



## **Transport Operators Comprehensive Liability Policy**

### **Preamble**

**WHEREAS** the Insured described in the Schedule hereto (herein after called the “Insured”) by a proposal and declaration which shall be the basis of this contract and is deemed to be incorporated herein has applied to Universal Sompo General Insurance Company Limited (hereinafter called the “Company”) for the insurance hereinafter contained and has paid or agreed to pay, in such manner and within such time, as may be prescribed under the provision of the insurance Act, 1938 and the rules made there under, the premium stated in the Schedule as consideration for such insurance during the period stated in the Schedule or during any further period for which the Company may accept payment for the renewal or extension of this policy.

### **Operative Clause**

The Company hereby agrees, subject to the terms, conditions and exclusions herein contained or endorsed or otherwise expressed herein, to compensate the Insured/ Insured Person(s) for any legal liability, as described under different sections hereunder, but not exceeding the Sum Insured as specified in the Schedule to the Policy.

### **Section 1 – Cargo Legal Liability (Contractual Liability)**

The Company will indemnify the insured for any legal liability arising from accidental damage to and/or loss of customer’s cargo(es)/goods whilst in the care, custody and control of the insured under or by Contract, International Convention, Statute or Common Law as Carriers, Successive Carriers, Bailees, Freight Forwarders (as Principals or agents), Agents, Container Operators, Trailer Operators, Transport Contractors, Shippers up to limit of indemnity as specified in the Schedule to this policy.

The company also indemnifies the insured / insured person against

- All costs and expenses of litigation recovered from the insuree by any claimant or
- All costs and expenses of litigation incurred with the written consent of the Company happening during the insurance period and caused in the course of the Business within the Territorial Limit.

Provided that the total indemnity shall not at any time exceed the Limit of liability specified on the Schedule.

### **Specific Exclusion**

1. The Company shall not be liable in respect of any loss of or damage to the goods
  - By delay, loss of market, or the consequential loss
  - Caused by poor or insufficient packing
  - Caused by neglect of the insured to use all reasonable means to save and preserve the property at and after any loss
  - Caused by or resulting from infidelity of the insured’s employees or persons to whom the property may be entrusted, nor the dishonesty of any attendant(s)
  - Arising (after they have ceased to be in the possession or under the control of the Insured) out of any goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by the insured.



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- Arising out of the pollution of air, water or soil unless it can be demonstrably proved to have been caused by immediate discharge consequent upon an accident
  - Directly or indirectly caused by any ship, vessel, craft or aircraft, or arising out of any work done therein or thereon by or on behalf of the insured.
  - Arising from any consequence of war invasion act of foreign enemy hostilities (whether war be declared or not) civil rebellion evolution insurrection or military or usurped power riot or civil commotion
  - Directly or indirectly caused by or contributed to or arising from ionizing radiations or contaminations by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel and for the purposes of this exception combustion shall include any self sustaining process of nuclear fission.
  - Directly or indirectly caused by or contributed to or arising from nuclear weapons material
2. The Company shall not be liable in respect of any loss of or damage to the goods caused by burglary or theft whilst the vehicle is left unattended.
3. The policy does not cover:
- Goods defined in the international air contract as “Goods not Acceptable”
  - Accounts, bills, currency, deeds, evidences of debts, money notes, securities, gold, silver, jewellery or other similar valuables
  - Live animals and plants
  - Perishables, Frozen and/or Chilled Good, Seedlings and Bulbs
  - Blueprints, Drawings, Photos and Goods with difficulty to calculate its value
  - Any property other than that being transported and/or handled
  - Property while in the hands of other inter-line carriers unless under instructions of the insured. Where the loss is attributed to the negligence, error or omission of the other inter-line carrier acting under the instructions of the Insured, the Insured may not waive its rights of subrogation against that inter-line carrier.
  - Property in shortage under storage contract unless a special condition of “Warehousemen’s Liability Clause” is set forth in the Schedule.
4. If the Insured, apart from being insured under this Policy, is insured in any manner whatsoever by any other person or association against any or any part of the loss, costs, expenses, general average contribution or salvage reward to be recoverable under this Insurance, no sum shall be paid by this Company on the basis of double insurance or otherwise in respect of such loss, costs, expenses, general average contribution or salvage reward.
5. Any cause or event other than above on which the Insured has no responsibility under the contract of carriage as defined in any other Laws, Statutes or Regulations applicable hereto.
6. The Company shall not be liable for any loss of or damage to the goods if any claim submitted is covered by the insured’s more specific insurance.

### **Limit of Indemnity**

The liability of the Company under this Policy in respect of any occurrence or all occurrences consequent on or attributable to one source or original cause shall not exceed the limits of Indemnity stated in the Schedule.



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### **Deductibles**

The company shall not be liable for the deductible amount stated in the Schedule for each and every claim.

### **Valuation**

The company shall not be liable beyond the actual cash value of the property at the time any loss or damage occurs and the loss or damage shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would then cost to repair or replace the same with materials of like kind and quality.

## **Section 2 – Third Party Legal Liability (Non - Contractual Liability) excluding Motor TP Liability**

### **Coverage**

The company will indemnify the insured against all sums which the Insured shall become legally liable to pay in respect of

- Accidental bodily injury to any person
- Accidental loss of or damage to property happening during the period of Insurance and caused in the course of the business within the Territorial Limit set forth in the Schedule.
- The company will in addition pay all costs and expenses incurred with their written consent.

