

## **Ports and Terminals Package Insurance Policy Wording**

### **Preamble**

Future Generali India Insurance Company Limited (herein called the “Company”) and the Insured (as named in the Policy Schedule) agree that

The Company will indemnify or otherwise compensate the Insured, in accordance with, and subject to the terms and conditions of this Policy, and in consideration of the this Policy, and in consideration of the payment of premium to the Company for the Period of Insurance.

The proposal made to the Company, by, or on behalf of the insured in writing shall be the basis of the Contract.

Provided that this Policy shall be valid unless it has been signed by an authorized official of the Company.

### **Scope of coverage:**

Note: Wording mentioned elsewhere in the policy. Coverage applicable only for the section(s) & corresponding extensions mentioned in the schedule of policy.

### **SECTION 1 – LIABILITY**

#### EXTENSION AVAILABLE IN THIS SECTION

- FIRE EXTENSION
- ERRORS AND OMISSIONS
- FINES AND DUTY
- WRONGFUL DELIVERY OF CARGO

### **SECTION 2 - PROPERTY DAMAGE**

#### EXTENSION AVAILABLE IN THIS SECTION

- EARTHQUAKE EXTENSION

### **SECTION 3 – HANDLING EQUIPMNT**

#### EXTENSION AVAILABLE IN THIS SECTION

- EARTHQUAKE EXTENSION

### **SECTION 4 – BUSINESS INTERRUPTION**

### **SECTION 5- PORT VESSEL**

## SCOPE OF COVERAGE

### SECTION 1 - LIABILITY WORDING

**1. LOSS, IF ANY, PAYABLE** to Assured or Loss Payee as set out in the Insurance Schedule.

#### **2. INSURING CLAUSES**

In consideration of the payment of the premium, Underwriters agree, subject to the provisions of this Policy and the Section 1 limit as set out in the Insurance Schedule, to indemnify the Assured in respect of their legal or contractual liabilities to third parties arising from an Accident which the Assured may incur by reason of their Insured Operations as Port Authorities or Terminal Operators for:

- 2.1 Physical loss or physical damage to the real or personal property of any third party, including resultant loss of use or demurrage, provided that such loss or damage directly results from an Insured Operation performed by the Assured within the Confines of the Port, Terminal or Insured Location(s); and
- 2.2 Bodily Injury to any third party provided that such Bodily Injury directly results from an Insured Operation performed by the Assured within the Confines of the Port, Terminal or Insured Location; and
- 2.3 Any liability of the Assured in connection with any tenant of the Assured for Operations performed by any sub-contractor appointed by the Assured, but being subject to the terms, conditions and exclusions of this Policy. It is a condition of cover being given under this clause 2.3 that the Assured must *use their best endeavours* to ensure that any such tenant and/or sub-contractor purchases and maintains adequate liability insurance. Adequate insurance means terms no less favourable than the cover provided to the Assured under this Policy. Such policy must also stipulate that it will respond first to any liability loss prior to any other policy of insurance which may cover the same liability.
- 2.4 Costs and expenses incurred in the defence of any claim(s) arising from an Accident covered under Section 1, and the costs and expenses of litigation awarded to any claimant in any competent Court or arbitration proceedings against the Assured by way of interest on judgements, investigation, adjustment, appraisal, appeal and legal costs and expenses subject to the overall limit of this Section 1. Indemnifiable legal costs and expenses shall exclude, all fees, salaries, or retainers for salaried employees and employed counsel and all office expenses of the Assured unless prior agreement has been obtained from Underwriters. Such costs and expenses shall be subject to clause 2 of the General Policy Provisions
- 2.5 Costs and expenses incurred by the Assured in disposing of the cargo or property

of an Assured's customer, including the removal of any wreck or debris thereof, following an Accident to such cargo or property during the Policy period for which the Assured is legally liable within the Confines of the Port, Terminal or Insured Location subject to the overall limit for this Section. This clause does not provide cover for costs and expenses relating to seepage, pollution or contamination.

- 2.6 In respect of Port Authorities only, costs and expenses incurred either voluntarily or in the exercise of the Assured's statutory right or legal obligation to remove any wreck or debris thereof following an Accident during the Policy period. Subject to the overall limit for this Section 1, and providing such costs and expenses are incurred by the Assured for the purpose of avoiding or minimising a claim under this Section. Such wreck or debris removal must not be undertaken without the prior approval of Underwriters, or the costs and expenses will not be recoverable under this Policy.

### **3. EXCLUSIONS**

This Section does not cover any actual or alleged liability howsoever arising:

- 3.1 To employees of the Assured, except as insured under clause 4, or 6 of this Section;
- 3.2 Directly or indirectly under Workmen's Compensation or Employers Liability Acts or any other statutory or Common Law Liability to any employee of the Assured when such Bodily Injury arises out of or in the course of the employment of such employees;
- 3.3 Directly or indirectly caused by any continuous, intermittent or repeated exposure to or ingestion, inhalation or absorption of the following substances or condition(s) in any form:
- asbestos, tobacco, coal dust, polychlorinated biphenyls, silica, benzene, lead, talc, dioxin, pharmaceutical products or drugs of any type, pesticides or herbicides, mould, human immune virus or acquired immune deficiency syndrome or electro magnetic fields;
- 3.4 For any repetitive motion, repetitive stress, repetitive strain and/or cumulative trauma disorder, including, without limitation, (i) liability or alleged liability arising from alleged improper design of goods, equipment or machinery or operations, (ii) failure to warn or properly instruct as to the use of goods, equipment or machinery or conduct of operations, (iii) improper supervision of use of the goods, equipment or machinery or conduct of operations, or (iv) without limiting the foregoing, carpal tunnel syndrome;
- 3.5 For loss, damage or expense to any property or equipment owned, leased, hired, occupied or rented by the Assured;
- 3.6 For loss, damage or expense caused by wear, tear or gradual deterioration;

- 3.7 From the release of cargo without the original bill of lading, unless otherwise endorsed by Underwriters;
- 3.8 For loss, damage or expense to ad valorem or valuable cargo (including but not limited to bullion, precious metals or precious object(s), jewellery, cash, securities, fine art or thoroughbred horses) unless the Assured was not informed and could not reasonably have known such cargo was being handled.  
Underwriters may agree to insure such liability on a case by case basis subject to terms and conditions to be agreed in advance by Underwriters;
- 3.9 As the owner, operator or user of any vehicle(s) or conveyance(s) of any description required to be licensed under any statutory provision(s) or regulation(s), or any Accident involving a vehicle, chassis, trailer, conveyance or the like on public roads or outside the Confines of the Port, Terminal or Insured Location;
- 3.10 In respect of any interest the Assured may have in any vessel, aircraft or helicopter whether owned, leased, rented, hired, chartered or operated by the Assured, including any management or operation of any airport, area or building upon which aircraft or helicopter(s) land or manoeuvre, or in which they are housed, maintained or repaired;
- 3.11 Directly or indirectly caused by, or arising out of seepage, pollution or contamination howsoever caused whenever or wherever happening unless the Assured establishes that all of the following conditions have been met:
- A. The seepage, pollution or contamination was caused by an Accident.
  - B. The Accident occurred during the Policy period on an identified specific date.
  - C. The Accident was first discovered by the Assured within 72 hours of the commencement of the Accident.
  - D. Written notification of the accident was first received from the Assured by Underwriters within 30 days of the Assured's first discovery of the Accident.
  - E. The Accident did not result from the Assured's intentional or wilful violation of any statute, rule, ordinance or regulation.

Even if the above conditions A to E are satisfied, this Policy does not apply to, or provide cover for, any actual or alleged liability howsoever arising:

- (i) To abate or investigate any threat of seepage onto or pollution or contamination of the property of a third party.
- (ii) For seepage, pollution or contamination of property which is or was, at any time, owned, leased, rented or occupied by any Assured, or which is or was, at any time, in the care, custody or control of any Assured (including

the soil, minerals, water or any substance on, in or under such owned, leased, rented or occupied property or property in such care, custody or control).

