

## **PROTECTION & INDEMNITY WORDING (TMSP&I 01.02.17)**

### **Section A - Risks Covered**

In consideration of the premium paid hereon, the Insurer hereby undertakes to make good to the Assured or the assured's executors, administrators and/or successors, all such loss and/or damage and/or expense as the Assured shall as owner of the Insured Vessel(s) have become liable to pay and shall pay on account of the liabilities, risks, events and/or happenings herein set forth:-

#### **1. Liability to crew**

1.1 Liability for loss of life of, or personal injury to, or illness of, any member of the crew of the Insured Vessel(s) excluding, however, unless otherwise agreed by endorsement hereon, liability under any Compensation Act to any employee of the Assured, (other than a seaman) or in case of death to his beneficiaries or others.

1.2 Liability for hospital, medical, or other expenses necessarily and reasonably incurred in respect of loss of life of, personal injury to, or illness of any member of the crew of the Insured Vessel(s). Liability hereunder shall also include burial expenses, when necessarily and reasonably incurred by the Assured for the burial of any seaman of said Insured Vessel(s).

1.3 Liability for repatriation expenses of any member of the crew of the Insured Vessel(s), necessarily and reasonably incurred, under statutory obligation, excepting such expenses as arise out of or ensue from the termination of any agreement in accordance with the terms thereof, or by mutual consent, or by sale of the said vessel, or by other act of the Assured. Wages shall be included in such expenses when payable under statutory obligation, during unemployment due to the wreck or loss of the said Insured Vessel(s).

1.4 Liability for costs and expenses incurred in providing substitute crew where required, by virtue of a loss insured under Clause 1.3 above or arising from the desertion of any member of crew, provided such expenses are incurred with the consent of the Insurer.

1.5 Liability to pay damages or compensation for loss of or damage to the effects of any seaman but there shall be no recovery in respect of claims relating to cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature.

#### **2. Liability to persons other than crew**

2.1 Liability to pay damages or compensation for personal injury, illness or death of any person (other than the persons specified in Clause 1 above) and hospital, medical or funeral expenses incurred in relation to such injury, illness or death, provided always that cover under this clause is limited to liabilities arising out of a negligent act or omission on board or in relation to an Insured Vessel or in relation to the handling of her cargo from the time of receipt of that cargo from the shipper or pre-carrier at the port of shipment until delivery of that cargo to consignee or onward carrier at the port of discharge.

2.2 Liability to pay damages or compensation for loss of or damage to personal effects other than cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature.

#### **3. Damage to other Vessels – Running Down Clause**

3.1 Liabilities, costs and expenses arising as a result of a collision between the Insured Vessel(s) and any other vessel(s) in respect of:

(a) one fourth of the liabilities, costs and expenses incurred by reason of such a collision, in respect of claims other than those set out at Clause 3.1b below, and which are not recoverable under the Insured Vessel(s)'s Hull and Machinery insurance, except where the Insurer has agreed in writing to cover some other proportion of such liabilities, costs and expenses.

(b) the full extent of the Assured's liabilities, costs and expenses incurred by reason of such a collision in respect of:

- (i) liability to crew insofar as such liability may be covered under Section A, Clause 1
- (ii) loss of or damage to property insofar as such liability may be covered under Section A, Clause 4
- (iii) wreck removal insofar as such liability may be covered Section A, Clause 5
- (iv) damage to cargo on the Insured Vessel(s) insofar as such liability may be covered under Section A, Clause 6
- (v) pollution insofar as such liability may be covered Section A, Clause 7
- (vi) general average or salvage paid by those interested in cargo carried on board the Insured Vessel(s) or in property on board the Insured Vessel(s) insofar as such liability may be covered under section A Clause 13

(c) such part of the Assured's liabilities incurred by reason of collision, other than those referred to in Clauses 3.1a) and 3.1b) as exceeds the amount recoverable under the Insured Vessel's Hull and Machinery insurance solely because those liabilities exceed the Insured Vessel's insured value under such insurance.

