



**FREEBOARD MARITIME**

**Marine Professional Indemnity Insurance  
Policy Wording 2023 v1.1**

**Freeboard Maritime**  
Room 824, One Lime Street, London, EC3M 7HA  
[contactus@freeboardmaritime.com](mailto:contactus@freeboardmaritime.com)  
[www.freeboardmaritime.com](http://www.freeboardmaritime.com)



## **Policy Contents**

<b>Section 1 - Notices</b>	<b>3</b>
<b>Section 2 - Coverages</b>	<b>5</b>
<b>Section 3 - Exclusions</b>	<b>7</b>
<b>Section 4 - Conditions</b>	<b>13</b>
<b>Section 5 - Definitions</b>	<b>19</b>
<b>Section 6 - Extensions of Cover</b>	<b>22</b>

## Section 1 – Notices

### 1.1 About this Policy Wording

It is important to read this policy wording carefully in order to understand what is covered and what is not covered and also to understand the rights, duties and obligations of the **Insured**. The terms and conditions of this **Insurance Contract** shall apply unless noted otherwise in the **Insurance Schedule**.

Acceptance of a quotation by the **Insured** shall be deemed to be acceptance of all terms and conditions of the **Insurance Contract**.

Words when appearing in **bold** type, other than in headings or titles of paragraphs (which headings and titles of paragraphs are included for ease of reference only and are not to be used in the construction or interpretation of this **Insurance Contract**), are defined terms whose meanings appear in **Section 5 - Definitions** of this policy wording. Unless the context otherwise requires, a reference to one gender shall include a reference to all genders and any word appearing in this **Insurance Contract** in the singular shall include the plural and vice versa. Reference to a person includes a natural or legal person, corporate or unincorporated body (whether or not having separate legal personality).

Words denoting insurance also include reinsurance.

### 1.2 The Duty of Fair Presentation

Before this **Insurance Contract** is entered into, the **Insured** must make a fair presentation of the risk to **Underwriters**. This is the duty described in Section 3 of the English Insurance Act 2015, a copy of which can be provided on request, and is available at <https://www.legislation.gov.uk/ukpga/2015/4/contents/enacted>.

The duty of fair presentation is based on the principle that it is important that potential **Insureds** provide **Underwriters** with the information they require to decide whether to insure a risk, and on what terms. That includes a duty to disclose to **Underwriters** every 'material circumstance' which the **Insured** knows or ought to know, to ensure that every material representation as to a matter of fact is substantially correct, and every material representation as to a matter of expectation or belief is made in good faith. These concepts are described in more detail in the Insurance Act 2015, to which reference should be made.

The duty of fair presentation applies before and at the time the **Insurance Contract** is entered into, and to any variation or renewal of the **Insurance Contract**.

A breach of the duty of fair presentation by the **Insured** results in a number of remedies for **Underwriters**. These are set out in Schedule 1 of the Insurance Act 2015, and depend on the nature of the breach (in particular whether it was deliberate or reckless) and what **Underwriters** would have done if there was no breach (e.g. they might have written the **Insurance Contract** on different terms, or not at all).

Where the **Insurance Schedule** states that this **Insurance Contract** is to be subject to a law and jurisdiction other than English, the **Insured** must comply with the duties under that law which apply on the placement of an insurance contract, and the **Underwriters** will have the benefit of any remedies under that law. Unless prohibited under the law and jurisdiction to which this **Insurance Contract** is subject, those duties and remedies shall not be less favourable to **Underwriters** than those provided for in the Insurance Act 2015.

### 1.3 Insuring Clause

Subject to all terms and conditions of the **Insurance Contract**, **Underwriters** agree to indemnify the **Insured** in respect of legal liability arising out of a **Claim** covered under the **Insurance Contract** which the **Insured** neither intended nor reasonably should have expected to have arisen during the performance of the **Insured Services** or as a result of the performance of the **Insured Services** within the **Period of Insurance** and within the **Territorial Limits**.

A **Claim** can only be covered once under this **Insurance Contract** and, accordingly, each **Claim** must be allocated to one of the coverages available under clause 2.1, 2.2, 2.3 or an **Extension** under **Section 6 – Extension of Cover**. In addition to coverage under one of those sections, the **Insured** may also seek indemnity for **Claims Expenses** under clause 2.4. Where a **Claim** might fall within more than one section of coverage, it shall be allocated to the section that, the **Underwriters** considers is the most appropriate section of coverage to respond to that **Claim**.



1.4

**Claims Made Contract of Insurance**

Coverage under this **Insurance Contract** is provided on a 'claims made' basis and is limited to liability for only those covered **Claims** that are first made against the **Insured** and reported to **Underwriters** during the **Period of Insurance** and, if applicable, any **Extended Reporting Period**.

This **Insurance Contract** will not indemnify the **Insured** in respect of any **Claim** that arises out of **Insured Services** performed prior to the **Period of Insurance**, unless a **Retroactive Date** has been noted in the **Insurance Schedule**, in which case, this **Insurance Contract** will indemnify the **Insured** in respect of any **Claim** that arises out of **Insured Services** performed between the **Retroactive Date** and the end of the **Period of Insurance**.

## Section 2 – Coverages

### 2.1 Professional Indemnity Insurance

2.1.1 Subject to all terms and conditions of the **Insurance Contract**, **Underwriters** will indemnify the **Insured** for its legal liability in respect of **Claims** which arise from:

(a) Negligence

A negligent act, error, omission in the performance of an **Insured Service**.

(b) Fraud by an Employee(s)

A **Fraudulent Act** by an **Employee(s)**, whether acting alone or in collusion with others, provided that such act is not intended to confer any benefit to the **Insured**. Where an individual financial loss or connected financial losses arise from more than one **Fraudulent Act**, any financial loss arising solely and exclusively from any **Fraudulent Act** carried out after the first date of discovery of a **Fraudulent Act** by the **Insured** is excluded from coverage.

(c) Libel and Slander

Unintentional libel or slander committed by the **Insured** during the performance of **Insured Services**.

(d) Breach of Warranty or Authority

An unintentional breach of warranty of authority where the **Insured** has contracted on behalf of a **Customer** and/or **Principal** where the **Insured** believed that it had the authority to do so.

(e) Misdirected Claim

A **Claim** against the **Insured** for liability as a principal, in circumstances where the **Insured** reasonably believed that it was acting as an agent, provided that the **Insured** can prove to **Underwriters'** reasonable satisfaction that the **Insured** did not intend to contract as principal and took all reasonable steps to avoid contracting as principal.

(f) Intellectual Property Rights

Unintentional or negligent infringement of intellectual property rights, including trademark, copyright or patent, committed by the **Insured** during the performance of **Insured Services**.

### 2.2 Third Party Liability Insurance

2.2.1 Subject to all terms and conditions of the **Insurance Contract**, **Underwriters** will indemnify the **Insured** in respect of their legal liability to a **Third Party** for a **Claim** which is caused by the negligence of the **Insured** whilst directly performing the **Insured Services** during the **Period of Insurance** and which results in:

(a) **Bodily Injury** to a **Third Party**; or

(b) physical loss of or physical damage to **Third Party Property**; or

(c) **Consequential Loss** arising from the **Insured's** liability under 2.2.1(a) or 2.2.1(b) above provided that such liabilities directly arise from the **Insured's** negligence and are not contractual in nature (including as a result of the **Insured** entering into an express warranty, agreement and/or guarantee); or

(d) the **Insured's** contractual liability to indemnify a **Customer** or **Principal** as a result of a **Claim** made by a **Third Party** provided that;

(i) the **Insured** would have nevertheless been liable in the absence of such contractual indemnity; and

(ii) such liability was caused or contributed to directly as a result of the **Insured's** negligence whilst performing an **Insured Service**; and

(iii) such contractual indemnity has been agreed by **Underwriters** in advance of the provision of the **Insured Service** and been noted on the **Insurance Schedule**.