- (iii) For loss of, damage to or loss of use of property directly or indirectly resulting from subsidence caused by sub-surface operations of the Assured.
  - (iv) For fines, penalties, punitive damages, exemplary damages, or any other damages resulting from the multiplication of compensatory damages.
- 3.12 From the disposal, handling, processing, treatment, storage or dumping of any waste materials, spoil or substances or during transportation, including the operation of any land fill, dump site and/or location used for such. In the event of a conflict between this exclusion and exclusion 3.11, this exclusion shall prevail;
- 3.13 Out of dredging operations, while such operations are being performed;
- 3.14 For fines, penalties, punitive or exemplary damages howsoever awarded or described, or any additional damages resulting from the multiplication of compensatory damages;
- 3.15 For failure or delay in performance of any contractual obligation or guarantee, including failure to supply or from fluctuations in supply of any substance, product or service whatsoever;
- 3.16 Under any contract or agreement to compensate another party unless:
- A. Such liability would have attached to the Assured in the absence of such contract or agreement or as specifically agreed by Underwriters prior to such Accident, and
  - B. Such liability was caused by or contributed to by the Assured's fault or negligence;
- 3.17 As a result of the Safe Working Load of any equipment being overloaded other than for the purpose of inspecting or testing;
- 3.18 From the transit, movement, erection or dismantling of an item of handling equipment other than during the course of inspection, maintenance, repair or removal to another working position within the Confines of the Port, Terminal or Insured Location;
- 3.19 Out of goods or products, manufactured, processed, graded, blended, or sold by the Assured or by others trading under the name of the Assured where loss or damage occurs away from the premises owned, leased, rented or controlled by the Assured and after physical possession of such goods or products has been relinquished to others. This exclusion shall also apply to reliance upon a

representation or warranty made in connection with such goods or products at any time;

- 3.20 From any negligent act, error or omission of any Assured, or any other person for whose acts the Assured is legally liable, in the administration of any Assured's employee benefits programme or pension programme. Employee benefits programme includes but is not limited to group life insurance, group accident or health insurance, profit sharing plans, employee stock subscription plans and social benefits;
- 3.21 Under any statute, law, rule or regulation relating to:
- A. the purchase, sale or distribution, or offer of securities, or investment counselling;
  - B. monopolies, activities in restraint of trade, unfair competition, or deceptive acts or practices;
  - C. copyright, patent or trademark infringement;
  - D. disclosure relating to sales or offers to sell real property;
  - E. employee, officer or director dishonesty, or improper conduct or conflict of interest in the performance of the Assured's operations, or any action taken outside the scope of an employee, officer, or director's authority as granted by the Assured.

#### **4. CROSS LIABILITY**

Always subject to the exclusions in this Section, in the event of claim(s) being made against the Assured for Bodily Injury suffered by any employee of the Assured which does not arise out of the injured employee's employment, and for which another Assured, is legally liable for causing the Bodily Injury, then this Section shall cover the Assured against such claim provided it is made in the same manner as if separate policies had been issued to each Assured. Nothing contained herein shall operate to increase Underwriters liability as specified in the Insurance Schedule, and subject to the sub-limit specified in the Insurance Schedule.

#### **5. CONTRACTS AND AGREEMENTS**

Always subject to the exclusions in this Section, Underwriter's, shall only cover liability to third parties contracting with the Assured:

- 5.1 in the case of contracts existing at inception of this Policy, when the Assured has informed Underwriters of the contract(s) by means of the questionnaire and if requested by Underwriters, supplied copies of the contracts for Underwriter's approval; or

- 5.2 if the contract(s) is entered into after inception of this Policy, the Assured must inform Underwriters of such contract(s) if the terms are substantially different from the terms of the contract(s) advised to Underwriters under 5.1 and if requested by Underwriters supply copies of the contract(s) for Underwriter's approval.

Underwriters reserve the right to charge additional premium and impose such terms and conditions or exclusions as they deem appropriate to any new or amended contractual arrangement.

## **6. ACTION OVER INDEMNITIES**

Always subject to the exclusions in this Section, Underwriters agree to include claim(s) for Bodily Injury to third parties where responsibility is assumed by the Assured for such claims in connection with their Operations as a Port Authority and/ or Terminal Operator under any written contract. Nothing in this Clause shall operate to increase Underwriter's liability as specified in the Insurance Schedule, and liability under this clause is limited to the sub-limit specified in the Insurance Schedule.

## **7. UNITED STATES OIL POLLUTION ACT DISCLAIMER**

This Policy of Insurance is not evidence of financial responsibility under the Oil Pollution Act of 1990 or any similar federal or state laws. Any showing or offering of this Policy by the Assured as evidence of insurance shall not be taken as any indication that the Underwriters consent to act as guarantor or to be sued directly in any jurisdiction whatsoever. The Underwriters do not consent to be guarantors or to be sued directly.

### **FIRE EXTENSION (LIABILITY)**

This extension is to be read in conjunction with the Ports and Terminals Liability Wording and the provisions that apply therein.

In consideration of the payment of an additional premium to be agreed by Underwriters, this Policy shall be extended to indemnify the Assured for:

1. Legal liability of the Assured, arising from an Accident resulting in physical loss or physical damage to buildings leased or rented and used by the Assured where such physical loss or physical damage has been caused by fire.
2. Contractual liability of the Assured arising from an Accident resulting in physical loss or physical damage to premises leased or rented and used by the Assured where such physical loss or physical damage has been caused by fire, but only to the extent that such contractual liability is no greater than the Assured's liability would have been in the absence of such contract.

## **EXCLUSIONS**

This extension does not cover any actual or alleged liability howsoever arising:

- (a) If the Assured has a contractual obligation to insure the leased or rented premises against the risk of fire.
- (b) If the Assured has any other insurance which includes the risks set out in 1 or 2 above, this coverage shall not extend to cover any risk that would otherwise be covered under such insurance by reason of any exclusion, qualification or provision whatsoever, including any differential amount by reason of any deductible, limit of liability or the like whatsoever.

### **ADVICE AND INFORMATION EXTENSION (LIABILITY)**

This extension is to be read in conjunction with the Ports and Terminals Liability Wording and the provisions that apply therein.

Notwithstanding exclusions 3.15 and 3.16, and in consideration of payment of an additional premium to be agreed by Underwriters, this Policy shall be extended to indemnify the legal or contractual liability of the Assured:

For loss of income, less any savings, to any individual or organisation by whom the Assured is engaged for the supply of advice or information on the management of Operation(s) for which the Assured is insured under the Ports and Terminals Consortium Liability Wording whereby the Assured incurs such liability in consequence of the Assured's negligent act, error or omission in the provision of such advice or information during the period of this insurance.

### **EXCLUSIONS**

Notwithstanding anything to the contrary contained herein or otherwise, this Extension does not cover any actual or alleged acts of medical malpractice.

### **FINES AND DUTY EXTENSION (LIABILITY)**

This extension is to be read in conjunction with the Ports and Terminals Liability Wording and the provisions that apply therein.

In consideration of the payment of an additional premium to be agreed by Underwriters, this Policy shall be extended to indemnify the Assured's legal liability arising from an unintentional breach of any regulation, legal or statutory provision resulting in:

- (a) Fines, customs duty, sales, excise tax, value added tax or similar fiscal charges or other penalty imposed by an Authority on the Assured or any other person acting within their authority on the Assured's behalf, or
- (b) Confiscation by an Authority of any property, including the handling equipment of the Assured.



Authority shall mean any government, State or local body, organisation or agency thereof.

**Provided that such breach directly relates to:**

1. The import or export of cargo or the equipment of the Assured's customers; or
2. Immigration; or
3. The safety of working conditions of the Assured's operations; or
4. Pollution.

**EXCLUSIONS**

This Extension does not cover any actual or alleged liability howsoever arising:

- (i) That has not been properly established, proved or held by a competent court or tribunal acting within its powers.
- (ii) For any illegal or criminal acts of the Assured.
- (iii) For commercial fines or penalties in respect of freight tariffs, competition or the structure or operation of the Assured's business or that of any person acting on the Assured's behalf.
- (iv) For any breach of any regulation, at Underwriters discretion, arising from the weight of cargo or carrying equipment on a public road if such breach appears to have been caused recklessly or intentionally by the Assured or the Assured's employees.
- (v) If any court or tribunal determines that it is illegal for the Assured to be insured for any cover given under this extension, then the other parts of this extension shall remain effective, although no indemnity will be given with respect to any loss or claim arising from the coverage under this extension which is held to be illegal.
- (vi) For any amount that would have been payable by the Assured notwithstanding any breach.
- (vii) In the case of the United States - enforced by the Federal Maritime Commission, Department of Justice or Federal Trade Commission of the United States of America or the Drug Enforcement Agency or any successors.
- (viii) For any fine or duty associated with the non-compliance of the ISPS Code.