### **Specific Exclusions**

The company shall not be liable in respect of

1. Any liability which attached by virtue of an agreement but which would not have attached in the absence of such agreement.
2. Any liability of whatsoever nature directly or indirectly caused by or contributed to or arising from ionizing radiations or contaminations by radioactivity from any nuclear fuel or from any nuclear waste the combustion of nuclear fuel and for the purposes of this exception combustion shall include any self sustaining process of nuclear fission.
3. Any consequences of war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion evolution insurrection or military or usurped power riot or civil commotion.
4. Any liability directly or indirectly caused by or contributed to or arising from nuclear weapons material
5. Bodily injury to any person under a contract of service or apprenticeship with the insured arising out of and in the course of the employment of such person by the insured
6. Loss of or damage to
  - Property belonging to or in the custody or control of the insured or property which is in the custody or control of any person in the service of the insured by virtue of such service but the expression “custody or control” shall not apply to building not owned or tenanted by the Insured but temporarily occupied by the Insured for the purpose of alteration decoration or repair.
  - That part of any property upon which the insured or any person in the service of the Insured in or has been operating.



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- Any property land or buildings caused by vibration or removal or weakening of support of such land property or buildings
  - Loss or damage to property caused by explosion due to force of internal steam pressure of any boiler vessel or apparatus designed to operate under steam pressure only
  - Ship craft or aircraft
7. Loss of or damage caused by
- The possession use or movement of ship craft, aircraft or railway rolling stock
  - The possession or use of mechanically propelled road vehicles but provided the insured is not entitled to indemnity under any other policy this exception shall not apply to injury loss or damage as herein defined arising from – a) the act of loading or unloading a mechanically propelled road vehicle or the bringing to or the taking away of a load from such vehicle. b) the defective loading by the insured or any person in the service of the insured of any mechanically propelled road vehicle not belonging to nor hired by the insured.
  - Defective sanitary arrangements water pollution chemical effluent fumes or other noxious gas liquid or substance
  - Goods (which term shall be deemed to include containers) sold or supplied other than goods in the custody or control of the Insured
  - Fines, penalties, punitive or exemplary damage

### **Limit of Indemnity**

The liability of the company under this policy in respect of any one occurrence or all occurrences consequent on or attributable to one source or original cause shall not exceed the limits of indemnity stated in the Schedule.

### **Deductibles**

It is hereby agreed that in respect of each and every occurrence giving rise to loss or damage the subject indemnity under this policy the insured shall be responsible for the deductible amount stipulated on the Schedule for any third party property damage. The deductible amount applies to each Territorial Limit specified on the Schedule.

## **Section 3 – Container / Equipment Legal Liability (Contractual Liability)**

### **Coverage**

The Company will indemnify the insured for any legal liability for all risks of physical loss of and/or damage to containers and/or pallet containers and/or other handling equipment under the Insured's care, custody and control, used for the main purpose of movement of customer's cargo(es)/goods.

The company shall pay to the insured the value of the containers and/or pallet containers and/or equipment at the time of the happening of the loss or the amount of such damage at their option repair or replace such property. Provided that the liability of the company for any one container/pallet container/equipment and/or in any one period of insurance shall not exceed the amount specified in the Schedule.



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### Specific Exclusion

1. The Company shall not be liable in respect of any loss of or damage to the containers and/or pallet containers & or equipment
  - By delay, loss of market, or the consequential loss
  - Caused by neglect of the insured to use all reasonable means to save and preserve the property at and after any loss
  - Caused by or resulting from infidelity of the insured's employee's or persons to whom the property may be entrusted, now the dishonesty of any attendant(s)
  - Arising (after they have ceased to be in the possession or under the control of the insured) out of any goods or products manufactured, constructed, altered, services, treated, sold, supplied or distributed by the insured.
  - Arising out of the pollution of air, water or soil unless it can be demonstrably proved to have been caused by immediate discharge consequent upon an accident.
  - Directly or indirectly caused by any ship, vessel, craft or aircraft, or arising out of any work done therein or thereon by or on behalf of the insured.
  - Arising from any consequence of war invasion act of foreign enemy hostilities (whether war be declared or not) civil rebellion evolution insurrection or military or usurped power riot or civil commotion.
  - Directly or indirectly caused by or contributed to or arising from ionizing radiations or contaminations by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel and for the purposes of this exception combustion shall include any self sustaining process of nuclear fission.
  - Directly or indirectly caused by or contributed to or arising from nuclear weapons material
2. The Company shall not be liable in respect of any loss of or damage to the containers and/or pallet containers caused by burglary or theft whilst the vehicle is left unattended.

### Limit of Indemnity

The liability of the company under this policy in respect of any one occurrence or all occurrences consequent on or attributable to one source or original cause shall not exceed the limits of indemnity stated in the Schedule.

### Deductibles

The company shall not be liable for the deductible amount stated in the Schedule for each and every claim.

## Section 4 – Extra Costs

### Coverage

The Insurer will indemnify the insured for the following risks, subject to the Company's limit of liability specified in the Schedule of the policy:

#### 1. Misdirection Costs

Extra costs incurred by you in sending to correct destination Cargo that has been misdirected. The costs insured under this section are to be calculated as under:

- The costs of transporting the cargo from the place to which it was misdirected (incorrect destination) (plus)



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- The costs of transporting the cargo from the incorrect destination to its correct place of delivery, (less)
- the freight and other charges due to you for the transport of that cargo
- the cargo shall not be transported by air from the incorrect destination to the correct place of delivery unless the transport from the place receipt to the correct place of delivery was agreed to be by air, or the company so agrees.

### 2. Completion of Carriage Costs

Extra carriage costs (less those costs which you would have incurred in any event) incurred by you to complete your contractual obligation to transport the Cargo to the place of delivery and incurred solely by reason of the failure of the insured contractor and/or sub-contractor.