## 2.3 Fines and Duties Liability Insurance

2.3.1 Subject to all terms and conditions of the **Insurance Contract**, **Underwriters** will indemnify the **Insured** in respect of their legal liability that arises from an unintentional breach of any regulation, law or statutory provision resulting in fines, penalties or customs duties, imposed by an **Authority** which the **Insured**, or any other person(s) acting within their authority on the **Insured's** behalf, is legally liable to pay provided that such liability does not fall within Clause 3.8 of the **Insurance Contract** and that such breach relates directly to:

- (a) import or export of **Cargo** or **Carrying Equipment** belonging to the **Insured's** customers; or
- (b) smuggling; or
- (c) the safety of working conditions; or
- (d) sudden and accidental pollution; or
- (e) immigration.

## 2.4 Claims Expenses

2.4.1 Subject to all terms and conditions of the **Insurance Contract**, **Underwriters** will indemnify the **Insured** for **Claims Expenses** incurred with **Underwriters'** prior written approval for investigating, adjusting, appraising, appealing, minimising or defending a **Claim** made against the **Insured** that is covered under the **Insurance Contract** provided that:

- (a) indemnity for such **Claims Expenses**, plus the value of any **Claim** settled, shall not exceed the **Limit of Indemnity**; and
- (b) the value of the **Claim** is reasonably anticipated to be in excess of the **Deductible** applicable to such **Claim**. The **Deductible** applicable to the **Claims Expenses** is determined by which section of cover the **Claim** arises from under the **Insurance Contract**.

## Section 3 – Exclusions

These **Exclusions** are applicable to all sections of the **Insurance Contract**. This **Insurance Contract** excludes any loss, damage, liability or expense directly or indirectly caused by, contributed to, by or arising from:

### 3.1 Conduct

The **Insured's**, or its sub-contractors' or agents' illegal trade, dishonesty, infidelity, fraud, criminal, collusion, malicious, wilful or deliberate act(s) or reckless conduct, failure to establish appropriate systems and controls or failure to take all reasonable and appropriate steps to ensure compliance with all relevant and applicable regulations, statutory provisions and accepted industry standards and practices. This exclusion also applies where the **Insured** condones such conduct.

### 3.2 Failure to Perform

The **Insured's** failure to commence, abandonment of, or inability to perform any **Insured Service**.

### 3.3 Liability Without Fault

Any provision in a contract whereby the **Insured** incurs liability without fault or negligence unless such liability is incurred under a **National Transport Law** or **International Convention** which in either case is compulsorily applicable to the **Insured**.

### 3.4 Performance Guarantee

- 3.4.1 Any indemnity agreement, contractual promise, warranty, performance guarantee; or
- 3.4.2 any waiver not to rely on any defence or limitation of liability and/or any waiver of **Claims** against or other agreement to hold harmless a **Third Party**; or
- 3.4.3 any agreement with the **Insured's Customer** whereby the value of any property or **Cargo** is fixed otherwise than by reference to its fair market value; or
- 3.4.4 any agreement to amend liability limits or responsibilities under **International Conventions**.

### 3.5 Cargo Liability

The physical handling, storage, carriage, loss of or damage of **Cargo** by the **Insured** unless cover under section 6 – **Cargo Liability Insurance Extension** has been granted by **Underwriters** and is noted within the **Insurance Schedule**.

### 3.6 Trades Liability

Any form of **Hands On Activity** including but not limited to; supply, manufacture, construction, erection, installation, blending, processing, fabrication, alteration, repair, treatment, withdrawal, recall, return, sale or distribution of goods, materials, equipment or products including computer software products or systems, by the **Insured** or on the **Insured's** behalf.

### 3.7 Liquidated Damages

Any form of contractual penalty, liquidated or unliquidated damages, punitive or exemplary damages however awarded or described or any additional damages resulting from the multiplication of compensatory damages. This clause also excludes any amount payable under any judgment or award of any court or tribunal in favour of any **Third Party** which is not compensatory in nature or which is not payable in respect of loss or damage sustained.

### 3.8 Fines, Penalties and Duties

- 3.8.1 Any fine, penalty, customs duty or similar fiscal charge which is not insurable under the law applicable to the **Insurance Contract** and/or the law applicable to the **Insured Services** and/or any other applicable law to which the **Insured** or **Underwriters** are subject; or
- 3.8.2 any **Claim** relating to the contravention of any laws, rules or regulations in connection with but not limited to; the operation of a liner conference or shipping pool operation, freight tariff registration requirements, price fixing, anti-competitive conduct, anti-trust or similar agreement, monopolies, activities in restraint of trade; or
- 3.8.3 any liability of the **Insured** which has not been properly established, proved or held by an **Authority** acting within its powers and duties. Where any **Authority** seeks to impose liability on the **Insured** that

would fall within this clause 3.8.3, the **Insured** shall seek to defend and manage that potential liability in accordance with clause 4.7.2 as if it were a **Claim**.

3.9 **Intellectual Property**

Save to the extent falling within Clause 2.1.1 (f), any infringement of copyright, trademark, intellectual property rights, patent, service mark, registered design or trade name, breach of privacy or confidence.

3.10 **Customs Bond**

Any customs bond or guarantee entered into by the **Insured** and made available to a **Third Party** or **Principal** or **Customer** unless the **Principal** or **Customer** is the owner of the **Cargo**.

3.11 **Forward Freight Agreements**

The purchase, sale, distribution, or offer of securities, investment counselling, freight derivatives or forward freight agreements (FFA) and any advice in relation thereto.

3.12 **Insolvency, Liquidation and Financial Guarantee**

3.12.1 The **Insured's** insolvency, liquidation, bankruptcy, administration, receivership, trading whilst insolvent, financial failure or winding up; or

3.12.2 the insolvency, liquidation, bankruptcy, administration, receivership, trading whilst insolvent, financial failure or winding up of any person and/or company whether or not a party to this **Insurance Contract**; or

3.12.3 any other financial default; or

3.12.4 the extension of credit or the Insured's inability or failure to pay or collect its debts; or

3.12.5 the financial failure of any venture; or

3.12.6 the lack of or insufficient receipts, sales or profits of any venture, or the lack of or inadequate response or support by sponsors or financial supporters; or

3.12.7 a change in levels of interest rates or rates of exchange of currency; or

3.12.8 a change in the value or price of land, buildings, securities or commodities or a change in levels of financial or commodity indices; or

3.12.9 any liability or obligation under an accommodation bill or similar instrument or any liability arising out of the sale of a company or figures used within a sale process.

3.13 **Valuations**

Any **Vessel** valuations or statistical and market information provided to any **Third Party**, including any financial institution, bank or building society for which the purpose is to raise finance whether or not included in a share prospectus, bond issue or other **Document** relating to the finance being raised.

3.14 **Vessels, Vehicles and Aircraft**

The ownership, charter, lease, navigation, possession, use or operation of any **Vessel**, aircraft, road vehicle, chassis, trailer or other means of transport.

3.15 **Property**

3.15.1 Any loss of or damage to, or the condition or maintenance of, any property owned, leased, rented or occupied by the **Insured** or in the **Insured's** care, custody or control, whether or not the **Insured** is required by contract to insure, or for any **Claim** arising as a result of the **Insured** being the owner or lessee of any property; or

3.15.2 any damage to property worked on by the **Insured**, arising out of such work or any portion thereof, or out of material, parts or equipment provided in connection with such work; or

3.15.3 the structure, operation or expansion of either the **Insured's** business, a joint venture or a **Third Party's** business including any contractual liabilities to compensate someone else for physical loss of or damage to the **Insured's** owned or leased property.



3.16 **Directors and Officers Liability and Corporate Duties**

- 3.16.1 Any **Claim** against the **Insured** acting in capacity as company director, officer or trustee in respect of the **Insured's** performance or non-performance of relevant and appropriate duties, including but not limited to; discrimination, humiliation, unfair dismissal, wrongful termination or discharge of employment, failure to employ or promote, wrongful demotion of any person or the breach of any obligation owed by the **Insured** to its **Employees**, borrowed servants, employees of any agent or sub-contractor or any **Third Party** that may be deemed to be the **Insured's Employee**; or
- 3.16.2 any alleged breach, proven or otherwise, of any statute, regulation or duty by the **Insured** in relation to their corporate duty, or any other situation which can be more properly described as concerning the accountability of the **Insured's** trustees, officers or directors.