**INFRINGEMENT OF PERSONAL RIGHTS EXTENSION (LIABILITY)**

This extension is to be read in conjunction with the Ports and Terminals Consortium Liability

Wording and the provisions that apply therein.

In consideration of the payment of an additional premium to be agreed by Underwriters, this Policy shall be extended to indemnify the legal liability of the Assured:

1. Resulting from false arrest, detention or imprisonment of any person.
2. Resulting from the publication or utterance of a libel or slander or of any other defamatory or disparaging material, or a publication or utterance in violation of an individual's right of privacy.
3. Resulting from wrongful entry or eviction, or other invasion of the right of private occupancy.

### **EXCLUSIONS**

This extension does not cover any actual or alleged liability howsoever arising:

- (a) Out of the wilful violation of a statute, law or regulation committed by or with the knowledge or consent of the Assured.
- (b) In connection with any party relating to the Assured's past, present or future employment of such party.
- (c) Under any contract or written provision.
- (d) From a liability covered hereunder but commencing prior to the attachment date of this Extension.
- (e) Out of any publication or utterance in connection with any organization or business enterprise, or its products or services made by or at the direction of the Assured, made recklessly or with the knowledge that such was false.
- (f) Out of any publication or utterance in connection with or related to advertising, broadcasting or telecasting conducted by the Assured.
- (g) From the arrest, detention or imprisonment of any vessel, cargo or property whatsoever.
- (h) From any criminal or illegal act or omission

### **WRONGFUL DELIVERY OF CARGO EXTENSION (LIABILITY)**

This extension is to be read in conjunction with the Ports and Terminals Liability Wording and the provisions that apply therein.

Notwithstanding exclusion 3.7 and in consideration of the payment of an additional premium to be agreed by Underwriters, this Policy shall be extended to indemnify the Assured for

wrongful delivery by the Assured of cargo (for which there is a contractual obligation for delivery on the part of the Assured or the Assured's sub-contractor(s)) contrary to instructions to withhold delivery or without taking in exchange payment or the relevant document of title.

In the event that the wrongful delivery was caused intentionally or recklessly by the Assured or the Assured's sub-contractor(s), Underwriters may in their absolute discretion decline or reduce the claim.

The Assured's supervision, control and loss prevention systems and practices will be amongst the factors taken into account by Underwriters.

## **SECTION 2 - PROPERTY DAMAGE WORDING**

**1. LOSS, IF ANY, PAYABLE** to Assured or Loss Payee, as set out in the Insurance Schedule.

### **2. INSURING CLAUSES**

In consideration of the payment of the premium, Underwriters hereby agree, subject to the provisions of this Policy and the limits of this Section 2 as set out in the Insurance Schedule to indemnify the Assured in respect of:

- 2.1. Physical loss or physical damage to Insured Property as set out in the Insurance Schedule, within the Confines of the Port, Terminal or Insured Location, arising from an Accident occurring during the Policy period.
- 2.2. Costs or expenses incurred in the removal of wreckage of Insured Property and/or debris of Insured Property following loss or damage recoverable elsewhere under this Policy, but subject to a sub-limit of twenty-five percent of the insured value of the Insured Property, unless Underwriters agree otherwise.

In the event of a claim under 2.1 and 2.2 for the same Insured Property, the indemnity payable by Underwriters under both these clauses shall not exceed the insured value of that Insured Property or Section 2 limit as set out in the Insurance Schedule.

- 2.3. Physical loss or physical damage to Insured Property arising from strikes or riots, notwithstanding clause 6 of the General Policy Provisions and subject to clause 6 of this Section 2. Coverage under this clause may be terminated by Underwriters at any time giving the Assured or Assured's brokers 7 days notice by mail, facsimile or e-mail.

### **3. FIRE FIGHTING EXPENSES**

This Section covers the Assured's loss of fire extinguishing materials or equipment if used to safeguard the Insured Property from a peril covered under this Section, and

reasonable fire brigade charges for which the Assured is liable, and other extinguishing expenses incurred by the Assured to safeguard the Insured Property from a peril covered under this Section.

#### **4. EXCLUSIONS**

This Section does not cover loss or damage caused by or to:

- 4.1 wear, tear, marring, scratching, gradual deterioration, wet rot, dry rot, mould, spoilage, decay, decomposition, settling, shrinkage, expansion in building structures or foundations, subsidence, corrosion, rust, discoloration, electrolyte action, oxidation, erosion, leakage, evaporation, loss of weight, breakage of glass or other fragile articles;
- 4.2 vermin; moths, termites or other insects;
- 4.3 atmospheric dampness or dryness, condensation, smog, fog, extremes or changes in atmospheric temperature;
- 4.4 seepage of any substance whatsoever, backing up of sewers or drains, pollution or contamination;
- 4.5 earthquake, tsunami, tidal wave, seaquake or volcanic eruption unless agreed by Underwriters;
- 4.6 inherent vice, latent defect, error in design, fault or error in workmanship, manufacture or use of unsuitable materials. Costs of remedying or repairing inherent vice, latent defect, defects in design or manufacture;
- 4.7 confiscation, requisition, detention, occupation, embargo, quarantine, or arising from any order of public or government authority or arising from acts of contraband or illegal transportation or illegal trade;
- 4.8 the Safe Working Load being exceeded;
- 4.9 mechanical or electrical breakdown or derangement of any communication equipment or alarm system or computer system;
- 4.10 error or fault in computer or machinery programming or from data processing, media failure or breakdown;
- 4.11 boilers, steam pipes, steam turbines, steam engines, pressure or vacuum vessels, caused by explosion, implosion, rupture or bursting where such are owned or operated by the Assured;
- 4.12 cessation, fluctuation or variation in, or insufficiency of water, gas or electricity supplies;
- 4.13 loss of market, loss of use, loss of income, interruption of business, or any other

consequential loss or damage whatsoever;

- 4.14 unexplained loss or mysterious disappearance, inventory shortage or loss due to book keeping, accounting or billing errors or omissions;
- 4.15 infidelity, dishonesty, theft, fraud or pilferage of the Assured or the Assured's employees or others to whom the Assured has entrusted responsibility;
- 4.16 the Assured and/ or the Assured's employees voluntarily parting with title or possession of property;
- 4.17 processing, renovating, repairing, or working upon any Insured Property.

## **5. EXCLUDED PROPERTY**

This Section does not cover the following:

- 5.1 Land or land values, air, water or other naturally occurring substance(s);
- 5.2 Roads, driveways, pavements, curbing, culverts or sidewalks if outside the confines of the terminal or insured location;
- 5.3 Buildings or structures in the process of construction including materials or supplies for such construction;
- 5.4 Stock, whether owned by the Assured, or in the care, custody or control of the Assured;
- 5.5 Property in transit, unless within the Confines of the Port, Terminal or Insured Location;
- 5.6 Accounts, bills, currency, money, notes, securities, deeds, evidence of debt and valuable papers;
- 5.7 Jewellery, precious stones, precious metals and alloys, fine arts, furs, garments, animals or plants;
- 5.8 Aircraft or any other aerial device, watercraft, vehicles designed for highway use or locomotives or rolling stock designed for railroad use, or cargo handling equipment

## **6. STRIKES / RIOTS**

Strikes or riots shall not include any of the other acts excluded in clause 6 of the General Policy Provisions.

## **7. PROTECTIVE MAINTENANCE**

The Assured shall maintain in good order, proper and adequate protection for the safety

of the Insured Property, including any additional measures required by Underwriters, throughout the period of this Policy. Such protection shall not be withdrawn or reduced unless prior agreement has been obtained from Underwriters. If the Assured fails to comply with this clause, Underwriters will not be liable for any claims arising partly or solely from the Assured's breach of this clause.