### 3. Uncollected Cargo

Extra Costs incurred by you solely by reason of the total of a consignee to collect or remove Cargo at the place of delivery. The costs set out in this section are extra costs less:

- Those costs that you would have incurred in any event
- The proceeds of any sale of the cargo
- Sums recoverable by you from any other person

### 4. Investigation

Costs incurred by insured/ insured person(s) after any accident that gives rise to, or may give rise to, a claim under this cover in:-

- Investigation the accident and protecting insured's interests in relation to it, for example, the fees of surveyor or expert
- Avoiding or minimizing a claim

## Coverage

The company shall not be liable for any costs, fines or duty in relation to:-

1. Any kind of financial loss incurred by insured customer
2. Commercial fines- This policy does not cover any breach of law or regulation in respect of freight tariffs, competition or the structure or operation of insured's business or that of any person acting on the insured's behalf.
3. Liability, extra costs, fines and duty
  - Arising out of forged bill of lading or warehouse receipt
  - Arising from the handling, storage or carriage of cargo in an illegal trade or cargo which is contraband

## Limit of Indemnity

The liability of the company under this policy in respect of any one occurrence or all occurrences consequent on or attributable to one source or original cause shall not exceed the Limits of Indemnity stated in the Schedule.

## Deductibles

The company shall not be liable for the deductible amount stated in the Schedule for each and every claim.

## General Conditions

### 1. Duty of Insured

- A. It is a condition precedent to the liability of the company hereunder:



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- That during currency of this policy the insured continuously trades under the conditions approved by the company.
- That he insured shall take all reasonable steps to ensure that the said conditions are incorporated in all contracts entered into by the insured / insured person(s). If a claim arises in respect of a into which the insured failed to incorporate the above mentioned conditions, the insured's right to be indemnified under this policy in respect of such a claim shall not be prejudiced providing that the insured establishes – (1) that as a general rule the insured has taken all reasonable steps to incorporate the above conditions into contracts but (2) in the case in question the conditions were not incorporated solely as a result of an isolated error of one of their employee.
- B. The due observance and fulfilment of the terms provisions, conditions, exceptions and endorsement of this policy so far as they relate to anything to be done or complied with by the insured and the truth of the statements and answers in the proposal shall be conditions precedent to any liability of the company to make any payment under this policy.
- C. The insured shall exercise reasonable care that only competent employees are employed and shall take all reasonable precautions to prevent accidents and shall take all reasonable steps to maintain all premises furnishing fittings appliances and plant in sound condition. In the event of the discovery of any defect or danger the insured shall forthwith cause such defect or damage to be made good or remedied and in the mean time shall cause such additional precautions to be taken as the circumstances may require.

### **2. Increase in Risks**

The insured shall immediately give to the company, full particulars in writing of any material increase in the risk and shall pay such reasonable additional premium, if any, as may be required by the company.

### **3. Record**

A proper record shall be kept in the books of the insured of all the cargo and/or merchandise whilst in the care, custody and control of the insured and the company is allowed to inspect such books at all items.

### **4. Fraudulent Claims**

If any insured shall give any notice or claim cover for any loss under this policy knowing such notice or claim to be false or fraudulent as regards amounts or otherwise, such loss be excluded from cover the policy, and the insurer shall have the right, in its sole and absolute discretion, to avoid its obligation under the policy shall be forfeited and all premium deemed fully earned and non-refundable.

### **5. Arbitration**

- a. Any and all dispute or difference which may arise under, out of, in connection with or in relation to this Policy, or to its existence, validity or termination, or to the determination of any amount payable under this policy, shall be referred to a sole arbitrator to be appointed by the parties to the dispute within 30 days of any party giving notice of arbitration to the other(s)
- b. In the event that the parties are unable to agree upon the identify of a sole arbitrator, the disputes or differences shall be referred to the decision of three arbitrators of whom one shall be appointed in writing by each of the parties within a period of 30 days after the failure to appoint a sole arbitrator and the third (who shall serve as chairman) shall be appointed by the nominated arbitrators. In case



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- either party shall refuse or fail to appoint an arbitrator within the aforesaid 30 days after receipt of notice in writing requiring an appointment, the other party shall be at liberty to appoint a sole arbitrator who shall thereafter be empowered to conduct the arbitration and determine the disputes or differences referred to him as if he had appointed a sole arbitrator with the consent of both parties.
- c. The parties shall share the expenses of the arbitrator or tribunal equally and such expenses, along with the reasonable costs of the parties in the arbitration, shall be awarded by the arbitrator or arbitral tribunal in favour of the successful party in the arbitration or, where no party can be said to have been wholly successful, to the party who has substantially succeeded.
  - d. The place of arbitration shall be India, the language of the arbitration shall be English, the law applicable to and in the arbitration shall be Indian law and the arbitration process will be in accordance with the provisions of the Arbitration & Conciliation Act 1996, as amended from time to time.
  - e. It is a condition precedent to any right of action or suit upon this policy that the award by such arbitrator or arbitrators shall be first obtained.
  - f. In the event that these arbitration provisions shall be held to be invalid then all such disputes shall be referred to the exclusive jurisdiction of the Indian courts.