3.17 **Products Liability**

- 3.17.1 The unsuitability of or any defect in:
- (a) goods or products manufactured, processed, graded, blended, supplied or sold by the **Insured** or on its behalf; or
  - (b) material used or repairs carried out by the **Insured** or on its behalf; or
  - (c) any withdrawal, recall, return, inspection, replacement or loss of use of any good or product.

3.18 **Types of Cargo**

**Valuable Cargo, Dangerous Cargo, Bullion, Cash, Precious Metals, Precious Stones**, jewellery, watches and articles or pieces made of or containing **Precious Stones** and or **Precious Metals**, stamps, vouchers, tokens, lottery tickets, negotiable instruments or securities of any kind, living creatures or ammunition, arms and other such military equipment, any pharmaceutical product or component of any drug.

3.19 **Associated Entities**

Any **Claim** made by the **Insured** or any other associated, parent or subsidiary company or by any person, entity, Trustees, Officers, Directors or **Employees** having a financial or executive interest in the **Insured's** operation.

3.20 **Pollution**

3.20.1 **Seepage, Pollution or Contamination** unless such is:

- (a) caused by an **Event** which is sudden and accidental; and
- (b) the **Event** first commences during the **Period of Insurance**; and
- (c) the **Event** was first discovered by the **Insured** within fourteen (14) days of such first commencement; and
- (d) written notification of the **Event** was first received from the **Insured** by **Underwriters** within ninety (90) days of the **Insured's** first discovery of the **Event**; and
- (e) the **Event** did not result from the **Insured's** intentional violation of any statute, rule, ordinance or regulation.

3.21 **Special Operations**

- 3.21.1 Any form of dredging operations, land reclamation operations, salvage operations; or
- 3.21.2 the dumping, handling, processing, treatment, storage of any waste or spoil.

3.22 **War Risks and Industrial Action**

- 3.22.1 Any industrial dispute, boycott, stoppage, restraint of labour, strikes, lock-out, labour disturbance, riot, civil commotion, war, civil war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), rebellion, revolution, insurrection, civil strife, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local **Authority**, any hostile act by or against a belligerent power, confiscation or expropriation, or capture, seizure, arrest, restraint or detainment and the consequences thereof or any attempt thereat, or derelict mines, torpedoes, bombs or other derelict weapons of war; or

- 3.22.2 any act of terrorism and/or piracy which means an act including but not limited to the use of force, violence or the threat of violence of any person or group of persons whether acting alone or on behalf of or in connection with any organisation or government committed for monetary gain, political, religious, ideological or similar purposes including the intention to influence any government and or to put the public or any section of the public in fear; and
- 3.22.3 this exclusion shall also apply in connection with any action taken in controlling, preventing or suppressing any of the above.
- 3.23 **Pollutants**
- Any continuous, intermittent or repeated exposure to or ingestion, inhalation, installation, distribution, manufacture, sale, utilisation, existence or absorption of the following substances or conditions in any form: asbestos, tobacco, alcohol, coal dust, polychlorinated biphenyls, silica, benzene, lead, talc, dioxin, pharmaceutical products or drugs of any type, pesticides or herbicides, human immune virus or acquired immune deficiency syndrome or electromagnetic fields.
- 3.24 **Institute Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons Exclusion – CL370 – 10/11/2003**
- This clause shall be paramount and shall override anything in this **Insurance Contract** inconsistent therewith. In no case shall this **Insurance Contract** cover loss damage liability or expense directly or indirectly caused by contributed to, by or arising from;
- 3.24.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel,
- 3.24.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof,
- 3.24.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter,
- 3.24.4 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,
- 3.24.5 any chemical, biological, bio-chemical, or electromagnetic weapon.
- 3.25 **Marine Cyber Exclusion – LMA5402 – 11/11/2019**
- 3.25.1 This clause shall be paramount and shall override anything contained in this **Insurance Contract** inconsistent therewith. In no case shall this **Insurance Contract** cover loss, damage, liability or expense directly or indirectly caused by, contributed to, by or arising from;
- (a) the failure, error or malfunction of any computer, computer system, computer software programme, code, or process or any other electronic system, or
- (b) 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.
- 3.26 **Communicable Disease Exclusion Clause – JL2020-013 – 21/10/2020**
- 3.26.1 This **Insurance Contract** excludes coverage for:
- (a) any loss, damage, liability, cost, or expense directly arising from the transmission or alleged transmission of a Communicable Disease or from any fear or threat of a Communicable Disease;
- (b) any liability, cost or expense to identify, clean up, detoxify, remove, monitor, or test for a Communicable Disease;
- (c) any liability for or loss, cost or expense arising out of, any loss of revenue, loss of hire, business interruption, loss of market, delay or any indirect financial loss, howsoever described, as a result of a Communicable Disease or the fear or the threat of a Communicable Disease.
- 3.26.2 As used in this **Insurance Contract**, a Communicable Disease means any disease, known or unknown, which can be transmitted by means of any substance or agent from any organism to another organism where:

- (a) the substance or agent includes but is not limited to a virus, bacterium, parasite or other organism or any variation or mutation of any of the foregoing, whether deemed living or not, and
- (b) the method of transmission, whether direct or indirect, includes but is not limited to human touch or contact, airborne transmission, bodily fluid transmission, transmission to or from or via any solid object or surface or liquid or gas, and
- (c) the disease, substance or agent may, acting alone or in conjunction with other co-morbidities, conditions, genetic susceptibilities, or with the human immune system, cause death, illness or bodily harm or temporarily or permanently impair human physical or mental health or adversely affect the value of or safe use of property of any kind.

3.27 **Sanctions Exclusion Clause – LMA3100 – 15/09/2010**

No **Underwriter** shall be deemed to provide cover and no **Underwriter** shall 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 that **Underwriter** 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.

3.28 **Crew**

Any **Claim** by or on behalf of crew engaged, employed or deemed to be employed by the **Insured**, or by their dependants and relatives for death, injury or illness or for any matter relating to their employment including but not limited to wages, social security, redundancy monies, sickness benefit, travelling costs or repatriation costs.

3.29 **Insured Services**

Any services performed by the **Insured**, **Insured** agents or subcontractors that are not **Insured Services**.

3.30 **Trading Losses**

3.30.1 Any trading or operational losses or liabilities incurred by any business or carried on by the **Insured** including loss of goodwill or custom.

3.30.2 The **Insured's** own business costs and expenses incurred in respect of the **Insured Services** provided, including the cost of management time, or staff or employee costs or expenses incurred in respect of any events or circumstances or in response to a **Claim**.

3.31 **Insurance Intermediary**

Any **Claim** arising from the **Insured** acting as an Insurance Agent, Intermediary or Broker except where the **Insured** is liaising with a regulated intermediary on behalf of their **Principal** as part of the provision of **Insured Services**.

3.32 **Double Insurance**

Any **Claim** which is insured or would, but for the existence of this **Insurance Contract**, be insured by any other existing policy or policies, in whole or in part, except in respect of any amount which is beyond the amount which would have been payable under such other policy or policies had this **Insurance Contract** not been effected.

3.33 **Release of Cargo**

The **Insured**, or any **Employee**, sub-contractor or agent, releasing or giving instructions to release **Cargo** without presentation of the original bill of lading or similar **Document** of title unless such release or instruction to release the **Cargo** was accidentally facilitated by an **Employee** and the **Insured** can demonstrate that it had appropriate systems and controls in place and in use to prevent such a release.

3.34 **Compliance**

Any **Claim** arising from any **Vessel** not being in full compliance with MARPOL Annex VI or Safety of Life at Sea (SOLAS) chapter II-2 or similar regulation in relation to fuel oil or bunkers.

3.35 **Transfer of Funds**

The transfer of funds where the **Insured** has not checked and verified the instructions and bank details verbally with the receiver.

3.36 **Bodily Injury**

Save as provided for under clause 2.2.1, any form of **Bodily Injury** including (but not limited to); the **Insured's Employees**, borrowed agents, employees of any agent or sub-contractor, or any **Third Party** deemed to be an **Employee**, including **Claims** made under any workers compensation, unemployment compensation, disability benefits law or employers liability Acts or any other equivalent statutory or common law liability to any employee, their spouse, child, parent, brother, sister, relation, trust or estate of such employee or other person employed in any capacity whatsoever by the **Insured**, its agents or subcontractors or any **Third Party** deemed to be the **Insured's Employee** when such liability arises out of or in the course of the employment of such person.