## **8. AUTOMATIC ACQUISITIONS**

This Section automatically holds covered property acquired by the Assured after the inception date of the Policy period for a period of up to ~~30~~ 90 days after acquisition, provided:

- 8.1 Satisfactory advice and information regarding such property is given to Underwriters within 30 days of acquisition; and
- 8.2 The property value is not more than 5% of the overall limit for this Section as set out in the Insurance Schedule, and
- 8.3 The property is similar to that already scheduled and is within the Confines of the Port, Terminal or Insured Location, and

Underwriters reserve the right to charge additional premium and impose such terms, conditions and exclusions as they deem appropriate, or to decide not to continue to insure the property after the 30 days have elapsed.

## **9. VALUES DECLARED AND INCORRECT DECLARATION PENALTY**

If property values declared to the Insurance Schedule are less than the actual market values, then any recovery hereunder shall be reduced by the same proportion that the scheduled value bears to the actual value for that particular item.

## **10. SETTLEMENT OF CLAIMS**

Settlement of claims under this Section shall be calculated on the basis of the cost of repairing, replacing or reinstating (whichever is the least) the Insured Property with material of like kind and quality, subject to the following provisions:

The repair, replacement or reinstatement is carried out with due diligence and dispatch;

Underwriter's liability is limited to the actual amount necessarily spent by the Assured in repairing, replacing or reinstatement of the Insured Property, and will not in any event exceed the limits declared in the Insurance Schedule and overall limits for this Section 2.

### **EARTHQUAKE EXTENSION CLAUSE (PROPERTY)**

This extension is to be read in conjunction with the Ports and Terminals Property Damage Wording and the provisions that apply therein.

Notwithstanding exclusion 4.5 and in consideration of the payment of an additional premium to be agreed by Underwriters, this Policy shall be extended to cover physical loss or physical

damage to Insured Property:

- A. Directly caused by earthquake, tidal wave, seaquake or volcanic eruption
- B. By fire or explosion directly caused by earthquake, *tsunami*, tidal wave, seaquake or volcanic eruption.

In respect of loss covered under part A of this extension, Underwriters shall only be liable for the amount by which such loss or damage during any one period of forty-eight consecutive hours exceeds the underlying amount/deductible as specified in the Insurance Schedule.

The Assured may choose the date and time when any such period of 48 consecutive hours commences.

### **SECTION 3 - HANDLING EQUIPMENT WORDING**

**1. LOSS, IF ANY, PAYABLE** to Assured, or Loss Payee as set out in the Insurance Schedule.

#### **2. INSURING CLAUSES**

In consideration of the payment of the premium, Underwriters hereby agree, subject to the provisions of this Policy and the limits of this Section as set out in the Insurance Schedule, to indemnify the Assured in respect of:

- 2.1 Physical loss or physical damage to Insured Handling Equipment as set out in the Insurance Schedule, within the Confines of the Port, Terminal or Insured Location arising from an Accident occurring during the Policy period.
- 2.2 Physical loss or physical damage to Insured Handling Equipment arising from strikes or riots, notwithstanding clause 6 of the General Policy Provisions and subject to clause 6 of this Section 3. Coverage under this clause may be terminated by Underwriters at any time by giving the Assured or the Assured's brokers 7 days notice by mail, facsimile or e-mail.
- 2.3 Daily lease charges for an item of Insured Handling Equipment, leased to the Assured and where such charges have been incurred by reason of an Accident insured under this Section, (subject to clause 7) and resulting in:
  - A. The prevention of the redelivery of the Insured Handling Equipment to the lessor by the originally intended date due to that item being an actual or constructive total loss;
  - B. Delay in redelivery of the Insured Handling Equipment to the lessor by reason of obligation to effect repairs to the item.

In the event of a claim under this Section 3, the indemnity payable by Underwriters under all sections for the same Insured Handling Equipment shall not exceed the

insured value of that item as identified in the Insurance Schedule.

### **3. FIRE FIGHTING EXPENSES**

This Section covers the Assured's loss of fire extinguishing materials and equipment if used to safeguard the Insured Handling Equipment from a peril covered under this Section. Furthermore, this Section is extended to cover reasonable fire brigade charges for which the Assured is liable or other extinguishing expenses incurred by the Assured to safeguard the Insured Handling Equipment from a peril covered under this Section.

### **4. EXCLUSIONS**

This Section does not cover loss or damage caused by:

- 4.1 wear, tear, marring, scratching or gradual deterioration, wet rot, dry rot mould, spoilage, decay or decomposition, settling, shrinkage or expansion, corrosion, rust, electrolyte action, discoloration, oxidation or erosion, leakage, subsidence, evaporation, loss of weight, breakage of glass or other fragile articles;
- 4.2 vermin, moths, termites or other insects;
- 4.3 atmospheric dampness or dryness, condensation, smog, fog, extremes or changes in atmospheric temperature;
- 4.4 seepage of any substance whatsoever, backing up of sewers or drains, pollution or contamination;
- 4.5 inherent vice, latent defect, error in design, fault or error in workmanship, manufacture or use of unsuitable materials. Costs of remedying or repairing inherent vice, latent defect, defects in design or manufacture;
- 4.6 earthquake, tsunami, tidal wave, seaquake or volcanic eruption, unless agreed by Underwriters;
- 4.7 mechanical or electrical breakdown or derangement of any communication equipment or alarm system or computer external to an item of Insured Handling Equipment;
- 4.8 confiscation, requisition, detention, occupation, embargo, quarantine, or arising from any order of public or government authority, or arising from acts of contraband or illegal transportation or illegal trade;
- 4.9 the Safe Working Load of any Insured Handling Equipment being exceeded;
- 4.10 loss of market, loss of use, loss of income, interruption of business, or any other consequential loss or damage whatsoever ;
- 4.11 cessation, fluctuation or variation in, or insufficiency of water, gas or electricity



supplies;

- 4.12 artificially generated electrical current to electrical appliances, fixtures or wiring;
- 4.13 processing, erecting , dismantling, renovating, repairing (which shall not include general maintenance), or working upon any Insured Handling Equipment;
- 4.14 error or fault in computer or machinery programming or from data processing media failure or breakdown;
- 4.15 mechanical or electrical breakdown or derangement; however, this exclusion shall not apply to physical loss or physical damage arising from or caused by such mechanical or electrical breakdown or derangement provided that such loss or damage is not otherwise excluded elsewhere in this Policy;
- 4.16 unexplained loss, mysterious disappearance, inventory shortage or loss due to book keeping, accounting or billing errors or omissions;
- 4.17 infidelity, dishonesty, theft, fraud or pilferage of the Assured or the Assured's employees or others to whom the Assured has entrusted responsibility;
- 4.18 the Assured or the Assured's employees voluntarily parting with title or possession of Insured Handling Equipment;
- 4.19 transit of Insured Handling Equipment unless within the Confines of the Port, Terminal or Insured Location.

## **5. EXCLUDED HANDLING EQUIPMENT**

This Section does not cover any aircraft, helicopter, watercraft, vessels, vehicles designed for highway use, locomotives or rolling stock designed for railroad use if outside the confines of terminal or Insured location

## **6. STRIKES / RIOTS**

Strikes or riots shall not include any of the other acts excluded in clause 6 of the General Policy Provisions

## **7. DAILY CHARGES**

This Policy does not apply to daily lease charges where the item of handling equipment leased to the Assured is subject to a purchase option exercisable by the Assured or for the benefit of the Assured. Underwriters shall only be liable for a maximum amount of thirty days daily lease charges, from and including the original intended redelivery date, unless otherwise agreed by Underwriters.

## **8. PROTECTIVE MAINTENANCE**

It is a condition precedent of liability under this Policy that the Assured shall maintain in good order proper and adequate protection for the safety of the Insured Handling Equipment, including any additional measures required by Underwriters, throughout the period of this Policy. Such protection shall not be withdrawn or reduced unless prior agreement has been obtained from Underwriters. If the Assured fails to comply with this clause, Underwriters will not be liable for any claims arising in whole or in part from the Assured's breach.