### 6. Cancellation

- **By Insured** – This policy may be cancelled by the insured at any time only by mailing written prior notice to the Insurer. In such case, in no claim has been made and no circumstance has been notified prior to such cancellation. Insurer shall retain the customary short rate proportion (unexpired portion of premium less handling charges) of the premium otherwise, premium shall not be returnable and shall be deemed fully earned at cancellation.
- **By Insurer** – This policy may be cancelled by the insurer delivering to the insured by registered, certified other first class mail or other reasonable delivery method, at the address of the insured set forth in the schedule, written notice stating when, not less than (30) days thereafter, the cancellation shall be effective. Proof of mailing or delivery of such notice shall be sufficient proof of notice and this policy shall be deemed cancelled as to all insured's at the date and hour specified in such notice. In such case, the insurer shall be entitled to a pro-rata proportion of the premium. Payment or tender of any unearned premium by the insurer shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

### 7. Claims Procedure

#### A. Notification of Claims

The insured shall, as a condition precedent to the obligation of the insurer under this policy, give written notice to the insurer of any claim first made against the insured as soon as practicable and during the policy period. All notifications must be in writing or by facsimile, and addressed as required in the claims notice item on the schedule.

#### B. Related Claims

If notice of claims against an insured is given to the insurer pursuant to the terms and conditions of this policy, then (1) any subsequent claim alleging, arising out of, based upon or attributable to the facts alleged in that previously noticed claim. (2) any subsequent claim alleging any wrongful act which is the same as or related to any





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wrongful act alleged in the previously noticed claim, shall be considered made against the insured and reported to the insurer at the time notice was first given. Any claim or claims arising out of, based upon or attributable to (a) the same cause, or (b) a single wrongful act, or (c) a series of continuous, repeated or related wrongful acts, shall be considered a single claim for the purpose of this policy.

### **C. Circumstances**

During the policy period, an insured may become aware of circumstances which may reasonably be expected to give rise to a claim. In such event, an Insured may report the circumstances in writing to the insurer. If in doing so, the insured provides (a) the reasons for anticipating the claim, and (b) full particulars as to dates, act and persons involved, then any claim which is subsequently made against an insured and reported in writing to the insurer alleging, arising out of based upon or attributable to such circumstances, or alleging any wrongful act which is same as or related to any wrongful act alleged or described in the previously notified circumstances, shall be considered first made against the insured and reported to the insurer at the time the facts or circumstances were first reported, if accepted by the insurer.

### **D. Defense / Settlement**

The insurer does not assume any duty to defend, and the insured shall defend and contest any claim made against them unless the insurer, in its sole and absolute discretion, elects in writing to take over and conduct the defense and settlement of any claim. If the insurer does not so elect, it shall be entitled, but not required, to participate fully in such defense and the negotiation of any settlement that involves or appears reasonably likely to involve the insurer. The insurer has the right at any time after notification of a claim to make a payment to the insured of the unpaid balance of the limit of liability, and upon making such payment, all obligations of the insurer to the insured under this policy, including, if any, those relating to defense, shall cease.

### **E. Insured's Consent**

As a condition precedent to cover under this policy, no insured shall admit or assume any liability, enter into any settlement agreement, consent to any judgement, or incur any defense costs without the prior written consent of the insurer. Only those settlements, judgements and Defense costs consented to by the insurer, and judgements resulting for claims defended in accordance with this policy, shall be recoverable as loss under this policy. The Insurer's consent shall not be unreasonably withheld, provided that the insurer shall be entitled to exercise all of its rights under the policy.

### **F. Circumstances**

The insurer may make any settlement of any claim if deems expedient with respect to any insured, subject to such insured's written consent. If any insured withholds consent to such settlement, the insurer's liability for all loss on account of such claim, plus defense costs incurred as of the date such settlement was proposed in writing by the insurer, less coinsurance (if any) and the applicable retention.

### **G. Co-operation**

The insured will at their own cost (1) render all reasonable assistance to the insurer and co-operate in the defense of any claim and the assertion of indemnification and contribution rights (2) use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any loss under this policy (3) give such information and assistance to the insurer as the insurer may reasonably require to enable it to investigate any loss or determine the insurer's liability under this policy.



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### **8. Subrogation**

If any payment is to be made under this policy in respect of claim, the insurer shall be subrogated to all rights of recovery of the insured whether or not payment has in fact been made and whether or not the insured to pursue and enforce such rights in the name of the insured, who shall provide the insurer with all reasonable assistance and co-operation in doing so, including the execution, of any necessary instruments and papers. The insured shall do nothing to prejudice these rights. Any amount recovered in excess of the insurer's total payment shall be restored to the insured less the cost to the insurer of such recovery. The insurer agrees not to exercise any such rights of recovery against any employee unless the claim is brought about or contributed to by the dishonest, fraudulent, intentional criminal or malicious act or omission of the employee. In its sole discretion, the insurer may, in writing, waive any of its rights set forth in this Subrogation Clause.

### **9. Notices**

Any notice, direction or instruction given under this Policy shall be in writing and delivered by hand, post, or facsimile to –

- In case of the Insured/Insured Person, at the address specified in the Schedule to this Policy.
- In case of the Company, to the Policy issuing office/nearest office of the Company.

### **10. Grievance**

In case the Insured / Insured Person is aggrieved in any way, the Insured /Insured Person may contact the Company at the specified addresses, during normal business hours or the Insured may also contact our customer service desk at +022-29211800

### **11. Jurisdiction**

The indemnity shall not apply in respect of judgements which are not in first instance delivered by or obtained from a court of competent jurisdiction within India.



## **Transport Operator's Comprehensive Liability Policy (Air Cargo)**

### **Preamble**

Whereas the Insured described in the Schedule hereto (hereinafter called the "Insured") by a proposal and declaration which shall be the basis of this contract and is deemed to be incorporated herein as applied to Universal Sompo General Insurance Company Limited (hereinafter called the "Company") for the insurance hereinafter contained and has paid or agreed to pay, in such manner and within such time, as may be prescribed under the Provisions of the Insurance Act, 1938 and the rules made there under, the premium stated in the Schedule as consideration for such insurance during the period stated in the Schedule or during any further period for which the Company may accept payment for the renewal or extension of this policy.