3.37 **Force Majeure**

**Force Majeure**, save that this exclusion shall only apply to the extent that the **Insured's** legal liability results from, or is increased by an event of **Force Majeure**.

## Section 4 – Conditions

### 4.1 Premium

- 4.1.1 The **Insured** undertakes that premium will be paid in full to **Underwriters** within the terms of credit as shown in the **Insurance Schedule**.
- 4.1.2 If the premium due under this **Insurance Contract** is not paid in accordance with clause 4.1.1, **Underwriters** shall have the right to cancel this **Insurance Contract** by notifying the **Insured** in writing. Cancellation under this clause 4.1.2 will take effect from the inception of this **Insurance Contract**, such that the **Insured** will not be entitled to coverage for any **Claims** whatsoever. In addition, the **Insured** will be liable for **Underwriters'** administration costs and any other costs (including the costs of any reinsurance) which **Underwriters** cannot recover.
- 4.1.3 If **Underwriters** elect to cancel the **Insurance Contract** under clause 4.1.2, they will give not less than 14 (fourteen) days' notice of cancellation to the **Insured**. If premium due is paid in full to **Underwriters** before the notice period expires, notice of cancellation shall automatically be revoked.

### 4.2 No Claims Rebate

- 4.2.1 Should the **Insured** renew this **Insurance Contract** with **Underwriters**, the **Insured** will qualify for a No Claims Rebate subject to:
- (a) the **Insurance Contract** being renewed was for a continuous **Period of Insurance** of not less than 12 (twelve) consecutive months and not been subject to any notice of cancellation or interruption during that time; and
  - (b) the renewal of the **Insurance Contract** is for a period of not less than 12 (twelve) consecutive months and the renewal policy be maintained for the entire 12 (twelve) month period.
- 4.2.2 If 4.2.1 (a) and 4.2.2 (b) have been satisfied, the No Claims Rebate will be calculated as follows:
- (a) 15% (fifteen percent) of the total premium paid under the **Insurance Contract** if there are no **Claims** during the **Period of Insurance**.
  - (b) 5% (five percent) of the total premium paid under the **Insurance Contract** if the total incurred and reserved amounts in respect of **Claims** under the **Insurance Contract** during the **Period of Insurance**, including **Claim Expenses**, do not exceed 50% of the total premium paid.
  - (c) 0% (zero percent) if the total incurred and reserved amounts in respect of **Claims** under the **Insurance Contract** during the **Period of Insurance**, including **Claims Expenses**, exceed 50% of the total premium paid.
- 4.2.3 **Underwriters** maintain the right, at all times, and exercisable in their sole discretion, to:
- (a) delay any calculation of and/or retroactively review any No Claims Rebate if there are any outstanding **Claims** and/or premium relating to the **Insurance Contract**; and/or
  - (b) recalculate the No Claims Rebate and, on the basis of that recalculation, reclaim any payment that would not otherwise have been due in event of a deterioration of the **Claims** record for up to 12 months after the expiry of the **Insurance Contract**; and/or
  - (c) reclaim any payment that would not otherwise have been due in the event that the renewal of the **Insurance Contract** is cancelled and/or is reduced to a period of less than 12 months; and/or
  - (d) reduce or remove any No Claims Rebate if the **Insured** has earned more than 150% of their forecast **Gross Income**. If **Underwriters** exercise the right to reduce any No Claims Rebate, the amount by which the No Claims Rebate will be reduced shall also be in **Underwriters'** sole discretion.

### 4.3 Limit of Indemnity

- 4.3.1 Each Claim under the Insurance Contract shall be subject to the **Limit of Indemnity**.
- 4.3.2 Where the **Insurance Schedule** and/or **Insurance Contract** contains more than one **Limit of Indemnity** and specifies that different **Limits of Indemnity** will apply to different sections of coverage, the **Limit of Indemnity** shall be that specified for the section of coverage under which the **Claim** falls.
- 4.3.3 If no **Limit of Indemnity** is specified in the **Insurance Schedule**, then the **Limit of Indemnity** shall be USD 250,000 each **Claim** and in the aggregate for the **Period of Insurance**.

- 4.3.4 The **Limit of Indemnity** will always be subject to deduction of any applicable **Deductible** (which shall be borne by the **Insured**) and **Underwriters** will only be liable to indemnify the **Insured** in the amount of the difference between the **Limit of Indemnity** and the **Deductible**;
- 4.3.5 Where there are two or more **Claims** attributable to the same **Event**, those **Claims** shall be treated as a single **Claim** such that the **Limit of Indemnity** and **Deductible** applicable under the **Insurance Contract** shall be applied as for one **Claim**.
- 4.3.6 Where one or more **Claims** (each a 'Constituent Claim') which arise from a single **Event** are subject to a lower **Limit of Indemnity** than other **Claims** arising from the same **Event**:
- (a) each Constituent Claim will be subject to its own **Limit of Indemnity** determined in accordance with clause 4.3.2; and
  - (b) the total aggregated **Claim** shall be subject to the highest **Limit of Indemnity** applicable to the Constituent Claims.
- 4.3.7 **Underwriters** will not be liable to pay any amounts under this **Insurance Contract** that exceed the **Aggregate Limit**.
- 4.4 **Deductible**
- 4.4.1 The **Deductible** applying to each section of cover is shown in the **Insurance Schedule** and shall apply to each **Claim** covered under the **Insurance Contract**.
- 4.4.2 Where there are two (or more) **Deductibles** which could apply to the same **Claim**, the highest shall apply to the **Claim**.
- 4.4.3 If no **Deductible** is stated in the **Insurance Schedule**, then the **Deductible** shall be USD 2,500 each **Claim**.
- 4.5 **Cancellation/Expiry**
- 4.5.1 The **Insured** may **cancel** or request amendment to the terms of the **Insurance Contract** by giving **Underwriters** thirty (30) days' notice in writing.
- 4.5.2 **Underwriters** may **cancel** or amend the terms of the **Insurance Contract** by giving the **Insured** thirty (30) days' notice in writing.
- 4.5.3 In the case of **cancellation** under clause 4.5.1 or 4.5.2 above, provided no **Claims** have been paid or potential **Claims** notified, a pro-rata refund of premium will be made, from which will be deducted **Underwriters'** administration costs and any other costs (including the costs of any reinsurance) which **Underwriters** cannot recover.
- 4.5.4 Cover **provided** under this **Insurance Contract** will cease automatically on the expiry of the **Period of Insurance**.
- 4.6 **Repayment Of Previously Paid Claims**
- 4.6.1 Where **Underwriters** require repayment of any previously paid **Claims** in accordance with the remedies provided under this **Insurance Contract**, the **Insured** shall be obliged to repay the amounts due within fourteen (14) days of **Underwriters** providing notification to the **Insured** of the amounts to be repaid.
- 4.6.2 **Underwriters** shall be entitled to set off any amounts due to be repaid against any sums due to the **Insured**, the **Insured** always remaining liable to pay promptly any balance due to **Underwriters**.
- 4.7 **Claims Conditions**
- The following **Claim** conditions must be complied with:
- 4.7.1 **Notification of a Claim**
- It is a **Condition Precedent** to **Underwriters'** liability under this **Insurance Contract** that the **Insured** must give **Underwriters** written notice of any **Claim** as soon as reasonably practicable. Cover shall not be prejudiced by a delay in notification provided that;
- (a) the **Claim** is notified to **Underwriters** within thirty (30) days from the time when the **Claim** arose; and

- (b) the **Insured** has complied with the entirety of clause 4.7 and the delay has not prejudiced the investigation, defence or mitigation of the **Claim**; and
- (c) such delay in notification has not influenced any subsequent underwriting or renewal of the **Insurance Contract** by **Underwriters**.