## **9. AUTOMATIC ACQUISITIONS**

This Section automatically holds covered handling equipment, similar to that already scheduled, acquired by the Assured after the inception date of the Policy period for a period of up to 30 days after acquisition, provided:

- 9.1 satisfactory advice and information regarding such handling equipment is given to Underwriters within 30 days of acquisition; and
- 9.2 the handling equipment value is not more than 5% of the overall limit of this Section set out in the Insurance Schedule.
- 9.3 the handling equipment is similar to that already Scheduled and is within the Confines of the Port, Terminal or Insured Location.

Underwriters reserve the right to charge additional premium and impose such terms, conditions and exclusions as they deem appropriate or to decide not to insure the handling equipment after the period of 90 days elapses.

## **10. VALUES DECLARED AND INCORRECT DECLARATION PENALTY**

If Insured Handling Equipment values declared to the Insurance Schedule are less than the actual market values, then any recovery hereunder shall be reduced by the same proportion that the scheduled value bears to the actual value for that particular item.

## **11. SETTLEMENT OF CLAIMS**

Settlement of claims under this Section will be calculated as follows subject to a maximum of the amount declared for the item of Insured Handling Equipment in the Insurance Schedule:

- 11.1 Where the equipment can be repaired at a cost less than the cost of replacement of the equipment, Underwriters will pay the costs necessarily incurred to restore the equipment to the same condition as the equipment was in prior to the physical loss or damage occurring. Due allowance will be made for depreciation in respect of parts replaced, and the value of any salvage will be taken into account.
- 11.2 Where (11.1) does not apply Underwriters will pay the limit declared in the Insurance Schedule.

### **EARTHQUAKE EXTENSION CLAUSE (HANDLING EQUIPMENT)**

This extension is to be read in conjunction with the Ports and Terminals Handling Equipment Wording and the provisions that apply therein.

Notwithstanding exclusion 4.6 and in consideration of the payment of an additional premium to be agreed by Underwriters, this Policy shall be extended to cover physical loss or physical damage to Insured Handling Equipment:

- A. Directly caused by earthquake, tidal wave, seaquake or volcanic eruption;
- B. By fire or explosion directly caused by earthquake, tidal wave, seaquake or volcanic eruption.

### **EXCESS**

In respect of loss covered under A of this extension, Underwriters shall only be liable for the amount by which such loss or damage during any one period of forty-eight consecutive hours exceeds the underlying amount/deductible as specified in the Insurance Schedule.

The Assured may choose the date and time when any such period of 48 hours commences.

### **SECTION 4 - BUSINESS INTERRUPTION WORDING.**

**1. LOSS, IF ANY, PAYABLE** to Assured or Loss Payee, as identified in the Insurance Schedule.

### **2. INSURING CLAUSES**

In consideration of the payment of the premium, Underwriters hereby agree, subject to the General Policy Provisions and the Section 4 limits as set out in the Insurance Schedule, to indemnify the Assured for loss of profit, increased cost of working and costs and expenses as set out in clause 3, arising from an interruption to the Assured's Operations caused by:

2.1 physical loss or physical damage to Insured Property or Insured Handling Equipment;

2.2 an Accident causing a blockage of:

- A. An insured berth or insured quay (as specified in the Insurance Schedule) owned by or leased to the Assured and used in the Assured's Insured Operations for the purpose of mooring vessels.
- B. Any approach channel or waterway;

C. Any land access immediately adjacent to the Confines of the Port, Terminal or Insured Location as specified in the Insurance Schedule.

2.3 interruption to electrical supply to Insured Property or Insured Handling Equipment which is beyond the control of the Assured

Provided that such interruption results in the Assured being wholly or partially unable to perform their Insured Operation(s) for a period commencing within the Policy period. This applies to paragraph 2.1 to 2.3.

### **3. CALCULATION OF LOSS**

3.1 Loss of Profit. This shall be calculated by taking the reduction in the Assured's revenue derived from their Insured Operation(s) during the Loss Period less any savings the Assured may have, including but not limited to savings in working expenses, standing charges, taxes or the like, and less any increase in revenue at another of the Assured's location(s); and

3.2 Increased Cost of Working. This being costs and expenses reasonably and necessarily incurred by the Assured during the Loss Period for averting or minimising a loss covered under this Section 4. Such costs and expenses must not exceed the potential loss that the Assured is seeking to avert or minimise; and

3.3 Costs and expenses incurred by the Assured while investigating an Accident covered under this Section 4 and incurred protecting the interests of the Assured provided that such costs and expenses have been agreed by Underwriters,

### **4. EXCLUSIONS**

This Section 4 does not cover:

4.1 The Assured's liability for any tax of any description;

4.2 Any loss arising from subsidence, landslip, avalanche or volcanic eruption or any excluded peril contained within the Property Damage or Handling Equipment Sections or the exclusions contained within the General Policy Provisions ;

4.3 Any loss arising from strikes or riots;

4.4 Any loss arising from faulty workmanship occurring during the execution of repairs;

4.5 Any loss arising from failure or delay in performance of any contractual obligation or guarantee;

4.6 Any loss for any period during which the Assured's Operations would not have continued for any reason other than the covered loss or damage;

4.7 Any increase in cost resulting from the suspension, lapse or cancellation of any lease,

licence, contract or order;

4.8 Any increase in loss caused by the enforcement of a law or regulation regulating the use, construction, repair or demolition of any Insured Property or Insured Handling Equipment ;

4.9 Any loss arising as a consequence of insolvency or appointment of an administrative receiver or similar circumstance.

## **5. LOSS PERIOD**

The Loss Period, as set out in the Insurance Schedule, shall be the period commencing when the Loss of Profit or Increased Cost of Working starts by reason of an Accident for which the Assured is insured under this Policy, or in the case of clause 2.3 the interruption to the electrical supply, and not exceeding the lesser of:

(a) such length of time as is reasonably required to repair or replace the lost or damaged Insured Property, or Insured Handling Equipment; or in the case of 2.2 end the blockage; or

(b) the Loss Period specified in the Insurance Schedule .

Should the business interruption continue after the expiry of the Policy, Underwriters will nevertheless make payment for the continuing interruption up to the limit of indemnity set out in this clause, and the Insurance Schedule.

## **6. MATERIAL DAMAGE PROVISION**

It is a condition precedent to Underwriter's liability under clause 2.1. that payment has been made or liability admitted under the Property Damage or Handling Equipment Sections of the Policy. If payment has not been made or liability accepted, then Underwriters will not make any payment, or consider a claim under clause 2.1.

## **SECTION 5 PORT VESSEL**

### **INSTITUTE TIME CLAUSES HULLS PORT RISKS**

**20/7/87**

**This insurance is subject to English law and practice**

## **1. NAVIGATION**

The Vessel has leave to proceed to and from any wet or dry docks harbors ways cradles and pontoons, within the limits specified in this insurance.

## **2. TERMINATION**

This Clause 2 shall prevail notwithstanding any provision whether written typed or printed in this insurance inconsistent therewith.

Unless Underwriters agree to the contrary in writing, this insurance shall terminate automatically at the time of

2.1 change of the Classification Society of the Vessel, or change, suspension discontinuance, withdrawal or her Class has resulted from loss damage covered by Clauses of this insurance or which would be covered by an insurance of the Vessel subject to current Institute War and Strikes Clauses Hulls-Time such automatic termination shall not operate,

2.2 any change, voluntary or otherwise in the owner ship or flag, transfer to new management, or charter on a bareboat basis, or requisition for title or Use of the Vessel. However, in the event of requisition for title or Use without the prior execution of a written agreement by the Assured, such automatic termination shall occur fifteen days after such requisition whether the Vessel is in port or at sea.

## **3. ASSIGNMENT**

No assignment of or interest in this insurance or in any moneys which may be or become payable thereunder is to be binding on or recognized by the Underwriters Unless a dated notice of such assignment or interest signed by the Assured, and by the assignor in the case of subsequent assignment, is endorsed on the Policy and the Policy with such endorsement is produced before payment of any claim or return of premium thereunder.