### **Operative Clause**

The Company hereby agrees, subject to the terms, conditions and exclusions herein contained or endorsed or otherwise expressed herein, subject to limits of indemnity specified in the Schedule to this policy, to compensate the Insured/ Insured Person(s) against any legal liabilities, cost and expenses incurred while pursuing business of international transportation by issuing House air Way Bill (hereinafter "HAWB") and through Consignment Note (hereinafter TCN) in respect of:

- Legal or contractual liability to cargo owners, container owners, or actual carriers in respect of loss of and/ or damage to cargo and / or containers.
- Legal or contractual liability to cargo owners in respect of loss of and/ or damage arising from errors / omissions, or delays.
- Legal liability in respect of loss in life, personal injury and for property damage to third parties.

This insurance also indemnifies the insured / insured person(s) against

- Costs and / or Expenses incurred by the assured as enumerated below subject to approval of the insurer
  1. Investigation, defense, mitigation costs and expenses to avoid or minimize liability as covered above
  2. Extra costs and expenses incurred by the Insured / Insured person(s) in sending to the correct destination in case of mis-delivery or mis-direction of cargoIt is the condition of this insurance that in case if claim falling under item no. (2) above the amount, the amount of claim shall be calculated as under:
  - The cost of transporting the cargo from the place of origin to the incorrect destination, (plus)
  - the cost of transporting the cargo from the incorrect destination to the correct destination, (less)
  - the freight and other charges paid to the insured for the transportation of cargo direct to the correct destination.
- 3. Extra costs and expenses incurred by the Insured / Insured person(s) in disposing of damage cargo or container.
- 4. Extra costs and expenses incurred by the Insured for quarantine, fumigation or disinfection.



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5. In the event of transit by sea, contribution of cargo interest in general average or salvage for which the Insured is liable to ship-owners and is unable to recover from the cargo interest.
- If as a result of the actions of the cargo transported by air take longer than the time normally scheduled for the journey and such cargo could have been sent by sea or land and been delivered in the same or less time, any difference between the air freight and charges which would have been incurred had the cargo been sent by sea or land shall be reimbursed to the owner of the cargo by the insured.

### Exclusions

The Company shall not be responsible for any liability, costs or expenses:

1. Incurred by the insured caused by wilful misconduct of the following applicant, insured or any other parties who are duly authorized to receive claim money or their agents, including directors, board members and managers thereof.
2. In respect of the insured's interest in vessels, aircrafts, railways, trucks and interest arising from owning, managing, operating and navigating them.
3. In respect of loss of / damage to properties and equipments owned, leased, operated by the insured excluding containers owned by cargo owners and those received by the insured as FCL cargo.
4. In respect of death or bodily injury of any person employed by the insured.
5. In respect of fines, penalties, punitive damages charged by authorities.
6. In respect of ionizing radiation, contamination by radioactivity, explosion and any other loss or damage caused by toxic and hazardous properties of any type of nuclear materials including nuclear fuel, waste from nuclear combustion, explosive nuclear assembly components thereof.
7. In respect of pollution
8. In respect of insolvency of the insured.
9. In respect of any activities concerning illegal trading

### General Conditions

#### 1. Duty of Insured

- A. It is a condition precedent to the liability of the company hereunder:
  - That during currency of this policy the insured continuously trades under the conditions approved by the company.
  - That he insured shall take all reasonable steps to ensure that the said conditions are incorporated in all contracts entered into by the insured / insured person(s). If a claim arises in respect of a into which the insured failed to incorporate the above mentioned conditions, the insured's right to be indemnified under this policy in respect of such a claim shall not be prejudiced providing that the insured establishes – (1) that as a general rule the insured has taken all reasonable steps to incorporate the above conditions into contracts but (2) in the case in question the conditions were not incorporated solely as a result of an isolated error of one of their employee.



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Tele: 02229211800 Fax: 02229211844

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- B. The due observance and fulfilment of the terms provisions, conditions, exceptions and endorsement of this policy so far as they relate to anything to be done or complied with by the insured and the truth of the statements and answers in the proposal shall be conditions precedent to any liability of the company to make any payment under this policy.
- C. The insured shall exercise reasonable care that only competent employees are employed and shall take all reasonable precautions to prevent accidents and shall take all reasonable steps to maintain all premises furnishing fittings appliances and plant in sound condition. In the event of the discovery of any defect or danger the insured shall forthwith cause such defect or damage to be made good or remedied and in the mean time shall cause such additional precautions to be taken as the circumstances may require.

### **2. Increase in Risks**

The insured shall immediately give to the company, full particulars in writing of any material increase in the risk and shall pay such reasonable additional premium, if any, as may be required by the company.

### **3. Record**

A proper record shall be kept in the books of the insured of all the cargo and/or merchandise whilst in the care, custody and control of the insured and the company is allowed to inspect such books at all items.

### **4. Fraudulent Claims**

If any insured shall give any notice or claim cover for any loss under this policy knowing such notice or claim to be false or fraudulent as regards amounts or otherwise, such loss be excluded from cover the policy, and the insurer shall have the right, in its sole and absolute discretion, to avoid its obligation under the policy shall be forfeited and all premium deemed fully earned and non-refundable.