#### 4.7.2 Conduct of Claims

It is a **Condition Precedent** to **Underwriters'** liability under this **Insurance Contract** that the **Insured** shall:

- (a) take all reasonable steps to avoid, defend, minimise or mitigate a **Claim**, including prevention of further **Claims**, and not prejudice **Underwriters'** rights of recourse against any other party; and
- (b) not admit liability without **Underwriters'** prior written permission; and
- (c) not incur any **Claims Expenses** without the prior written consent of **Underwriters**; and
- (d) not make any offers of settlement or otherwise prejudice the defence of a **Claim**; and
- (e) co-operate with **Underwriters** in handling all matters relating to a **Claim** and provide all such information, documentation and assistance as **Underwriters** may require that is in the **Insureds'** power to provide in the handling of all matters relating to a **Claim**.

#### 4.7.3 Claims Control and Co-operation

- (a) Without prejudice to any other provisions of the **Insurance Contract** and without waiving any of **Underwriters'** rights hereunder, **Underwriters** may at any time appoint and employ on the **Insured's** behalf lawyers, surveyors or other persons for the purpose of dealing with any **Claim**.
- (b) **Underwriters** may determine whether or not to settle a **Claim** and if so, on what terms without the **Insured's** consent. If the **Insured** disagrees with any **Claim** settlement recommended by **Underwriters** and elects to continue any legal proceedings in connection with such **Claim**, **Underwriters'** liability for the **Claim** shall not exceed the amount for which the **Claim** could have been so settled plus the **Claims Expenses** incurred with their consent up to the date of such refusal by the **Insured**.

#### 4.7.4 Fraudulent Claims

If the **Insured** makes a **Fraudulent Claim** under this **Insurance Contract**, **Underwriters**:

- (a) will have no liability to pay the **Claim** and/or **Claims Expenses**; and
- (b) will be entitled to recover any sums paid by **Underwriters** to the **Insured** in respect of the **Claim**; and
- (c) may, by notice to the **Insured**, treat the **Insurance Contract** as having been terminated with effect from the time of the **Fraudulent Claim**.

If **Underwriters** exercise their rights under clause 4.7.4 above:

- (d) **Underwriters** shall not be liable to the **Insured** under this **Insurance Contract** in respect of all subsequent **Claims** or in respect of any **Insured Services** performed after the time of the **Fraudulent Claim**; and
- (e) **Underwriters** are entitled to retain all premiums paid under this **Insurance Contract**

#### 4.8 Right of Recourse

The **Insured** must not waive any rights of recourse against any **Customer, Principal, Third Party**, agent and/or subcontractor unless specifically agreed in advance by **Underwriters** and is specifically noted in the **Insurance Schedule**.

#### 4.9 Subrogation and Recoveries

- 4.9.1 The principles of subrogation shall at all times apply to the **Insurance Contract** and the **Insured** shall provide all reasonable co-operation, assistance and relevant information to enable **Underwriters** to pursue a subrogated recovery. The **Insured** shall do nothing to prejudice **Underwriters'** subrogated rights.

- 4.9.2 Any amount or property (including salvage) recovered or obtained from a **Third Party**, sub-contractor or agent in respect of any **Claim** will be credited to **Underwriters** to the full extent of **Underwriters'** indemnity before any remaining balance is credited to the **Insured**.
- 4.9.3 If **Underwriters** do not receive an amount due from the **Insured** within any agreed terms of credit (or immediately, if no terms of credit are agreed), **Underwriters** may withhold any payments due to the **Insured** until the amount is received.
- 4.10 **Assignment**
- Neither this **Insurance Contract** or any interest under this **Insurance Contract** may be assigned by the **Insured** unless prior written consent has granted by **Underwriters** and has been noted within the **Insurance Schedule**.
- 4.11 **Rights Against Underwriters**
- A person who is not a party to the **Insurance Contract** has no right under the Contracts (Rights of Third Parties) Act 1999 or equivalent legislation to enforce any term of the **Insurance Contract**, but this does not affect any right or remedy of a **Third Party** which exists or is available apart from that Act.
- 4.12 **Law And Jurisdiction**
- 4.12.1 Unless otherwise specified within the **Insurance Schedule**, the **Insurance Contract** shall be governed by and construed in accordance with English law and any dispute arising out of, or in connection therewith, including any disputes as to its existence, validity or termination, shall be subject to the exclusive jurisdiction of the High Court of Justice of England & Wales in London.
- 4.12.2 It is agreed that any proceedings issued may be validly served by courier:
- (a) From **Underwriters** to the **Insured** at the address shown in the **Insurance Schedule**;
  - (b) From the **Insured** to **Underwriters** at Freeboard Maritime Limited, Room 824, One Lime Street, London, EC3M 7HA, United Kingdom.
- 4.13 **Validity**
- If any provision of this **Insurance Contract** 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 **Insurance Contract** which will remain in full force and effect.
- 4.14 **Appointment Of Sub-Contractors And/Or Agents**
- 4.14.1 Where the **Insured** has appointed a sub-contractor or an agent to act on its behalf, excluding sub-contractors or agents acting in a capacity as a shipping line, airline or rail carrier, it is a **Condition Precedent** to **Underwriters'** liability that the **Insured** must;
- (a) have in place, and follow, written procedures to ensure that any sub-contractor or agent has all required qualifications, is sufficiently experienced to fulfil its duties, and has a good reputation for work of the type that is the subject of the appointment. The **Insured** understands and acknowledges that the purpose of this requirement is that the **Insured** does not increase the risk of **Claims** by reason of sub-contracting/delegating any part of the **Insured Services** and this requirement shall be construed with that objective in mind; and
  - (b) clearly instruct the sub-contractor or agent in writing as to its duties and responsibilities (including where the agent has authority to appoint a sub-contractor on the **Insured's** behalf, the agents delegated responsibility to vet sub-contractors in accordance with this clause); and
  - (c) ensure that any sub-contractor and/or agent accepts no less liability than the **Insured's** own liability for the **Insured Services**; and
  - (d) obtain written confirmation that the sub-contractor and/or agent holds and maintains adequate liability insurance with a limit of indemnity at least equal to the **Limit of Indemnity** in the **Insurance Schedule** or is financially able to meet its legal liability.
- 4.14.2 Cover will not be prejudiced by a breach of this clause in respect of the appointment of a sub-contractor and/or agent provided that the **Insured** can prove to the satisfaction of **Underwriters** that;
- (a) the **Insured** has established procedures for complying with the above at the time of the **Claim**; and



- (b) all **Employees** had been instructed in writing to follow such procedures and any failure to do so was due to an isolated error.

4.15 **Non-Waiver**

In no event shall any delay, representation, act or omission, neglect, conduct or forbearance in **Underwriters'** enforcement (in whole or in part) of any provision of the **Insurance Contract** be or be deemed to be a waiver thereof or a waiver of any other provisions, nor shall it in any way prejudice **Underwriters'** rights under this **Insurance Contract**.

4.16 **Extended Reporting Period**

4.16.1 Except where clause 4.16.2 applies or the **Insurance Contract** is not renewed by **Underwriters** or the **Insurance Contract** is cancelled for any reason whatsoever, the **Insured** shall have the right to request an **Extended Reporting Period**, provided that;

- (a) this period shall not exceed twelve (12) months; and
- (b) payment of an additional premium is made by the **Insured** prior to the start of the **Extended Reporting Period**, such additional premium being at a level set by **Underwriters**; and
- (c) **Underwriters** issue a formal endorsement to reflect the **Extended Reporting Period** agreed; and
- (d) coverage is for **Claims** arising from **Insured Services** performed during the **Period of Insurance** and not during the **Extended Reporting Period**; and
- (e) the **Extended Reporting Period** is subject to all other provisions of the **Insurance Contract**, including the **Retroactive Date**; and
- (f) the **Limit of Indemnity** for the **Extended Reporting Period** shall be part of, and not in addition to, the **Limit of Indemnity** for the **Period of Insurance**; and
- (g) any quotation or indication of a different premium or **Deductible**, **Limit of Indemnity** or changes in contractual language for the purpose of renewal shall not constitute a refusal to renew by **Underwriters**.