## **4. PERILS**

4.1 This insurance covers loss of or damage to the subject-matter insured caused by

4.1.1 perils of the seas rivers lakes or other navigable waters

4.1.2 fire lightning explosion

4.1.3 violent theft by persons from outside the Vessel

4.1.4 jettison

4.1.5 piracy

4.1.6 breakdown of or accident to nuclear installations or reactors

4.1.7 contact with aircraft or similar objects, or objects falling therefrom, land conveyance, dock or harbour equipment or installation.

4.2 This insurance covers loss of or damage to the subject-matter insured caused by

4.2.1 accidents in loading discharging or shifting cargo or fuel

4.2.2 bursting of boilers breakage of shafts or any latent defect in the machinery or hull

4.2.3 negligence of Master Officers Crew or Pilots

4.2.4 negligence of repairers or charterers provided such repairers or charterers are not an Assured hereunder

4.2.5 barratry of Master Officers or Crew,

provided such loss or damage has not resulted from want of due diligence by the Assured, Owners or Managers.

4.3 Master Officers Crew or Pilots not to be considered Owners within the meaning of this Clause 4 should they hold shares in the Vessel.

## **5. EARTHQUAKE AND VOLCANIC ERUPTION EXCLUSION**

In no case shall this insurance cover loss damage liability or expense caused earthquake or volcanic eruption. This exclusion applies to all claims including claims Under Clauses 7, 9, 11 and 13

## **6. POLLUTION HAZARD**

This insurance covers loss of or damage to the Vessel caused by any governmental authority acting Under the powers vested in it to prevent or mitigate a pollution hazard or threat thereof, resulting directly from damage to the Vessel for which the Underwriters are liable Under this insurance, provided such act of governmental authority has not resulted from want of due difference by the Assured, the Owners, or Managers of the Vessel or any of them to prevent or mitigate such hazard or threat. Master, Officers, Crew or Pilots not to be considered Owners within the meaning of this Clause 6 should they hold shares in the Vessel.

## **7. COLLISION LIABILITY**

7.1 The Underwriters agree to indemnify the Assured for any sum or sums paid by the Assured to any other person or persons by reason of the Assured becoming legally liable by

way of damages for

7.1.1 loss of or damage to any other vessel or property on any other vessel

7.1.2 delay to or loss of Use of any such other vessel or property thereon

7.1.3 general average of, salvage of, or salvage Under contract of, any such other vessel or property thereon,

where such payment by the Assured is in consequence of the Vessel hereby insured coming into collision with any other vessel.

7.2 The indemnity provided by this Clause 7 shall be in addition to the indemnity provided by the other terms and conditions of this insurance and shall be subject to the following provisions:

7.2.1 Where the insured Vessel is in collision with another vessel and both vessels are to blame then, Unless the liability of one or both vessels becomes limited by law, the indemnity Under this Clause 7 shall be calculated on the principle of cross-liabilities as if the respective Owners had been compelled to pay to each other such proportion of each other's damages as may have been property allowed in ascertaining the balance or sum payable by or to the Assured in consequence of the collision.

7.2.2 In no case shall the Underwriters' total liability Under Clauses 7.1 and 7.2 exceed their proportionate part of the insured value of the Vessel hereby insured in respect of any one such collision

7.3 The Underwriters will also pay the legal costs incurred by the Assured or which the Assured may be compelled to pay in contesting liability or taking proceedings to limit liability, with the prior written consent of the Underwriters.

## **EXCLUSIONS**

7.4 Provided always that this Clause 7 shall in no case extend to any sum which the Assured shall pay for or in respect of

7.4.1 removal or disposal of obstructions, wrecks, cargoes or any other thing whatsoever

7.4.2 any real or personal property or thing whatsoever except other vessels or property on other vessels

7.4.3 the cargo or other property on, or the engagements of, the insured Vessel

7.4.4 loss of life, personal injury or illness

7.4.5 pollution or contamination of any real or personal property or thing whatsoever (except other vessels with which the insured Vessel in collision or property on such other vessels).

## **8. SISTERSHIP**



Should the Vessel hereby insured come to collision with or receive salvage services from another vessel belonging wholly or in part to the same Owners or Under the same management, the Assured shall have the same rights Under this insurance as they would have were the other vessel entirely the property of Owners not interested in the Vessel hereby insured; but in such cases the liability for the collision or the amount payable for the services rendered shall be referred to a sole arbitrator to be agreed Upon between the Underwriters and the Assured.

## **9. PROTECTION AND INDEMNITY**

9.1 The Underwriters agree to indemnify the Assured for any sum or sums paid by the Assured to any other person or persons by reason of the Assured becoming legally liable, as owner of the Vessel, for any claim, demand, damages and/or expenses, where such liability is in consequence of any of the following matters or things and arises from an accident or occurrence during the period of this insurance:

9.1.1 loss of or damage to any fixed or movable object or property or other thing or interest whatsoever, other than the Vessel, arising from any cause whatsoever in so far as such loss or damage is not covered by Clause 7

9.1.2 any attempted or actual raising, removal or destruction of any fixed or movable object or property or other thing, including the wreck of the Vessel, or any neglect or failure to raise, remove, or destroy the same

9.1.3 liability assumed by the Assured Under contracts of customary towage for the purpose of entering or leaving port or manoeuvring within the port during the ordinary course of trading

9.1.4 loss of life, personal injury, illness or payments made for life salvage

9.1.5 liability Under Clause 1(a) of the current Lloyd's Standard Form of Salvage Agreement in respect of Unsuccessful, partially successful, or Uncompleted services if and to the extent that the salvor's expenses plus the increment exceed any amount otherwise recoverable Under the Agreement.

9.2 The Underwriters agree to indemnify the Assured for any of the following arising from an accident or occurrence during the period of this insurance:

9.2.1 the additional cost of fuel, insurance, wages, stores, provisions and port charges reasonably incurred solely for the purpose of landing from the Vessel sick or injured persons or stowaways, refugees, or persons saved at sea

9.2.2 additional expenses brought about by the outbreak of infectious disease on board the Vessel or ashore

9.2.3 fines imposed on the Vessel, on the Assured, or on any Master Officer crew member or agent of the Vessel who is reimbursed by the Assured, for any act or neglect or breach of any statute or regulation relating to the operation of the Vessel, provided that the Underwriters shall not be liable to indemnify the Assured for any fines which result from any act neglect failure or

default of the Assured their agents or servants other than Master Officer or crew member

9.2.4 the expenses of the removal of the wreck of the Vessel from any place owned, leased or occupied by the Assured

9.2.5 legal costs incurred by the Assured, or which the Assured may be compelled to pay, in avoiding, minimising or contesting liability with the prior written content of the Underwriters.

## **EXCLUSIONS**

9.3 Notwithstanding the provisions of Clauses 9.1 and 9.2 this Clause 9 does not cover any liability cost or expense arising in respect of:

9.3.1 any direct or indirect payment by the Assured Under workmen's compensation or employers' liability acts and any other statutory or common law, general maritime law or other liability whatsoever in respect of accidents to or illness of workmen or any other persons employed in any capacity whatsoever by the Assured or others in on or about or in connection with the Vessel or her cargo, materials or repairs

9.3.2 liability assumed by the Assured Under agreement expressed or implied in respect of death or illness of or injury to any person employed Under a contract of service or apprenticeship by the other party to such agreement

9.3.3 punitive or exemplary damages, however described

9.3.4 cargo or other property carried, to be carried or which has been carried on board the Vessel but this Clause 9.3.4 shall not exclude any claim in respect of the extra cost of removing cargo from the wreck of the Vessel

9.3.5 property, owned by builders or repairers or for which they are responsible, which is on board the Vessel

9.3.6 liability arising Under a contract or indemnity in respect of containers, equipment, fuel or other property on board the Vessel and which is owned or leased by the Assured

9.3.7 cash, negotiable instruments, precious metals or stones, valuables or objects of a rare or precious nature, belonging to persons on board the Vessel, or non-essential personal effects of any Master, Officer or crew member

9.3.8 fuel, insurance, wages, stores, provisions and port charges arising from delay to the Vessel while awaiting a substitute for any Master, Officer or crew member

9.3.9 fines or penalties arising from overloading or illegal fishing

9.3.10 pollution or contamination of any real or personal property or thing whatsoever (This Clause 9.3.10 shall not exclude any amount recoverable Under Clause 9.1.5)

9.3.11 general average, sue and labour and salvage charges, salvage, and/or collision liability to any extent that they are not recoverable Under Clauses 7, 11 and 13 by reason of

the agreed value and/or the amount insured in respect of the Vessel being inadequate.