### **5. Arbitration**

- a. Any and all dispute or difference which may arise under, out of, in connection with or in relation to this Policy, or to its existence, validity or termination, or to the determination of any amount payable under this policy, shall be referred to a sole arbitrator to be appointed by the parties to the dispute within 30 days of any party giving notice of arbitration to the other(s)
- b. In the event that the parties are unable to agree upon the indentify of a sole arbitrator, the disputes or differences shall be referred to the decision of three arbitrators of whom one shall be appointed in writing by each of the parties within a period of 30 days after the failure to appoint a sole arbitrator and the third (who shall serve as chairman) shall be appointed by the nominated arbitrators. In case either party shall refuse or fail to appoint an arbitrator within the aforesaid 30 days after receipt of notice in writing requiring an appointment, the other party shall be at liberty to appoint a sole arbitrator who shall thereafter be empowered to conduct the arbitration and determine the disputes or differences referred to him as if he had appointed a sole arbitrator with the consent of both parties.
- c. The parties shall share the expenses of the arbitrator or tribunal equally and such expenses, along with the reasonable costs of the parties in the arbitration, shall be awarded by the arbitrator or arbitral tribunal in favour of the successful party in the



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arbitration or, where no party can be said to have been wholly successful, to the party who has substantially succeeded.

- d. The place of arbitration shall be India, the language of the arbitration shall be English, the law applicable to and in the arbitration shall be Indian law and the arbitration process will be in accordance with the provisions of the Arbitration & Conciliation Act 1996, as amended from time to time.
- e. It is a condition precedent to any right of action or suit upon this policy that the award by such arbitrator or arbitrators shall be first obtained.
- f. In the event that these arbitration provisions shall be held to be invalid then all such disputes shall be referred to the exclusive jurisdiction of the Indian courts.

### 6. Cancellation

- **By Insured** – This policy may be cancelled by the insured at any time only by mailing written prior notice to the Insurer. In such case, in no claim has been made and no circumstance has been notified prior to such cancellation. Insurer shall retain the customary short rate proportion (unexpired portion of premium less handling charges) of the premium otherwise, premium shall not be returnable and shall be deemed fully earned at cancellation.
- **By Insurer** – This policy may be cancelled by the insurer delivering to the insured by registered, certified other first class mail or other reasonable delivery method, at the address of the insured set forth in the schedule, written notice stating when, not less than (30) days thereafter, the cancellation shall be effective. Proof of mailing or delivery of such notice shall be sufficient proof of notice and this policy shall be deemed cancelled as to all insured's at the date and hour specified in such notice. In such case, the insurer shall be entitled to a pro-rata proportion of the premium. Payment or tender of any unearned premium by the insurer shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

### 7. Claims Procedure

#### A. Notification of Claims

The insured shall, as a condition precedent to the obligation of the insurer under this policy, give written notice to the insurer of any claim first made against the insured as soon as practicable and during the policy period. All notifications must be in writing or by facsimile, and addressed as required in the claims notice item on the schedule.

#### B. Related Claims

If notice of claims against an insured is given to the insurer pursuant to the terms and conditions of this policy, then (1) any subsequent claim alleging, arising out of, based upon or attributable to the facts alleged in that previously noticed claim. (2) any subsequent claim alleging any wrongful act which is the same as or related to any wrongful act alleged in the previously noticed claim, shall be considered made against the insured and reported to the insurer at the time notice was first given. Any claim or claims arising out of, based upon or attributable to (a) the same cause, or (b) a single wrongful act, or (c) a series of continuous, repeated or related wrongful acts, shall be considered a single claim for the purpose of this policy.

#### C. Circumstances

During the policy period, an insured may become aware of circumstances which may reasonably be expected to give rise to a claim. In such event, an Insured may report



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the circumstances in writing to the insurer. If in doing so, the insured provides (a) the reasons for anticipating the claim, and (b) full particulars as to dates, act and persons involved, then any claim which is subsequently made against an insured and reported in writing to the insurer alleging, arising out of based upon or attributable to such circumstances, or alleging any wrongful act which is same as or related to any wrongful act alleged or described in the previously notified circumstances, shall be considered first made against the insured and reported to the insurer at the time the facts or circumstances were first reported, if accepted by the insurer.

### **D. Defense / Settlement**

The insurer does not assume any duty to defend, and the insured shall defend and contest any claim made against them unless the insurer, in its sole and absolute discretion, elects in writing to take over and conduct the defense and settlement of any claim. If the insurer does not so elect, it shall be entitled, but not required, to participate fully in such defense and the negotiation of any settlement that involves or appears reasonably likely to involve the insurer. The insurer has the right at any time after notification of a claim to make a payment to the insured of the unpaid balance of the limit of liability, and upon making such payment, all obligations of the insurer to the insured under this policy, including, if any, those relating to defense, shall cease.

### **E. Insured's Consent**

As a condition precedent to cover under this policy, no insured shall admit or assume any liability, enter into any settlement agreement, consent to any judgement, or incur any defense costs without the prior written consent of the insurer. Only those settlements, judgements and Defense costs consented to by the insurer, and judgements resulting for claims defended in accordance with this policy, shall be recoverable as loss under this policy. The Insurer's consent shall not be unreasonably withheld, provided that the insurer shall be entitled to exercise all of its rights under the policy.

### **F. Circumstances**

The insurer may make any settlement of any claim if deems expedient with respect to any insured, subject to such insured's written consent. If any insured withholds consent to such settlement, the insurer's liability for all loss on account of such claim, plus defense costs incurred as of the date such settlement was proposed in writing by the insurer, less coinsurance (if any) and the applicable retention.

### **G. Co-operation**

The insured will at their own cost (1) render all reasonable assistance to the insurer and co-operate in the defense of any claim and the assertion of indemnification and contribution rights (2) use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any loss under this policy (3) give such information and assistance to the insurer as the insurer may reasonably require to enable it to investigate any loss or determine the insurer's liability under this policy.