3.2 Unless agreed by the Insurer in writing, if both vessels in collision are to blame, and the liability of one or both vessel(s) is limited by operation of law, claims in respect of liabilities arising under this clause shall be settled by reference to the principle of single liability. Save in these circumstances, claims in respect of such liabilities shall be settled by reference to the principle of cross-liabilities.

#### 4. Loss or damage to third party property

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

4.2 Liability for loss of or damage to any other vessel or craft, or to property on such vessel or craft, not caused by collision, provided that such liability does not arise by reason of a contract made by the Assured.

4.3 Where there would be a valid claim hereunder but for the fact that the damaged property belongs to the Assured, the Insurer shall be liable as if such damaged property belonged to another, but only for the excess over any amount recoverable under any other insurance applicable on the property.

#### 5. Removal of wreck

5.1 Liability for costs or expenses of, or incidental to, the removal of the wreck of an Insured Vessel and/or the wreck of any vessel damaged by the Insured Vessel(s), by collision or otherwise, or cargo on board such a wreck, when such removal is compulsory by law, provided, however, that there shall be deducted from such claim for costs or expenses, the value of any salvage from or which might have been recovered from the wreck, inuring, or which might have inured, to the benefit of the Assured.

5.2 The Insurer shall not be liable for such costs or expenses which would be covered by the Assured's Hull & Machinery policy as outlined in Section C, Clause 32 of this policy or claims arising out of hostilities or war-like operations, whether before or after declaration of war.

#### 6. Liability to cargo

6.1 Cover is hereby extended in respect of liabilities, costs and expenses for loss of or damage to cargo intended to be or being or having been shipped or carried on an Insured Vessel which arise as a result of a breach by an Assured of his obligations or duties as a carrier by sea.

6.2 All contracts of carriage entered into by an Assured shall be subject to the Hague/Hague Visby Rules/ Hamburg Rules or US COGSA 1936.

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

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



6.4 When cargo is carried by the vessel named herein under a bill of lading or similar document of title subject or made subject to the Hague/Hague Visby Rules/ Hamburg Rules or the Carriage of Goods by Sea Act, April 16, 1936, liability hereunder shall be limited to such as is imposed by said Rules or Act, and if the Assured or the vessel named herein assumes any greater liability obligation than the minimum liabilities and obligations imposed by said Rules or Act, such greater liability or obligation shall not be covered hereunder.

6.5 When cargo is carried by the vessel named herein under a charter party, bill of lading or contract of affreightment not subject or made subject to the Hague/Hague Visby Rules/ Hamburg Rules or the Carriage of Goods by Sea Act, April 16, 1936, liability hereunder shall be limited to such as would exist if said charter party, bill of lading, or contract of affreightment contained the following clauses:

a clause limiting the Assured's liability for total loss or damage to goods shipped to Two Hundred and Fifty (\$250) Dollars per package, or in the case of goods not shipped in packages, per customary freight unit, and providing for pro rata adjustment on such basis for partial loss or damage; a clause exempting the Assured and the vessel named herein from liability for losses arising from unseaworthiness, even though existing at the beginning of the voyage, provided that due diligence shall have been exercised to make the vessel seaworthy and properly manned, equipped, and supplied; a clause providing that the carrier shall not be liable for claims in respect of cargo unless notice of claim is given within the time limited in such Bill of Lading and suit is brought thereon within the limited time prescribed therein; and such other protective clauses as are commonly in use in the particular trade; provided the incorporation of such clauses is not contrary to law.

6.6 The foregoing provisions as to the contents of the Bill of Lading and the limitation of the Insurer's liability may, however, be waived or altered by the Insurer on terms agreed, in writing. Accordingly, the Assured shall not accept any duties or obligations greater than those which would be imposed on him under such a contract, or which represent any waiver of any right of limitation except with the prior written approval of the Insurer.

