck and exonerating themselves from liability: “shipped on deck at shippers/charterer’s risk and responsibility without liability on the part of the owners/carrier for any expenses, delays, loss or damage howsoever caused and even if caused by the negligence of the owners/carriers or their agents, or by the unseaworthiness of the vessel”.

**Clause 11**

**Claims control clause**

Any accident or occurrence in relation to an Insured Vessel likely to lead to a claim hereunder shall be notified immediately in writing to the Company, who will have 100% control over claims handling without interference by other parties.

**Clause 12**

**Bagged Cargo clause**

Should the Insured Vessel be required to load bagged Cargo, the Assured will promptly advise the Company and will arrange for an approved surveyor at the Assured's expense, to conduct a pre-loading survey at the port(s) of shipment to supervise the loading and stowage, to tally the bagged Cargo and note the apparent condition of the bagged Cargo as it is loaded aboard the ship. All bills of lading issued in respect of such Cargo are to be claused in accordance with any findings of the surveyor.

On discharge of the bagged Cargo, a discharge survey is to be organized using a surveyor approved by the Company at owner's expense to supervise the discharge, tally the bagged Cargo and determine the nature of any apparent damage or torn bags, any shortage of Cargo and any loss or damage attributable to stevedores.

#### **Clause 13**

##### **Contractor's Co-assurance**

Notwithstanding the provisions of section 41.3.5, the Company agrees to extend cover under the Policy of Insurance to a Co-assured named in the Certificate of Insurance on a Contractor's Co-assurance basis, defined as follows:

The Company agrees to extend the cover afforded to the Assured under Part 1 of the policy to a co-assured named in the Certificate of Insurance who is a person who has entered into a contract with the Assured for the provision of services to or by the Insured Vessel, provided that the contract has been approved by the Company, includes a knock for knock agreement and the Assured has not waived any rights of limitation otherwise available to him under applicable law. The liability of the Company to any persons benefiting from the cover by way of above provision shall only be in respect of liabilities, costs and expenses which are to be borne by the Assured under the terms of the contract and which would be recoverable by them from the Company.



## **PART 6: DEFINITIONS**

<b>Affiliate</b>	A person who is affiliated to or associated with the Assured and to whom the Company has agreed (subject to restrictions) to extend the cover afforded to the Assured.
<b>Application Form</b>	An application for insurance, duly signed by the Assured, in the standard format stipulated by the Company, providing information material to the risk to be insured and which shall be attached and form part of the Policy of Insurance.
<b>Associated person</b>	A company or other legal entity which controls or is controlled by or is under common control with the Assured.
<b>Assured</b>	The Person insured under the Policy of Insurance and who is stated to be the Assured in the Certificate of Insurance.
<b>Attachment Date</b>	The first day on which the insurance commences.
<b>Cargo</b>	Goods which are the subject of a contract of carriage and are intended to be, are, or were carried on the Insured Vessel, other than containers leased and/or owned by the Assured.
<b>Certificate of Insurance</b>	The document issued by the Company stating the details of risks attached and which is evidence of the contract of insurance including the endorsements provided as per part 4, section 31.2 under the Policy of Insurance.
<b>Charter Party</b>	A time charter party, a voyage charter party, including contracts of affreightment and booking notes or a space charter party.
<b>Class of Insurance</b>	Any class of insurance which is referred to in the Policy of Insurance.
<b>Co-assured</b>	A party, other than the Assured, who is named on the Certificate of Insurance, to whom the Company has agreed (subject to restrictions) to extend the cover afforded to the Assured.
<b>Company</b>	The carriers as mentioned in the Certificate of Insurance under the Security heading.
<b>Crew</b>	Any person (including the Master) employed or engaged to serve on board the Insured Vessel under Articles of Agreement or other crew agreement or contract of service of or employment, including a substitute for such person.
<b>Deductible</b>	The proportion, percentage or the limited sum of money to be borne by the Assured in respect of any claim.
<b>Electronic Trading System (E.T.S.)</b>	<ol style="list-style-type: none"><li>1. an E.T.S. is any system which replaces or is intended to replace paper documents used for the sale of goods and/ or their carriage by sea or partly by sea and other means of transport and which:<ul style="list-style-type: none"><li>- are documents of title, or</li><li>- entitles the holder to delivery or possession of the goods referred to in such documents, or</li><li>- evidences a contract of carriage under which the rights and obligations of either of the contracting parties may be transferred to a third party.</li></ul></li><li>2. a “document” shall mean anything in which information of any description is recorded including, but not limited to, computer or other electronically generated information.</li></ol>
<b>Events</b>	Any event, including any occurrence or occurrences arising out of any such event unless the Company decides to treat each occurrence as a separate event. An event shall be deemed to have taken place at the time of the first occurrence that results in a claim or claims.

<b>Fleet Insurance</b>	Coverage of two or more vessels by one or more Assureds on the basis that the Insured Vessels will be treated as a fleet of vessels, which will be subject to a combined loss record.
<b>Hague Visby Rules</b>	The International Convention for the Unification of Certain Rules Relating to Bills of Lading signed in Brussels on 25th August 1924, as amended by the Protocol to that Convention signed in Brussels on 23rd February 1968.
<b>Hamburg Rules</b>	The United Nations Convention on the Carriage of Goods by Sea, 1978.
<b>Hull Policies</b>	The insurance policy or policies effected on the hull and machinery of the Insured Vessel, including any interest, increased value, excess liability, war & strikes risks and other total loss policies.
<b>Insured Vessel</b>	The Vessel which name appears in the Certificate of Insurance.
<b>Joint Assured</b>	Where the Certificate of Insurance names more than one Person as the Assured, any of those so named.
<b>Legal Liability</b>	Liability arising out of a final and unappealable judgement or award from a competent court, tribunal or other judicial body.
<b>Marine Insurance Act</b>	The Marine Insurance Act of 1906 of England and Wales.
<b>Operation</b>	All functions performed by the Insured Vessel whilst trading or in ballast including repairs at sea, at an anchorage or on a berth.
<b>Passenger</b>	Any person who is carried in the ship under a contract of carriage, or who, with the consent of the carrier, is accompanying a vehicle or live animals covered by a contract for the carriage of the goods.
<b>Period of Insurance</b>	Twelve months as from the Attachment Date of insurance of the Insured Vessel or such lesser period as the Company shall agree.
<b>Person</b>	A natural person, an incorporated or unincorporated body or a combination of both.
<b>Personal effects</b>	Personal property including clothes, documents, navigation and other technical instruments and tools but excluding valuables and any other articles which, in the opinion of the Company, are not reasonably required by a crew member.
<b>Policy of Insurance</b>	The Company's Marine Liability Policy for Ship Owners, consisting of the General Terms and Conditions, together with those terms and conditions specified in the separate Classes of Insurance and the Certificate of Insurance.
<b>Ship manager</b>	A Ship Manager or other managing agent acting on behalf of the owner of the Insured Vessel.
<b>Specialist Operations</b>	Specialist operations are considered to be salvage, fire fighting, exploration, surveying, drilling, production, and associated services in respect of oil, gas or minerals, oil storage, underwater operations by a submarine or other submersible, commercial diving and underwater surveying, construction, including pile driving, blasting, and the transport and construction of offshore installations, dredging and the removal and discharge of dredging or other spoil, cable or pipeline laying or recovery, including preparatory surveying, laying or recovery operations, maintenance, waste incineration or disposal, pollution control, professional oil spill response and tank cleaning (other than on the Insured Vessel), search and rescue at sea, research at sea, leisure, accommodation and catering services on board a permanently moored vessel.