9.4 The indemnity provided by this Clause 9 shall be in addition to the indemnity provided by the other terms and conditions of this insurance.

9.5 Where the Assured or the Underwriters may or could have limited their liability the indemnity Under this Clause 9 in respect of such liability shall not exceed Underwriters' proportionate part of the amount of such limitation.

9.6 In no case shall the Underwriters' liability Under this Clause 9 in respect of each separate accident or occurrence or series of accidents arising out of the same event, exceed their proportionate part of the insured value of the Vessel.

#### **9.7 PROVIDED ALWAYS THAT**

9.7.1 prompt notice must be given to the Underwriters of every casualty event or claim Upon the Assured which may give rise to a claim Under this Clause 9 and of every event or matter which may cause the Assured to incur liability costs or expense for which he may be insured Under this Clause 9.

9.7.2 the Assured shall not admit liability for or settle any claim for which he may be insured Under this Clause 9 without the prior written consent of the Underwriters.

#### **10. NOTICE OF CLAIM AND TENDERS**

10.1 In the event of accident whereby loss or damage may result in a claim Under this insurance, notice shall be given to the Underwriters prior to survey and also, if the Vessel is abroad, to the nearest Lloyd's Agent so that a surveyor may be appointed to represent the Underwriters should they so desire.

10.2 The Underwriters shall be entitled to decide the port to which the Vessel shall proceed for docking or repair (the actual additional expense of the voyage arising from compliance with the Underwriters' requirements being refunded to the Assured) and shall have a right of veto concerning a place of repair or a repairing firm.

10.3 The Underwriters may also take tenders or may require further tenders to be taken for the repair of the Vessel. Where such a tender has been taken and a tender is accepted with the approval of the Underwriters, an allowance shall be made at the rate of 30% per Annam on the insured value for time lost between the despatch of the invitations to tender required by Underwriters and the acceptance of a tender to the extent that such time is lost solely as the result of tenders having been taken and provided that the tender is accepted without delay after receipt of the Underwriters' approval.

Due credit shall be given against the allowance as above for any amounts recovered in respect of fuel and stores and wages and maintenance of the Master Officers and Crew or any member thereof, including amounts allowed in general average, and for any amounts recovered from third parties in respect of damages for detention and/or loss of profit and/or running expenses, for the period covered by the tender allowance

or any part thereof.

Where a part of the cost of the repair of damage other than a fixed deductible is not recoverable from the Underwriters the allowance shall be reduced by a similar proportion.

10.4 In the event of failure to comply with the conditions of this Clause 10, a deduction of 15% shall be made from the amount of the ascertained claim.

## **11. GENERAL AVERAGE AND SALVAGE**

11.1 This insurance covers the Vessel's proportion of salvage, salvage charges and/or general average, reduced in respect of any Under-insurance, but in case of general average sacrifice of the Vessel the Assured may recover in respect of the whole loss without first enforcing their right of contribution from other parties.

11.2 Adjustment to be according to the law and practice obtaining at the place where the adventure ends, as if the contract of affreightment contained no special terms Upon the subject; but where the contract of affreightment so provides the adjustment shall be according to the York-Antwerp Rules.

11.3 No claim Under this Clause 11 shall in any case be allowed where the loss was not incurred to avoid or in connection with the avoidance of a peril insured against.

## **12. DEDUCTIBLE**

12.1 No claim arising from a peril insured against shall be payable Under this insurance Unless the aggregate of all such claims arising out of each separate accident or occurrence (including claims Under Clauses 7, 9, 11 and 13) exceeds in which case this sum shall be

deducted. Nevertheless that expense of sighting the bottom after stranding, if reasonably incurred specially for that purpose shall be said even if no damage be found. This Clause 12.1 shall not apply to a claim for total or constructive total loss of the Vessel or, in the event of such a claim, to any associated claim Under Clause 13 arising from the same accident or occurrence.

12.2 Excluding any interest comprised therein, recoveries against any claim which is subject to the above deductible shall be credited to the Underwriters in full to the extent of the sum by which the aggregate of the claim Unreduced by any recoveries exceeds the above deductible.

12.3 Interest comprised in recoveries shall be apportioned between the Assured and the Underwriters, taking into account the sums paid by the Underwriters and the dates when such payments were made, notwithstanding that by the addition of interest the Underwriters may receive a larger sum than they have paid.

### **13. DUTY OF ASSURED (SUE AND LABOUR)**

13.1 In case of any loss or misfortune it is the duty of the Assured and their servants and agents to take such measures as may be reasonable for the purpose of averting or minimizing a loss which would be recoverable Under this insurance.

13.2 Subject to the provisions below and to Clause 12 the Underwriters will contribute to charges properly and reasonably incurred by the Assured their servants or agents for such measures. General average, salvage charges (except as provided for in Clause 13.5) collision defense or attack costs and costs incurred by the Assured in avoiding, minimizing or contesting liability

**covered by Clause 9 are not recoverable Under this Clause 13.**

13.3 Measures taken by the Assured or the Underwriters with the object of saving, protecting or recovering the subject-matter insured shall not be considered as a waiver or acceptance of abandonment or otherwise prejudice the rights of either party.

13.4 When expenses are incurred pursuant to this Clause 13 the liability Under this insurance shall not exceed the proportion of such expenses that the amount insured hereunder bears to the value of the Vessel as stated herein, or to the sound value of the Vessel at the time of the occurrence giving rise to the expenditure if the sound value exceeds that value. Where the Underwriters have admitted a claim for total loss and property insured by this insurance is saved, the foregoing provisions shall not apply Unless the expenses of suing and labouring exceed the value of such property saved and then shall apply only to the amount of the expenses which is in excess of such value.

13.5 When a claim for total loss of the Vessel is admitted Under this insurance and expenses have been reasonably incurred in saving or attempting to save the Vessel and other property and there are no proceeds, or the expenses exceed the proceeds, then this insurance shall bear its pro rata share of such proportion of the expenses, or of the expenses in excess of the proceeds, as the case may be, as may reasonably be regarded as having been incurred in respect of the Vessel; but if the Vessel be insured for less than its sound value at the time of the occurrence giving rise to the expenditure, the amount recoverable Under this clause shall be reduced in proportion to the Under- insurance.

13.6 The sum recoverable Under this Clause 13 shall be in addition to the loss otherwise recoverable Under this insurance but shall in no circumstances exceed the amount insured Under this insurance in respect of the Vessel.

### **14. NEW FOR OLD**

Claims payable without deduction new for old.

## **15. BOTTOM TREATMENT**

In no case shall a claim be allowed in respect of scraping grit blasting and/or other surface preparation or painting of the Vessel's bottom except that

15.1 grit blasting and/or other surface preparation of new bottom plates ashore and supplying and applying any "shop" primer thereto,

15.2 grit blasting and/or other surface preparation of: the butts or area of plating immediately adjacent to any renewed or refitted plating damaged during the course of welding and/or repairs, areas of plating damaged during the course of fairing, either in place or ashore,

15.3 supplying and applying the first coat of primer/anti-corrosive to those particular areas mentioned in 15.1 and 15.2 above,

shall be allowed as part of the reasonable cost of repairs in respect of bottom plating damaged by an insured peril.

## **16. WAGES AND MAINTENANCE**

No claim shall be allowed, other than in general average, for wages and maintenance of the Master, Officers and Crew, or any member thereof, except when incurred solely for the necessary removal of the Vessel, with the agreement of the Underwriters, from one port to another for the repair of damage covered by the Underwriters, or for trial trips for such repairs, and then only for such wages and maintenance as are incurred whilst the Vessel is Under way.

## **17. AGENCY COMMISSION**

In no case shall any sum be allowed Under this insurance either by way of remuneration of the Assured for time and trouble taken to obtain and supply information or documents or in respect of the commission or charges of any manager, agent, managing or agency company or the like, appointed by or on behalf of the Assured to perform such services.