6.7 PROVIDED ALWAYS THAT:-

- (a) The Insured Vessel's reefer machinery is Classed and Class maintained at all times. In addition all part refrigerated machinery on an Insured Vessel must be Classed and maintained.
- (b) The Assured is to maintain temperature logs of cargo upon receipt, during the transit and at the time of delivery which will be kept available for the Insurer's inspection along with all records evidencing the maintenance of all refrigerated equipment.
- (c) The Insurer will not accept any liability arising out of the carriage of steel products unless a pre-loading survey has been carried out at Owner's expense by a surveyor approved by the Insurer and bills of lading claused in accordance with surveyor's findings and/or recommendations.
- (d) Pre-loading surveys are not required for the carriage of billets, blooms, scrap, swarf, plain parallel sided pipes (i.e. without threads and/or flanges) and pig iron.
- (e) The Insurer will not accept any liability arising out of the carriage of cement or sugar cargoes unless a pre-loading survey has been carried out at Owner's expense by a surveyor approved by the Insurer and bills of lading claused in accordance with surveyor's findings and/or recommendations.

6.8 The following are not covered:

- (a) The issue of any bill of lading which is known to either the Assured or Master to be incorrect in a material particular;
- (b) The delivery of cargo without production of the original bill(s) of lading;
- (c) All claims arising out of lien or sale of cargo;
- (d) Any liability arising from (i) inherent quality, defect or vice of cargo (ii) delay or loss of market;
- (e) Delivery of the cargo at a port or place other than in accordance with the contract of carriage;
- (f) Carriage of cargo on deck where under deck bills of lading have been issued and/or where carriage on deck is unsuitable for the cargo in question;
- (g) Unless and to the extent that special cover has been agreed in writing by the Insurer, there shall be no liability for payments to cargo claimants of amounts exceeding whichever is the higher of US\$ 2,500 per unit, piece or package or the limitation per unit, piece or package specified in the standard term of carriage, in respect of shipments of goods carried under an ad valorem bill of lading, waybill or other document containing or evidencing the contract of carriage in which the value of the relevant unit, piece or package has been stated to be in excess of US\$ 2,500;
- (h) Unless and to the extent that special cover has been agreed in writing by the Insurer, there shall be no recovery in respect of claims relating to the carriage of specie, bullion, precious or rare metals or stone, plate or other objects of a rare or precious nature, bank notes or other forms of currency, bonds or other negotiable instruments.
- (i) Any property owned by the Assured or Affiliated/Associated Companies.
- (j) Carriage of Livestock.

## 7. Pollution Risks

### 7.1 Liability for, and incidental expenses in relation to:-

(a) Damages or compensation payable for Pollution or the threat thereof, including costs and expenses incurred by the Assured in performing any measures reasonably taken to avoid, minimise or clean up Pollution and any losses or damage incurred as a result of such measures.;

(b) Any measures reasonably taken to comply with the order of any government or Authority to avoid, minimise or clean up Pollution, unless such liabilities and incidental expenses are, or would but for the Policy of Insurance be recoverable under other policies in respect of the Insured Vessel(s).

7.2 Under this clause, there shall be no recovery for liability for Pollution or contamination arising out of waste dumping or incineration carried out from, or on, an Insured Vessel(s).

## 8. Fines and Penalties

8.1 Liability for fines and penalties, including expenses necessarily and reasonably incurred in avoiding or mitigating same, for the violation of the laws of any country; provided, however, that the Insurer shall not be liable to indemnify the Assured against any such fines or penalties resulting directly or indirectly from the failure, neglect, or default of the Assured or his managing officers or managing agents to exercise due diligence to prevent a violation of any such laws.

## 9. Towage liabilities

### 9.1 CUSTOMARY TOWAGE OF AN INSURED VESSEL(S)

Liability under the terms of a contract for the customary towage of an Insured Vessel(s), that is to say:

- (a) Towage for the purpose of entering or leaving port or manoeuvring within the port during the ordinary course of trading; or
- (b) Towage of such Insured Vessel(s) as are habitually towed in the ordinary course of trading from port to port or from place to place.

### 9.2 TOWAGE OF AN INSURED VESSEL(S) OTHER THAN CUSTOMARY TOWAGE

Liability under the terms of a contract for towage of an Insured Vessel(s) other than the customary towage covered under Clause 9.1 above but only if and to the extent that cover has been agreed by the Insurer hereon.