## **8. Subrogation**

If any payment is to be made under this policy in respect of claim, the insurer shall be subrogated to all rights of recovery of the insured whether or not payment has in fact been made and whether or not the insured to pursue and enforce such rights in the name of the insured, who shall provide the insurer with all reasonable assistance and co-operation in doing so, including the execution, of any necessary instruments and papers. The insured shall do nothing to prejudice these rights. Any amount recovered in excess of the



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insurer's total payment shall be restored to the insured less the cost to the insurer of such recovery. The insurer agrees not to exercise any such rights of recovery against any employee unless the claim is brought about or contributed to by the dishonest, fraudulent, intentional criminal or malicious act or omission of the employee. In its sole discretion, the insurer may, in writing, waive any of its rights set forth in this Subrogation Clause.

### **9. Notices**

Any notice, direction or instruction given under this Policy shall be in writing and delivered by hand, post, or facsimile to –

- In case of the Insured/Insured Person, at the address specified in the Schedule to this Policy.
- In case of the Company, to the Policy issuing office/nearest office of the Company.

### **10. Grievance**

In case the Insured / Insured Person is aggrieved in any way, the Insured /Insured Person may contact the Company at the specified addresses, during normal business hours or the Insured may also contact our customer service desk at +022-29211800

### **11. Jurisdiction**

The indemnity shall not apply in respect of judgements which are not in first instance delivered by or obtained from a court of competent jurisdiction within India.





## **Transport Operator's Comprehensive Liability Policy (Ocean Cargo)**

### **Preamble**

**WHEREAS** the Insured described in the Schedule hereto (herein after called the "Insured") by a proposal and declaration which shall be the basis of this contract and is deemed to be incorporated herein has applied to Universal Sompo General Insurance Company Limited (hereinafter called the "Company") for the insurance hereinafter contained and has paid or agreed to pay, in such manner and within such time, as may be prescribed under the provision of the insurance Act, 1938 and the rules made there under, the premium stated in the Schedule as consideration for such insurance during the period stated in the Schedule or during any further period for which the Company may accept payment for the renewal or extension of this policy.

### **Operative Clause**

The Company hereby agrees, subject to the terms, conditions and exclusions herein contained or endorsed or otherwise expressed herein subject to limits of indemnity specified in the Schedule to this policy, to compensate the Insured/ Insured Person(s) against any legal liabilities, cost and expenses incurred while pursuing business of international transportation by issuing **Bill of Lading** in respect of:

- Legal or contractual liability to cargo owners, container owners, or actual carriers in respect of loss of and/ or damage to cargo and / or containers.
- Legal or contractual liability to cargo owners in respect of loss of and/ or damage arising from errors / omissions, or delays.
- Legal liability in respect of loss in life, personal injury and for property damage to third parties.

This insurance also indemnifies the insured / insured person(s) against

- Costs and / or Expenses incurred by the assured as enumerated below subject to approval of the insurer
  1. Investigation, defense, mitigation costs and expenses to avoid or minimize liability as covered above
  2. Extra costs and expenses incurred by the Insured / Insured person(s) in sending to the correct destination in case of mis-delivery or mis-direction of cargo

It is the condition of this insurance that in case if claim falling under item no. (2) above the amount, the amount of claim shall be calculated as under:

- the cost of transporting the cargo from the place of origin to the incorrect destination, (plus)
- the cost of transporting the cargo from the incorrect destination to the correct destination, (less)
- the freight and other charges paid to the insured for the transportation of cargo direct to the correct destination.
- 3. Extra costs and expenses incurred by the Insured / Insured person(s) in disposing of damage cargo or container.
- 4. Extra costs and expenses incurred by the Insured for quarantine, fumigation or disinfection.
- 5. In the event of transit by sea, contribution of cargo interest in general average or salvage for which the Insured is liable to ship-owners and is unable to recover from the cargo interest.



## **Exclusions**

The Company shall not be responsible for any liability, costs or expenses:

1. Incurred by the insured caused by wilful misconduct of the following applicant, insured or any other parties who are duly authorized to receive claim money or their agents, including directors, board members and managers thereof.
2. In respect of the insured's interest in vessels, aircrafts, railways, trucks and interest arising from owning, managing, operating and navigating them.
3. In respect of loss of / damage to properties and equipments owned, leased, operated by the insured excluding containers owned by cargo owners and those received by the insured as FCL cargo.
4. In respect of death or bodily injury of any person employed by the insured.
5. In respect of fines, penalties, punitive damages charged by authorities.
6. In respect of ionizing radiation, contamination by radioactivity, explosion and any other loss or damage caused by toxic and hazardous properties of any type of nuclear materials including nuclear fuel, waste from nuclear combustion, explosive nuclear assembly components thereof.
7. In respect of pollution
8. In respect of insolvency of the insured.
9. In respect of any activities concerning illegal trading.
10. Company shall not be liable for liability, costs or expenses caused by events, which did not occur during period of insurance. Notwithstanding the above, this company shall be liable for liability and costs/expenses in respect of events, which occurred after the expiry of the period of insurance if relevant Bill of Lading was issued within the period of this insurance.