4.16.2 The right to request an **Extended Reporting Period** shall not be available to the **Insured** where cancellation or non- renewal by **Underwriters** is due to:

- (a) any change in material information and/or material change in the **Insured Services**; or
- (b) failure to pay the premium as required in clause 4.1; or
- (c) failure by the **Insured** to pay such amounts in excess of the applicable **Limit of Indemnity** or within the amount of the applicable **Deductible**; or
- (d) failure to comply with any condition and/or other provision within this **Insurance Contract**.

4.16.3 For the avoidance of doubt;

- (a) nothing contained within this clause 4.16 shall operate to increase any **Limit of Indemnity** as specified in the **Insurance Schedule**; and
- (b) nothing contained in this **Insurance Contract** shall operate to provide the **Insured** with the right to report any **Claims** made after the **Period of Insurance** without the endorsement of an **Extended Reporting Period** or beyond the expiry of the **Extended Reporting Period**.

4.17 **Standard Trading Conditions**

4.17.1 Except where **Underwriters** agree otherwise, it is a **Condition Precedent** to **Underwriters'** liability under this **Insurance Contract** that;

- (a) the **Insured's Standard Trading Conditions** are approved by **Underwriters** prior to inception of this **Insurance Contract**; and
- (b) the **Insured** applies their **Standard Trading Conditions** to any contract for the performance of the **Insured Services**. For the avoidance of doubt, in order to properly apply **Standard Trading Conditions** to the provision of services, these should be agreed in writing prior to the performance of any **Insured Services** by the **Insured**. In addition, all formal reports and written



advice must contain a clear reference that they are issued in accordance with the **Insured's Standard Trading Conditions**.

4.17.2 Where the **Insured** has carried out **Insured Services** during the **Period of Insurance** in circumstances where;

- (a) a contract has not been declared to **Underwriters**; and/or
- (b) the contract was declared to **Underwriters** but was not accepted by **Underwriters**; and/or
- (c) the contract was approved by **Underwriters** but was not finalised (as specified in clause 4.17.1) prior to the performance of **Insured Services**; and/or
- (d) no written contract is in place for the performance of the services;

**Underwriters** agree to indemnify the **Insured** in respect of liabilities falling within clause 2 arising out of such services but only to the extent that **Underwriters** would have been liable under the **Insurance Contract** had the services been subject to the **Insured's Standard Trading Conditions** or national association trading conditions if such **Standard Trading Conditions** do not exist. If no national association trading conditions exist, indemnity under this **Insurance Contract** in such circumstances shall be capped at 10 times the fee payable to the **Insured** in respect of the services or USD 100,000, whichever is the lesser.

## Section 5 - Definitions

**Additional Insured:** The entity identified in the **Insurance Schedule**. The Additional Insured is deemed to include any partner, executive officer, managing employee, director, president, vice-president and/or any employee holding equivalent status thereof whilst acting within the scope of the duties bestowed on that person by the Additional Insured.

Any payment by **Underwriters** to an Additional Insured in satisfaction of a **Claim** shall fully discharge **Underwriters** of any other obligation whatsoever to make payments to the **Insured**, or other Additional Insureds.

**Aggregate Limit:** The total amount (including all **Claims Expenses**) that **Underwriters** will pay during the **Period of Insurance** regardless of the number of **Claims** or requests for indemnity (whether by one or more of the **Insured** or **Additional Insureds**) as specified in the **Insurance Schedule**.

**Authority:** Any competent governmental body, or quasi-governmental body, including without limitation any customs body, with authority to impose fines, penalties or other payments under law in relation to the **Insured Services**.

**Bodily Injury:** Physical injury to a **Third Party** including death, disease, illness, disability or nervous shock resulting from such physical injury.

**Bullion:** Gold, silver or platinum in bars or similar bulk form.

**Cargo:** Goods, including anything used or intended to be used to pack or secure goods (other than **Carrying Equipment** owned or leased by the **Insured**), in respect of which the **Insured** contracts to provide the **Insured Services**.

**Cash:** Bank notes, share capital certificates (if it is possible to receive credit from a bank on such certificates), bond certificates (including bearer bonds), documents expressing proprietary interests including bills, cheques, warrants, certificates of deposit, bills of lading and other commercial papers, international valuable papers including euro shares and Eurobonds, coupons, coins, drafts, credit cards, debit and charge cards.

**Carrying Equipment:** Any container, chassis, trailer, road vehicle, railway wagon (but not a locomotive) or similar equipment used or intended to be used for carrying **Cargo**.

**Claim:** A written notification of liability (actual, alleged or potential) made to the **Insured** during the **Period of Insurance** by a **Customer**, **Authority** or **Third Party** relating to an **Insured Service** which was performed after the **Retroactive Date** (if any), including the service of legal proceedings before any court of competent jurisdiction or institution of arbitration proceedings;

or

The **Insured** becoming aware of any facts, matters or circumstances which might give rise to a **Claim** being

made relating to an **Insured Service** which was performed after the **Retroactive Date** (if any).

**Claims Expenses:** Reasonable legal costs and expenses incurred in the defence of any **Claim**, including (but not limited to) attorneys' fees and disbursements, and the costs and expenses of litigation awarded to any claimant against the **Insured** by way of interest on judgements, investigation, adjustment, appraisal, appeal and legal costs and expenses.

**Claims Expenses** shall not include fees, salaries or retainers for salaried employees and employed counsel and the **Insured's** administrative expenses unless **Underwriters** written prior agreement has been obtained.

**Condition Precedent:** A requirement of the **Insurance Contract** with which the **Insured** must comply, failing which **Underwriters** will not indemnify the **Insured** in respect of the **Claim** in relation to which there was a failure of compliance.

**Consequential Loss:** Any financial amount, cost, expense or compensation that is consequential or additional to direct compensation for **Bodily Injury** or the value of any **Third Party Property** physically lost or damaged and that is directly incurred as a result of the performance of an **Insured Service**.

**Consequential Loss** does not include any financial amount that falls within clause 3.7.

**Customer:** Any person (natural or legal) to whom the **Insured** provided **Insured Services**, whether directly or through its sub-contractors and/or agents.

**Dangerous Cargo:** Goods which have been classified by the shipper/consignor or by the appropriate competent Authority as coming within the Dangerous Goods Category as specified under the International Maritime Organisation's current edition of the International Maritime Dangerous Goods (IMDG) Code.

**Deductible:** The amount of a **Claim** that must be borne by the **Insured** as specified in clause 4.4 and the **Insurance Schedule**.

**Document:** Anything in which information of any description is recorded, including (but not limited to) any separable programme, instruction or data for physical incorporation into any computer system, any deed, will, agreement, map, plan, record, book, letter, certificate, form, or document of any nature whatsoever, whether written, printed or reproduced by any other method. The definition of Documents shall not, however, include **Cash** any negotiable instrument and/or postage stamp.

**Employee:** A person employed by the **Insured** but who is not deemed to be included in the definition of an **Insured**

**Event:** An accident, occurrence, incident or all accidents or occurrences in a series consequent upon or attributable to;

a) one originating cause; or

b) continuous or repeated exposure to the same or similar conditions

which was neither expected nor intended by the **Insured** that occurred during the **Period of Insurance**.

**Extended Reporting Period:** Where agreed under clause 4.16, the period of time running from the end of the **Period of Insurance** during which the **Insured** may report **Claims** made after the **Period of Insurance** but which relate to **Insured Services** provided during the **Period of Insurance**.

**Extension:** Additional cover as set out in Section 6 which is only provided if specifically agreed in writing by **Underwriters** and noted within the **Insurance Schedule**.

**FIATA:** International Federation of Freight Forwarder Associations.

**Force Majeure:** An event or circumstance which is beyond the control, and arises without the fault or negligence of the **Insured**, including but not limited to;

Riot, war, invasion, actions of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power, requisition or compulsory acquisition by any governmental or competent authority, pressure waves caused by aircraft, or other aerial device, travelling at sonic or supersonic speeds, earthquake, windstorm (including hailstorm wind, win driven water, wind driven objects, collapse due to wind or erosion), flood or other physical natural disaster including the immediate consequence thereof, strikes and industrial disputes

**Fraudulent Act:** an act which falls within the definition of fraud contained in section 1(1) of the English Fraud Act 2006.