### 9.3 TOWAGE BY AN INSURED VESSEL

Liability arising out of towage of another vessel or object by an Insured Vessel(s) but only if and to extent that:

- (a) Cover afforded hereunder is limited insofar as the contract of tow is on terms no wider than an unamended version of the UK Standard Conditions for Towing or Other Services (1986 Edition), or Towcon or Towhire contracts or where cover for such liability has been agreed by the Insurer in writing upon such terms as the Insurer may require, or
- (b) Such towage was necessary for the purpose of saving or attempting to save life or property at sea.

### PROVIDED ALWAYS THAT

Unless agreed by the Insurer in writing, and in accordance with Clause 9.3 a) above, such cover shall be deemed to exclude liability howsoever arising on the part of the Insured Vessel(s) for loss of, damage to, or wreck removal of the towed vessel or object or any cargo or property thereon.

## 10. Stowaways and Refugees

10.1 Subject to a Limit of Liability of US\$ 50,000 each single voyage and subject always to the combined single limit, cover is granted for liabilities and expenses, incurred by the Assured in discharging his obligations towards or making necessary arrangements for deserters, stowaways and refugees or persons saved at sea, including rescue expenses, but only if and to the extent that the Assured is legally liable for the expenses or they are incurred with the agreement of the Insurer.

#### 11. Diversion Expenses

11.1 Expenses incurred as a result of diversion or delay of an Insured Vessel (over and above the expenses that would have been incurred but for the diversion or delay) solely for the following purposes:

- (a) Securing necessary treatment ashore of sick or injured persons aboard the Insured Vessel(s).
- (b) Awaiting a substitute for a sick or injured seaman who has been landed ashore for treatment.

#### 12. Life Salvage

12.1 Sums legally due to third parties by reason of the fact that they have saved or attempted to save the life of any person on or from the Insured Vessel(s) but only if and to the extent that such payments are not recoverable under the hull policies of the Insured Vessel(s) or from cargo owners or insurers.

#### 13. General Average

13.1 Liability for, or loss of, cargo's proportion of general average, including special charges, in so far as the Assured cannot recover same from any other source; subject however, to the exclusions of Clause 6 and provided that, if the Charter Party, Bill of Lading, or Contract of Affreightment does not contain the quoted clause under Clause 6.3 the Insurer's liability hereunder shall be limited to such as would exist if such clause were contained therein.

#### 14. Costs and Expenses

14.1 Costs, charges and expenses, reasonably incurred and paid by the Assured in defence against any liabilities insured against hereunder in respect of an Insured Vessel, subject to the agreed deductibles applicable, and subject further to the conditions and limitations hereinafter provided.

#### 15. Sue and Labour

15.1 Costs and expenses necessarily incurred by the Assured after an incident in order to avoid or reduce a liability or expenditure against which the Assured is insured herein by the Insurer provided that such costs have been incurred with the prior approval of the Insurer.

### **Section B - Risks Excluded**

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

#### 16. War Risks

Any loss, damage or expense sustained by reason of capture, seizure, arrest, restraint or detention, or the consequence thereof or of any attempt thereat; or sustained in consequence of military, naval or air action by force of arms, including mines and torpedoes or other missiles or engines of war, whether of enemy or friendly origin, or sustained in consequence of placing an Insured Vessel in jeopardy as an act or measure of war taken in the actual process of a military engagement. Any such loss, damage or expense shall be excluded from this policy without regard to whether the Assured's liability therefore is based on negligence or otherwise, and whether before or after a declaration of war.

#### 17. Unlawful Acts, Bad Debts and Fraud

Any loss, damage, or expense arising from the cancellation or breach of any charter, bad debts, fraud of agents, insolvency, loss of freight hire or demurrage, or as a result of the breach of any undertaking to load any cargo, or in respect of an Insured Vessel engaging in any unlawful trade or performing any unlawful act, with the knowledge of the Assured.

#### 18. Towage

Any cost, liability or expense arising from towage of and/or by an Insured Vessel except insofar as cover is provided under Section A Clause 9, provided however that this exclusion shall not apply to claims under this policy for loss of life or personal injury to passengers and/or members of the crew of the Insured Vessels(s) arising as a result of towing.