## General Conditions

### 1. Duty of Insured

- A. It is a condition precedent to the liability of the company hereunder:
- That during currency of this policy the insured continuously trades under the conditions approved by the company.
  - That he insured shall take all reasonable steps to ensure that the said conditions are incorporated in all contracts entered into by the insured / insured person(s). If a claim arises in respect of a into which the insured failed to incorporate the above mentioned conditions, the insured's right to be indemnified under this policy in respect of such a claim shall not be prejudiced providing that the insured establishes – (1) that as a general rule the insured has taken all reasonable steps to incorporate the above conditions into contracts but (2) in the case in question the conditions were not incorporated solely as a result of an isolated error of one of their employee.
- B. The due observance and fulfilment of the terms provisions, conditions, exceptions and endorsement of this policy so far as they relate to anything to be done or complied with by the insured and the truth of the statements and answers in the proposal shall be conditions precedent to any liability of the company to make any payment under this policy.
- C. The insured shall exercise reasonable care that only competent employees are employed and shall take all reasonable precautions to prevent accidents and shall take all reasonable steps to maintain all premises furnishing fittings appliances and plant in sound condition. In the event of the discovery of any defect or danger the insured shall forthwith cause such defect or damage to be made good or remedied and in the mean time shall cause such additional precautions to be taken as the circumstances may require.

### 2. Increase in Risks

The insured shall immediately give to the company, full particulars in writing of any material increase in the risk and shall pay such reasonable additional premium, if any, as may be required by the company.

### 3. Record

A proper record shall be kept in the books of the insured of all the cargo and/or merchandise whilst in the care, custody and control of the insured and the company is allowed to inspect such books at all items.

### 4. Fraudulent Claims

If any insured shall give any notice or claim cover for any loss under this policy knowing such notice or claim to be false or fraudulent as regards amounts or otherwise, such loss be excluded from cover the policy, and the insurer shall have the right, in its sole and absolute discretion, to avoid its obligation under the policy shall be forfeited and all premium deemed fully earned and non-refundable.



## **5. Arbitration**

- a. Any and all dispute or difference which may arise under, out of, in connection with or in relation to this Policy, or to its existence, validity or termination, or to the determination of any amount payable under this policy, shall be referred to a sole arbitrator to be appointed by the parties to the dispute within 30 days of any party giving notice of arbitration to the other(s)
- b. In the event that the parties are unable to agree upon the indentify of a sole arbitrator, the disputes or differences shall be referred to the decision of three arbitrators of whom one shall be appointed in writing by each of the parties within a period of 30 days after the failure to appoint a sole arbitrator and the third (who shall serve as chairman) shall be appointed by the nominated arbitrators. In case either party shall refuse or fail to appoint an arbitrator within the aforesaid 30 days after receipt of notice in writing requiring an appointment, the other party shall be at liberty to appoint a sole arbitrator who shall thereafter be empowered to conduct the arbitration and determine the disputes or differences referred to him as if he had appointed a sole arbitrator with the consent of both parties.
- c. The parties shall share the expenses of the arbitrator or tribunal equally and such expenses, along with the reasonable costs of the parties in the arbitration, shall be awarded by the arbitrator or arbitral tribunal in favour of the successful party in the arbitration or, where no party can be said to have been wholly successful, to the party who has substantially succeeded.
- d. The place of arbitration shall be India, the language of the arbitration shall be English, the law applicable to and in the arbitration shall be Indian law and the arbitration process will be in accordance with the provisions of the Arbitration & Conciliation Act 1996, as amended from time to time.
- e. It is a condition precedent to any right of action or suit upon this policy that the award by such arbitrator or arbitrators shall be first obtained.
- f. In the event that these arbitration provisions shall be held to be invalid then all such disputes shall be referred to the exclusive jurisdiction of the Indian courts.

## **6. Cancellation**

The Company may by notice in writing to the Insured under registered letter to his last known address give 30days notice of their intention to terminate this Policy returning on demand the pro-rata proportion of the premium corresponding to the unexpired Insured Period.

## **7. Claim Procedure**

The insured shall give to the company immediate notice in writing, with full particulars of the happening of any occurrence likely to give rise to a claim under this policy, of the receipt by the Insured of notice of any claim and of the institution of any proceedings against the insured.

The Insured shall not admit liability for an offer or agree to settle any claim without the written consent of the company, who shall be entitled to take over and conduct in the name of the insured the defense of any claim for indemnity or damage or otherwise against any third party, and shall have full discretion in the conduct of any negotiations and proceedings and the settlement of any claim. The Insured shall give to the Insurers such information and assistance as the Insurers may reasonably require.



## **8. Subrogation**

If any payment is to be made under this policy in respect of claim, the insurer shall be subrogated to all rights of recovery of the insured whether or not payment has in fact been made and whether or not the insured to pursue and enforce such rights in the name of the insured, who shall provide the insurer with all reasonable assistance and co-operation in doing so, including the execution, of any necessary instruments and papers. The insured shall do nothing to prejudice these rights. Any amount recovered in excess of the insurer's total payment shall be restored to the insured less the cost to the insurer of such recovery. The insurer agrees not to exercise any such rights of recovery against any employee unless the claim is brought about or contributed to by the dishonest, fraudulent, intentional criminal or malicious act or omission of the employee. In its sole discretion, the insurer may, in writing, waive any of its rights set forth in this Subrogation Clause.

## **9. Notices**

Any notice, direction or instruction given under this Policy shall be in writing and delivered by hand, post, or facsimile to –

- In case of the Insured/Insured Person, at the address specified in the Schedule to this Policy.
- In case of the Company, to the Policy issuing office/nearest office of the Company.

## **10. Grievance**

In case the Insured / Insured Person is aggrieved in any way, the Insured /Insured Person may contact the Company at the specified addresses, during normal business hours or the Insured may also contact our customer service desk at +022-29211800

## **11. Jurisdiction**

The indemnity shall not apply in respect of judgements which are not in first instance delivered by or obtained from a court of competent jurisdiction within India.