**Fraudulent Claim:** Any **Claim** calculated to obtain something to which the **Insured** is not entitled (e.g. where the **Insured** makes a **Claim** having knowingly suffered no loss); any **Claim** involving or supported by fraudulent devices (e.g. where the **Insured** makes a genuine claim supported by collateral lies); any **Claim** which the **Insured** has knowingly caused or permitted; any **Claim** where the **Insured** suppresses or fails to disclose information which would otherwise enable **Underwriters** to refuse or reduce the payment of a **Claim**; and any **Claim** considered to be a fraudulent claim under the law applicable to the **Insurance Contract**.

**Gross Income:** The **Insured's** revenue (including fees and commissions, but excluding disbursements paid on behalf of a **Third Party**) arising from the provision of the **Insured Services**.

**Hands On Activity:** Any form of physical work associated with the **Insured Services**, including but not limited to any repair, alteration, manufacture, fabrication, blending, processing or supply work and damage to property worked on by the **Insured**.

**IATA:** International Air Transport Association.

**Insurance Contract:** The contract of insurance comprised of this Marine Professional Indemnity Insurance 2022 v1 policy wording and the **Insurance Schedule** (including any endorsements).

**Insurance Schedule:** The certificate **Underwriters** issue or the Brokers Market Reform Contract (MRC) evidencing the terms, conditions and premium for the **Insurance Contract**.

**Insured:** The entity identified in the **Insurance Schedule**. Furthermore, the **Insured** is deemed to include any partner, executive officer, managing employee, director, chairman, president, vice-president and/or any employee holding equivalent status thereof whilst acting within the scope of the duties bestowed on that person by the **Insured**. All references to **Insured** include any **Additional Insured(s)**.

**Insured Services:** Those services provided by the **Insured** as set out in the **Insurance Schedule** and/or any **Extension**. The **Insurance Schedule** will identify which of the coverages set out in the **Insurance Contract** are to apply to each **Insured Service**. **Insured Services** will include any duty, responsibility or function normally provided by the **Insured** as part of the **Insured Services**, if and to the extent also generally provided by other companies or individuals providing the same or similar service.

**International Convention:** An international agreement concluded among Countries in written form and governed by international law.

**Limit of Indemnity:** The maximum amount as noted in the **Insurance Schedule** and/or in the **Insurance Contract** which shall be paid by **Underwriters** in respect of a **Claim** after deduction of the **Deductible**, which **Deductible** shall reduce the available **Limit of Indemnity**.

**National Transport Law:** Legislation or statutory law passed or made by elected officials or governing bodies relating to methods and standards of transportation

**Period of Insurance:** The duration of the **Insurance Contract** set out in the **Insurance Schedule**. The **Period of Insurance:** (a) does not include any **Extended Reported Period** (b) starts from the date set out in the **Insurance Schedule**; and (c) ends on the date set out in the **Insurance Schedule**, unless the **Insurance Contract** comes to an end earlier, whether by way of cancellation or for any other reason whatsoever, in which case the **Period of Insurance** ends on that earlier date.

**Precious Metals:** Silver, gold, platinum, copper, palladium, iridium, osmium, rhodium, and ruthenium.

**Precious Stones:** Diamonds, emeralds, rubies and sapphires.

**Principal:** Any person or entity (natural or legal) or organisation which does not have separate legal status that the **Insured** agrees to represent as agent or broker.

**Retroactive Date:** The date (if any) set out in the **Insurance Schedule**.



**Seepage, Pollution or Contamination:** The emission, discharge, disposal, release or escape of smoke, vapour, soot, dust, liquid, gas, petroleum substance or derivative, chemical or waste material or toxic material of any kind into or upon land, sea, the atmosphere, or any watercourse or body of water.

**Standard Trading Conditions:** Terms and conditions of business with a **Customer** or **Principal** which the Insured must ensure, by complying with clause 4.17, govern **Insured Services** and which have been approved by **Underwriters** and are noted as such within the **Insurance Schedule**.

**Territorial Limits:** The geographical limits set out in the **Insurance Schedule**.

**Third Party:** Any person (natural or legal) other than the Insured and any Associated Entities as defined in clause 3.19.

**Third Party Property:** All real or personal property in which the **Insured** has no ownership interest other than **Cargo** being carried, handled or stored as part of an **Insured Service**.

**Underwriter(s):** The entity (or entities) granting the Insured the benefit of the Insurance Contract as stated in the Insurance Schedule.

**Valuable Artwork(s):** Antiques, paintings, furniture, sculptures, tapestries, objects for display, if the value exceeds USD 20,000 each item or set of items.

**Valuable Cargo:** Cigarettes, processed tobacco or other tobacco products, cannabis, processed cannabis or other cannabis products, thoroughbred horses, bottled spirits, perfume and perfume products, microchips, memory in component or card form, micro-processors, integrated circuits, system boards and SIM cards, computer processors, CD-ROM drives, DVD drives, sound cards, video cards, modems, Valuable Artworks, non-ferrous metals, laptops, notebooks and other portable communication devices and portable entertainment devices.

**Vessel:** Includes ship, yacht, boat (whether self-propelled or not), craft, hovercraft and any description of watercraft or structure for use in navigation on, under or over water.



## Section 6 - Extensions of Cover

## Cargo Liability Insurance Extension

- 1.1 This Extension shall only apply to this **Insurance Contract** if it has been noted and included within the **Insurance Schedule**.
- 1.2 Coverage under this **Extension** is provided on a 'losses occurring' basis and is limited to liability for only those covered **Claims** which arise from **Events** which occur during the **Period of Insurance**. This **Extension** will not indemnify the **Insured** in respect of any **Claims** that arise out of **Events** that did not occur during the **Period of Insurance**. For the avoidance of doubt, where a **Retroactive Date** is noted in the **Insurance Schedule**, such **Retroactive Date** will not apply to this **Extension** for the **Insured Services** performed.
- 1.3 **Cargo Liability Insurance**
- 1.3.1 Subject to all terms and conditions of the **Insurance Contract** and this **Extension**, **Underwriters** will indemnify the **Insured** for its legal liability in respect of **Claims** which arise from:
- (a) physical loss of or physical damage to **Cargo**
  - (b) **Consequential Loss** arising directly from 1.3.1a) above; and
  - (c) **Cargo's** contribution to general average and salvage, which the **Insured** is unable to recover from a **Customer**.
- 1.3.2 **Carriage Conditions**
- It is a **Condition Precedent** to **Underwriters'** liability that the **Insured's** legal liability arises under any one of the following;
- (a) An international transport convention; or
  - (b) A **National Transport Law** which is compulsorily applicable to the **Insured**; or
  - (c) Any **Standard Trading Conditions** approved by a transport industry national association of which the **Insured** is a member; or
  - (d) **IATA** air waybill, **FIATA** or **COMICON** bill of lading; or
  - (e) The **Insured's** house bill of lading or **Standard Trading Conditions** provided such conditions and limitation of carriage or trade accept no greater liability or responsibility for the **Insured** than those in the **FIATA** standard bill of lading or national association standard conditions respectively; or
  - (f) Any other contract which **Underwriters** have approved and which approval is noted in the **Insurance Schedule**.
- 1.3.3 **Subcontractors**
- Any **Claim** relating to loss of or damage to **Cargo** when it was in the care, custody or control of a sub-contractor appointed by the **Insured** other than the ocean or feeder **Vessel** operator or an air carrier may be subject to an alternative **Limit of Indemnity** and or **Deductible** if specified in the **Insurance Schedule**.
- 1.3.4 **Valuable Cargo**
- Any **Claim** relating to loss of or damage to **Valuable Cargo** may be subject to an alternative **Limit of Indemnity** and or **Deductible** if specified in the **Insurance Schedule**. Where a **Limit of Indemnity** and or **Deductible** is specified in the **Insured Schedule** for **Valuable Cargo** under this clause 1.3.4, **Underwriters** agree to delete the words "**Valuable Cargo**" from clause 3.18.
- 1.3.5 **Dangerous Cargo**
- Any **Claim** relating to loss of or damage to **Dangerous Cargo** carried otherwise than by air may be subject to an alternative **Limit of Indemnity** and or **Deductible** if specified in the **Insurance Schedule**. Where a **Limit of Indemnity** and or **Deductible** is specified in the **Insured Schedule** for **Dangerous Cargo** under this clause 1.3.5, **Underwriters** agree to delete the words "**Dangerous Cargo**" from clause 3.18. The carriage of **Dangerous Cargo** by air will not be covered and shall always be excluded.
- 1.3.6 **Special Expenses**
- Subject to all terms and conditions of the **Insurance Contract**, **Underwriters** will indemnify the **Insured** in relation to **Claims Expenses** arising from **Claims** falling within clause 2.4, but any **Claim** relating to the

following Special Expenses may be subject to an alternative **Limit of Indemnity** and or **Deductible** if specified in the **Insurance Schedule**:

(a) Failure to Collect or Remove Cargo

Extra costs incurred by the **Insured** due to the total failure of the consignee to collect or remove **Cargo** at the place of delivery;

- (i) less the costs which the **Insured** would have ordinarily expected to be incurred in any event,
- (ii) less the proceeds arising from the sale of **Cargo**,
- (iii) less any Sums which the **Insured** is able to recover from anyone else.