19. Contracts of Indemnity

Any claim for loss of life or personal injury in relation to the handling of cargo where such claim arises under a contract of indemnity between the Assured and his sub-contractor.

20. Punitive Damages

Any liability imposed on the Assured as punitive or exemplary damages, however described.

21. Asbestosis and Lead

Any claim for illness, bodily or personal injury or death, or loss of, damage to, or loss of use of property directly or indirectly caused by asbestos and/or lead.

22. Specialist Operations

Any claim relating to loss, damage, liability or expense incurred by the Assured during the course of performing specialist operations. Specialist operations include but are not limited to, dredging, well-stimulation, cable or pipe laying, construction, installation or maintenance work, core sampling, depositing of spoil, professional oil spillage response or professional oil spillage response training (but excluding fire-fighting) to the extent that such loss, damage, liability or expense arises as a consequence of:

- (a) claims brought by any party for whose benefit the work has been performed, or by any third party (whether connected with any party for whose benefit the work has been performed or not) in respect of the specialist nature of the operations; or
- (b) the failure to perform such operations by the 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;

Provided that this exclusion under this Clause 22 shall not apply to any claim in respect of:

- (a) loss of life, injury or illness of crew and other personnel on board the Insured Vessel(s) and,
- (b) wreck removal of the Insured Vessel(s); as defined in Section A, Clause 5.

23. Waste Disposal

Any claim arising out of waste incineration or disposal operations carried out by the Assured;

24. Submarines

Any claim arising out of the operation by the Assured of submarines, mini submarines or diving bells;

25. Divers

Any claim arising in respect of divers or diving operations;

26. HIVL & LAV

Any claim arising from directly or indirectly caused by or associated with Human T-Cell Lymphotropic Virus type III (HIVL III) or Lymphadenopathy Associated Virus (LAV) or the mutants derivatives or variations thereof or in any way related to Acquired Immune Deficiency Syndrome (AIDS) or any syndrome or condition of a similar kind howsoever it may be named;

27. INSTITUTE RADIOACTIVE CONTAMINATION , CHEMICAL, BIOLOGICAL, BIO-CHEMICAL AND ELECTRO MAGNETIC WEAPONS EXCLUSION CLAUSE .

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

27.1 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.

#### 28. INSTITUTE CYBER ATTACK EXCLUSION CLAUSE

28.1 Subject only to Clause 28.2 below, in no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

28.2 Where this clause is endorsed on policies covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, Clause 28.1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

#### 29. TERRORISM & MALICIOUS ACTS EXCLUSION CLAUSE

29.1 In no case shall this insurance cover any loss damage liability or expense caused by or relating to:-

- (a) The attempt to or actual detonation of any explosive or the operation of any munition or other similar harmful device, including but not limited to biological &/or chemical device.
- (b) The act or attempted acts of any terrorist or group of terrorists, irrespective of their motives be they political, religious or other, or any person or group acting with a malicious intent.

#### 30. U.S. OIL POLLUTION EXCLUSION CLAUSE

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

#### 31. SANCTION LIMITATION AND EXCLUSION CLAUSE

The Insurer shall not be deemed to provide cover and the Insurer 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 Insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

### Section C - General Conditions

#### 32. Hull & Machinery Policy

32.1 It is warranted the Assured has in effect at inception and for the duration of this policy Hull & Machinery Cover to the market value of the vessel under terms and conditions no less wide than the Institute Time Clauses – Hulls (1/11/95) or (1/10/83) (including the four -fourths running down clause unless otherwise in writing agreed by the Insurer)

#### 33. Classification

33.1 It is warranted the Insured Vessel(s), are classed as indicated in the schedule at inception of this policy and for the duration of the policy period. It is further warranted that the Assured shall notify the Insurer in writing 7 days in advance of any change to an Insured Vessel's classification.



33.2 It is a condition precedent that the Insured Vessel(s), will comply with the rules of that classification society and any requirements or recommendations stipulated by the classification society in order to remain in compliance with their rules.

#### 34. Flag State

34.1 It is warranted the Insured Vessel(s), are flagged as indicated in the schedule at inception of this policy and for the duration of the policy period. It is further warranted that the Assured shall notify the Insurer in writing 7 days in advance of any change to an Insured Vessel's flag.

34.2 It is a condition precedent that the Insured Vessel(s), will comply with the rules of that Flag State and any requirements or recommendations stipulated by the Flag State in order to remain in compliance with their rules. This includes but is not limited to the construction, condition, manning and equipping of the Insured Vessel(s) and the maintenance of valid statutory certificates issued by and on behalf of the Insured Vessel's flag state.

#### 35. ISM

35.1 It is warranted both the Assured and the Insured Vessel(s) must be and remain throughout the period in compliance with the requirements of the International Safety Management (ISM) Code and any subsequent amendments thereto as may be implemented. The Assured will ensure that a Document of Compliance for itself and a Safety Management Certificate for the Insured Vessel(s), in accordance with the aforementioned ISM Code are maintained.

#### 36. Affiliated Companies Clause

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

#### 37. Co-Assured Clause

37.1 It is understood and agreed that, where required by written contract, the Assured is granted privilege to include hereunder other parties as additional Assureds.

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

#### 38. Cancellation

38.1 This Policy may be cancelled by the Insurer or the Assured upon thirty (30) days written or telegraphic notice. The Insurer may send notice to the broker of record at the time.

38.2 In the event of the actual or constructive total loss of any Insured Vessel, coverage in respect of that Insured Vessel(s) is cancelled with immediate effect except as regards liabilities, losses and expenses flowing directly from the casualty which gave rise to the loss of the vessel and the premium is deemed to be fully earned and no return will be due.

38.3 Notwithstanding 38.1 and 38.2 above, this policy will be automatically cancelled in the following circumstances without notice from the Insurer, and a pro rata return premium due:



(a) where the Assured, being a company or corporation:

- (i) has a receiver, manager, administrator, administrative receiver, liquidator (provisional or otherwise) supervisor or nominee proposed or appointed; or
- (ii) passes a resolution for winding up (otherwise than for the purpose of a solvent amalgamation or reconstruction); or
- (iii) proposes, enters into or is subject to any composition or arrangement with his creditors; or
- (iv) has an administration order made in relation to him; or
- (v) becomes the subject of a voluntary arrangement; or
- (vi) makes or is the subject of an application to a court (or its equivalent) of competent jurisdiction for protection from his creditors; or
- (vii) is the subject of a court order to the effect stipulated in (i) to (vi) above; or
- (viii) files a petition, passes any resolution or takes any other step to procure the commencement of any proceedings or process of a nature described in (i) to (vii) above or there commences any similar proceeding against him or his assets under applicable bankruptcy or insolvency laws in any jurisdiction; or
- (ix) ceases to trade, is struck off or dissolved.

(b) where the Assured, being an individual or partnership:

- (i) applies for an interim order; or
- (ii) proposes or enters into an individual voluntary arrangement or is made bankrupt; or
- (iii) proposes, enters into or is subject to any composition or arrangement with his creditors; or
- (iv) has a receiver or manager appointed over any of his assets, business or income; or
- (v) proposes, makes or is the subject of an application to or order by a court for his winding up or administration; or
- (vi) makes or is the subject of an application to a court (or its equivalent) of competent jurisdiction for protection from his creditors; or
- (vii) files a petition, passes any resolution or takes any other step to procure the commencement of any proceedings or process of a nature described in (i) to (vi) above or there commences any similar proceeding against him or his assets under applicable bankruptcy or insolvency laws in any jurisdiction; or
- (viii) ceases to trade and where the Assured is a partnership, is dissolved; or
- (ix) dies or becomes incapable by reason of mental disorder of managing and administering his property and affairs (and if a partnership, all of the partners die or become mentally incapable).

(c) where Premiums remain unpaid beyond the payment terms agreed by the Insurer in accordance with the Premium Payment Clause 42.

#### 39. Owners Limitation

39.1 It is expressly understood and agreed if and when the Assured under this policy has any interest other than as a shipowner in an Insured Vessel, in no event shall the Insurer be liable hereunder to any greater extent than if such Assured were the owner and were entitled to all the rights of limitation to which a shipowner is entitled.