(b) Misdirected Cargo

Costs incurred by the **Insured** for sending misdirected **Cargo** to the correct destination provided that such costs are not for air transport unless the original transport contract included air transportation. Misdirected **Cargo** costs are calculated as follows:

- (i) Costs of carriage of **Cargo** from the place at which the **Insured** originally received it to the place where it was misdirected; plus
- (ii) costs of carriage from the place to which it was misdirected to the correct place; less
- (iii) freight and other charges due to the **Insured** for the carriage.

(c) Quarantine, Fumigation and Disinfection

Costs incurred by the **Insured** for quarantine, fumigation or disinfection arising other than in the normal course of business.

(d) Removal of Debris

Costs relating to the removal of debris;

(e) Contractual Obligation

Costs incurred to complete the **Insured's** contractual obligation to transport the **Cargo** to the place of delivery, that are in addition to what the **Insured** would have incurred during the normal course of business.

## 1.4 **Additional Exclusions**

In addition to the exclusions under section 3, this **Extension** excludes any loss, damage, liability or expense directly or indirectly caused by, contributed to, by or arising from:

### 1.4.1 Increased Value

Any increase in any declaration of value by a **Third Party**, agent or subcontractor.

### 1.4.2 Illegal Cargos

The handling, storage or carriage of **Cargo** which is contraband or in an illegal trade under any law applicable to the **Cargo**.

### 1.4.3 Safe Working Loads

The safe working load or manufacturer guidelines of the **Insured's** handling equipment being exceeded.

### 1.4.4 Theft of Cargo

Any **Claim** in arising out of theft of **Cargo**, or from a vehicle, and/or trailer and/or container operated by the **Insured** which was not secure, locked or was left unattended and/or where the theft was not by forcible and/or violent means unless:

- (a) whilst parked during the day for rest breaks or for similar short stays the vehicle/trailer/container is:
  - (i) locked at all times; and



- (ii) the driver remains within the immediate vicinity; and
  - (iii) at a recognised and designated parking area for road hauliers.
- (b) whilst parked overnight or during the day other than for rest breaks or for similar short stays the vehicle/trailer/ container:
- (i) is garaged in a locked building or parked in a fully enclosed location (which remains locked apart from when authorised vehicles are entering and exiting the location) under constant surveillance and the vehicle/trailer/container is securely locked and all keys removed; or
  - (ii) is in a recognised and designated parking area for road hauliers and the driver remains in attendance at all times.
- (c) Forced or violent entry has occurred whilst a secured vehicle, chassis or container was temporarily left unattended whilst within the pickup or delivery premises.

Where a **Claim** is recoverable under this clause it is a **Condition Precedent** to **Underwriters'** liability that the **Insured** must be able to evidence that both the police and the **Insured's** security company (if applicable) were notified at the earliest opportunity of the theft and any **Employee** found to have colluded in the crime has been disciplined accordingly. **Claims** recoverable under this clause may be subject to an alternative **Limit of Indemnity** and or **Deductible** if specified in the **Insurance Schedule**.

Where a **Claim** would otherwise be recoverable under this clause, but an **Employee** is found to have colluded in the theft of **Cargo** that is the subject of that **Claim**, this **Extension** and this **Insurance Contract** excludes any loss, damage, liability or expense directly or indirectly caused by, contributed to, by or arising from any act, error or omission of that **Employee** which occurs after the notification of that **Claim**.

#### 1.4.5 **Self-Damaging Effects**

Inherent vice, patent or latent defects, ordinary leakage, ordinary loss in weight or volume, ordinary wear and tear, ordinary corrosion and oxidization, fatigue, rust, decolourisation, bending, twisting, marring, denting, scratching, pitting or gradual deterioration.

#### 1.4.6 **Mysterious Disappearance**

Mysterious disappearance or unexplained loss or shortage upon taking a stock take or similar inventory check.

#### 1.4.7 **Transport Under Own Power**

**Cargo** whilst being transported under its own power (except whilst being loaded directly onto or directly unloaded from any means of transport) or whilst being towed on its own axle.

#### 1.4.8 **Warehouse to Warehouse**

The movement of **Cargo** from one warehouse to another unless requested and/or noted in writing by the **Insured's Customer**.

#### 1.4.9 **Variation of Temperature**

Any Claim arising from inadequate or variation in the temperature of temperature-controlled Cargo unless the **Insured**:

- (a) has clearly instructed all employees in the use of refrigeration equipment before entrusting them with such **Cargo**; and
- (b) has, before acceptance of the **Cargo**, obtained written confirmation from the **Customer** or **Principal** of the temperature at which the **Cargo** must be held, and from the consignees before acceptance following delivery; and
- (c) services and maintains refrigeration equipment in accordance with the manufacturer's recommendations; and
- (d) ensures that the refrigeration equipment is operational prior to each transit; and
- (e) ensure the volume of **Cargo** is not too great for the refrigeration equipment; and
- (f) maintains a written log of compliance with the above; and
- (g) maintains back-up generators to be used in the event of a power failure.

1.4.10 **Other Sections**

**Any Claim** that can be recovered under section 2 or any other part of section 6 of the **Insurance Contract**, or which would have been recoverable had the **Insured** purchased coverage under those sections.

1.5 **Amendments to the Insurance Contract**

1.5.1 Clause 3.5 of the **Insurance Contract** shall not apply to this **Extension**.

1.5.2 **Standard Trading Conditions**

Clause 4.17 shall apply to this **Extension**, save that clause 4.17.2 shall not apply and, instead, the following clause 4.17.2 shall apply to **Claims** under this **Extension**:

*4.17.2 Where the **Insured** has carried out **Insured Services** during the **Period of Insurance** in circumstances where;*

- (a) a contract has not been declared to **Underwriters**; and/or*
- (b) the contract was declared to **Underwriters** but was not accepted by **Underwriters**; and/or*
- (c) the contract was approved by **Underwriters** but was not finalized (as specified in clause 4.17.1) prior to the performance of **Insured Services**; and/or*
- (d) no written contract is in place for the performance of the services;*

**Underwriters** agree to indemnify the **Insured** in respect thereof but only to the extent that **Underwriters** would have been liable under the **Insurance Contract** had the **Insured** contracted on their **Standard Trading Conditions** or national association trading conditions if such **Standard Trading Conditions** do not exist. If no national association trading conditions exist indemnity under this **Insurance Contract** in such circumstances shall be capped at 8.33 Special Drawing Rights (SDR) per kilo or USD 100,000.00, whichever is the lesser, in respect of the lost or damaged **Cargo**. In such cases the indemnity provided by **Underwriters** shall only be in respect of this **Extension**.

1.6 **Additional Conditions**

In addition to the conditions in Section 4 of the **Insurance Contract**, coverage under this **Extension** shall be subject to the following conditions.

1.6.1 **Heavy Lifts**

Where the **Insured** intends to carry out an **Insured Service** which involves the use of heavy, dual or multiple lifts, it is a **Condition Precedent** to **Underwriters'** liability under this **Insurance Contract** that the **Insured** obtains **Underwriters'** written approval prior to the commencement of the lift.