#### 40. Law & Practice

40.1 Notwithstanding anything else to the contrary, this insurance is subject to English law and practice and any dispute arising under or in connection with this insurance is to be referred to Arbitration in London, one Arbitrator to be nominated by the Assured and the other by the Insurer. The Arbitration shall be conducted pursuant to exclusive supervision of the English High Court of Justice.

In case the Arbitrators shall not agree, then the dispute shall be submitted to an Umpire and the Umpire's decision shall be final and binding upon both parties. In the event of a conflict between this clause and any other provision of this insurance, this clause shall prevail and the right of either party to commence proceedings before any Court or Tribunal in any other jurisdiction shall be limited to the process of enforcement of any award hereunder.

#### 41. PREMIUM PAYMENT CLAUSE

41.1 UNLESS OTHERWISE AGREED AND CLEARLY STATED IN THE POLICY TERMS AND CONDITIONS PREMIUM IS PAYABLE TO THE INSURER IN ONE INSTALMENT AND IN ACCORDANCE WITH THE FOLLOWING TERMS OF CREDIT:

- (a) Unless otherwise agreed premium hereunder is due to the Insurer within 60 days from the inception date of the policy.
- (b) Notwithstanding 41.1 a) above where it is agreed in writing and clearly stated in the policy terms and conditions that the premium be deferred;

- (i) In respect of quarterly instalments, premium hereunder is payable in four equal (unless pro rata) instalments due to the Insurer 60 days, 90 days, 180 days & 270 days from the inception date of the policy.
- (ii) In respect of semi annual instalments, premium hereunder is payable in two equal (unless pro rata) instalments due to the Insurer 60 days and 180 days from the inception date of the policy.

(c) Notwithstanding 41.1 a) and 41.1 b) above, any other payment terms are to be agreed in writing and included in the policy terms and conditions.

(d) Any adjustment premium is to be paid to the Insurer within 30 days from the date of the agreed adjustment and in agreement with the terms and conditions of the policy, unless otherwise agreed. Additional or return premium shall be payable to/from the Insurer within 60 days of the effective date, or in the event the original premium has been agreed as deferred and payable in instalments then additional or return premium shall be payable to/from the Insurer in accordance with 41.1 b) above, unless otherwise agreed.

(e) It is a warranty of this policy that premium is paid by the due date as specified in the payment terms or in respect of additional premiums due, within 30 days from the date of the agreed adjustment agreed by the Insurer. Notice is hereby given that if the premium remains unpaid to the Insurer beyond the due date coverage is automatically terminated. In the event of cancellation, premium is due to the Insurer on a pro rata basis for the period that the Insurer was on risk unless otherwise agreed in the terms of the policy.

(f) If any provision of this clause is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this clause which will remain in full force and effect.

#### 42. Assignment

42.1 No insurance given by the insurer and no interest under this policy or under any contract between the Insurer and Assured may be assigned without the prior agreement of the Insurer in writing. Any purported assignment made without such agreement shall be void and of no effect.

42.2 Whether or not the insurer shall expressly so stipulate as a condition for giving their consent to any assignment, the Insurer shall be entitled in settling any claim presented by the assignee to deduct or retain such amount as the Insurers may then estimate to be sufficient to discharge any liabilities of the assignor to the Insurer whether existing at the time of the assignment or having accrued or likely to accrue thereafter.

#### 43. Fishing Vessel Clause

43.1 In the event that the vessel scheduled and insured hereunder is engaged in fishing activities, then;

Notwithstanding anything to the contrary contained in this Policy, it is hereby understood and agreed that the following are excluded hereunder:

- a) any costs, liabilities, fines, penalties, punitive and/or exemplary damages, fees and expenses whatsoever arising from the insured vessel entering prohibited and/or restricted waters and/or engaging in unlawful and/or illegal fishing howsoever arising;
- b) any claims for loss of, or damage to, any nets and gear whatsoever of any vessel including those of the insured vessel;
- c) any claims for loss of, damage to or liability in respect of any vessel and/or third party property, including the insured vessel, caused by the nets and gear of the insured vessel;
- d) any claim in connection with cargo and/or catch whatsoever whether or not on board the insured vessel;

#### 44. Several Liability Notice Insurance (LSW1001)

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 co-subscribing insurer who for any reason does not satisfy all or part of its obligations.



45. Marine Insurance Act 1906 and Insurance Act 2015  
Enterprise Act Clause

Upon its entry into force on 12th August 2016, the following provisions of the Insurance Act 2015 are excluded from this policy and the contracts of Insurance as follows:

a. Section 13 of the Act is excluded. As a result the Insurer shall be entitled to exercise its right to terminate the contract of insurance in respect of the Owner and all insureds in the event that a fraudulent claim is submitted by or on behalf of the Owner and/or any Group Affiliate.

b. Section 13A of the Act is excluded: As a result the Insurance and all terms of the contract of insurance between the Insurer and the Owner shall not be subject to nor shall the Insurer be in breach of any implied term that it 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.

**Section D - Claims Handling**

46. It is a warranty of this policy that in the event of any occurrence which may result in loss, damage and/or expense for which this Insurer is or may become liable, the Assured will use due diligence to give prompt notice thereof and forward to the Insurer as soon as practicable after receipt thereof, all communications, processes, pleadings and other legal papers or documents relating to such occurrences.

47. The Assured shall not make any admission of liability, either before or after any occurrence which may result in a claim for which the Insurer may be liable. The Assured shall not interfere in any negotiations of the Insurer, for settlement of any legal proceedings in respect of any occurrences for which the Insurer is liable under this policy; provided, however, that in respect of any occurrences likely to give rise to a claim under this policy, the Assured is obligated to and shall take steps to protect their (and/or the Insurer's) interests as would reasonably be taken in the absence of this or similar insurance. If the Assured shall fail or refuse to settle any claim as authorised by the Insurer, the liability of the Insurer to the Assured shall be limited to the amount for which settlement could have been made.

48. Whenever required by the Insurer the Assured shall aid in securing information and evidence and in obtaining witnesses and shall cooperate with the Insurer in the defence of any claim or suit or in the appeal from any judgement, in respect of any occurrence as hereinbefore provided.

49. The Insurer shall not be liable for the costs or expenses of prosecuting or defending any claim or suit unless the same shall have been incurred with written consent of the Insurer, shall be satisfied that such approval could not have been obtained under the circumstances without unreasonable delay, or that such costs and charges were reasonably and properly incurred, such costs or expenses being subject to the deductible. The costs and expenses of prosecuting any claim in which the Insurer shall have an interest by subrogation or otherwise, shall be divided between the Assured and the Insurer, proportionately to the amounts which they would be entitled to receive respectively, if the suit should be successful.

50. The Insurer shall be liable for the excess where the amount deductible under this policy is exceeded by

(A) the cost of investigating and/or successfully defending any claim or suit against the Assured based on a liability or an alleged liability of the Assured covered by this insurance, or

(B) the amount paid by the Assured either under a judgement or an agreed settlement based on the liability covered herein including all costs, expenses of defence and taxable disbursements.

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

52. The Insurer shall be entitled to take credit for any profit accruing to the Assured by reason, of any negligence or wrongful act of the Assured's servants or agents, up to the measure of their loss, or to recover for their own account from third parties any damage that may be provable by reason of such negligence or wrongful act.

53. Where the Assured is, irrespective of this insurance, covered or protected against any loss or claim which would otherwise have been paid by the Insurer, under this policy, there shall be no contribution by the Insurer on the basis of double insurance or otherwise.



54. No claim or demand against the Insurer under this policy shall be assigned or transferred, and no person, excepting a legally appointed receiver of the property of the Assured, shall acquire any right against the Insurer by virtue of this insurance without the expressed consent of the Insurer.

55. No action shall lie against the Insurer for the recovery of any loss sustained by the Assured unless such action is brought against the Insurer within one year after the final judgement or decree is entered in the litigation against the Assured, or in case the claim against the Insurer accrues without the entry of such final judgement or decree, unless such action is brought within one year from the date of the payment of such claim.

56. The Insurer shall not be liable for any claim not presented to the Insurer with proper proofs of loss within six (6) months after payment thereof by the Assured.