## **18. UNREPAIRED DAMAGE**

18.1 The measure of indemnity in respect of claims for Unrepaired damage shall be the reasonable depreciation in the market value of the Vessel at the time this insurance terminates arising from such Unrepaired damage, but not exceeding the reasonable cost of repairs.

18.2 In no case shall the Underwriters be liable for Unrepaired damage in the event of a subsequent total loss (whether or not covered Under this insurance) sustained during the period covered by this insurance or any extension thereof.

18.3 The Underwriters shall not be liable in respect of Unrepaired damage for more than the insured value at the time this insurance terminates.

## **19. CONSTRUCTIVE TOTAL LOSS**

19.1 In ascertaining whether the Vessel is a constructive total loss, the insured value shall be taken as the repaired value and nothing in respect of the damaged or break-Up value of the Vessel or wreck shall be taken into account.

19.2 No claim for constructive total loss based Upon the cost of recovery and/or repair of the Vessel shall be recoverable hereunder Unless such cost would exceed the insured value. In making this determination only the cost relating to a single accident or sequence of damages arising from the same accident shall be taken into account.

## **20. DISBURSEMENTS WARRANTY**

20.1 Additional insurances as follows are permitted:

20.1.1 Disbursements, Managers' Commissions, Profits or Excess or Increased Value of Hull and Machinery. A sum not exceeding 25% of the value stated herein.

20.1.2 Earnings or Anticipated Freight, insured for time. A sum not exceeding 25% of the value as stated herein less any sum insured, however described, Under 20.1.1.

20.1.3 Freight or Hire, Under contracts for voyage. A sum not exceeding the gross freight or hire for the first passage and next succeeding cargo passage plus the charges of insurance. In the case of a voyage charter where payment is made on a time basis, the sum permitted for insurance shall be calculated on the estimated duration of the voyage, subject to the limitation of two cargo passages as laid down herein. Any sum insured Under 20.1.2 to be taken into account and only the excess thereof may be insured.

20.1.4 Time Charter Hire or Charter Hire for Series of Voyages. A sum not exceeding 50% of the gross hire which is to be earned Under the charter in a period not exceeding 18 months. Any sum insured Under 20.1.2 to be taken into account and only the excess thereof may be insured. An insurance Under this Section may begin on the signing of the charter.

20.1.5 Premiums. A sum not exceeding premiums of all interests insured for a period not exceeding 12 months (excluding premiums insured Under the foregoing sections but including, if required, the premium or estimated calls on any Club or War etc. Risk insurance) reducing pro rata monthly.

20.1.6 Returns of Premium. A sum not exceeding the actual returns which are allowable Under any insurance but which would not be recoverable thereunder in the event of a total loss of the Vessel whether by insured perils or otherwise.

20.1.7 Insurance irrespective of amount against:

Any risks excluded by Clauses 5, 22, 23, 24 and 25.

20.2 Warranted that no insurance on any interests enumerated in the foregoing

20.1.1 to 20.1.6 in excess of the amounts permitted therein and no other insurance which includes total loss of the Vessel P.P.I., F.I.A., or subject to any other like term, is or shall be effected to operate during the currency of this insurance by or for account of the Assured, Owners, Managers or Mortgagees. Provided always that a breach of this warranty shall not afford the Underwriters any defence to a claim by a Mortgagee who has accepted this insurance without knowledge of such breach.

## **21. RETURNS FOR CANCELLATION**

To return pro rata monthly net for each Uncommented month if this insurance be cancelled either by agreement or by the operation of Clause 2 provided that a total loss of the Vessel, whether by insured perils or otherwise, has not occurred during the period of this insurance or any extension thereof.

The following clauses shall be paramount and shall override anything contained in this insurance inconsistent therewith.

## **22. WAR EXCLUSION**

In no case shall this insurance cover loss damage liability or expense caused by

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

22.2 capture seizure arrest restraint or detainment (barratry and piracy excepted), and the consequences thereof or any attempt thereat

22.3 derelict mines torpedoes bombs or other derelict weapons of war.

## **23. STRIKES EXCLUSION**

In no case shall this insurance cover loss damage liability or expense caused by

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

23.2 any terrorist or any person acting from a political motive.



## **24. MALICIOUS ACTS EXCLUSION**

In no case shall this insurance cover loss damage liability or expense arising from

24.1 the detonation of an explosive

24.2 any weapon of war

and caused by any person acting maliciously or from political motive.

## **25. NUCLEAR EXCLUSION**

In no case shall this insurance cover loss damage liability or expense arising from any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

### **GENERAL POLICY PROVISIONS**

**These General Policy Provisions apply to and form part of the Policy, Insurance Schedule, Questionnaire and to all Sections of the Policy purchased by the Assured**

**1. All payments under this Policy will be made to the Assured, or any loss payee identified in the insurance schedule.**

#### **2. SECTION LIMIT(S) / SUB-LIMIT(S) / SUM INSURED**

2.1 **Overall Section Limit(s)** - Underwriters maximum limit payable for any claim under each section of this Policy arising from any one Accident or series of Accidents arising out of any one event is set out in the overall section limit(s) of the Insurance Schedule. Such overall section limit(s) shall be inclusive of any costs and defense expenses.

2.2 **Section Sub-Limit(s)** - In the case of section sub-limit(s) under this Policy, such section sub-limit(s) shall apply to any claim arising under that section, clause, extension or Operation in respect of any one Accident or series of Accidents arising out of any one event, and shall be inclusive and not in addition to the Overall Section Limit(s) as set out in the Insurance Schedule. Such section sub-limit(s) shall be inclusive of any costs and defence expenses arising from the claim(s) under that section, clause, extensions/or Operation. Where indicated in

the Insurance Schedule all section sub- limit(s) apply in respect of any one Accident or series of Accidents arising out of any one event and in the aggregate for each 12 month period from the inception date of this Policy.

- 2.3 **Sum Insured** - The sum insured shall mean the insured value of the Insured Property and/or Insured Handling Equipment or the limit of Liability or Loss Period as identified in the Insurance Schedule.

### 3. JOINT ASSUREDS AND CO-ASSUREDS

- 3.1 Underwriters may accept an application from an Assured for another person or persons to become Joint Assureds in respect of that Assured's Policy. Each Joint Assured shall have an independent right of recovery from the Underwriters in respect of any liabilities, costs or expenses arising out of a particular casualty or event.
- 3.2 Unless otherwise agreed in writing with the Underwriters, the Assured and all Joint Assureds shall be jointly and severally liable to pay all amounts due to the Underwriters in respect of this Policy.
- 3.3 The Underwriters may accept an application from an Assured for another person or persons to become Co-assureds. The liability of Underwriters to all Co-assureds shall only extend insofar as the Co-Assured may be found liable to pay in the first instance for liabilities which are properly the responsibility of the Assured and are insured under this Policy. Once Underwriters have indemnified such Co-assureds, Underwriters shall not be under any further liability and shall not make any further payment to any person or company whatsoever, including the Assured, in respect of that claim.
- 3.4 Payment by Underwriters to the Assured or any one Joint Assured, or Co-assured in respect of any claim under this Policy shall fully discharge Underwriters of all liability arising out of that claim.
- 3.5 Any provision of this Policy by which an Assured or Joint Assured or Co-assured ceases to be insured or ceases to be entitled to recover from Underwriters in respect of any liability, loss or damage shall be deemed to apply to all Assureds, Joint Assureds and Co- assureds. Failure by the Assureds or any Joint Assured or Co -assureds to comply with any of the obligations under this Policy is deemed to be the failure of the Assured and all Joint Assureds and all Co-assureds. Conduct of an Assured or any Joint Assured or Co-assured which would have entitled the Underwriters to decline to indemnify it shall be deemed to be the conduct of all Assureds, Joint Assureds, and Co-assureds.
- 3.6 The contents of any communication between the Assured or any Joint Assured or Co-assured and the Underwriters, their servants or agents, shall be deemed to be within

the knowledge of the Assured and all Joint Assureds or Co-assureds.

- 3.7 The Assured, Joint Assureds and Co-assureds agree that (subject to any express coverage in this Policy) no disputes arising amongst them shall be the subject of any insurance or recovery from the Underwriters and Joint Assured and Co-assureds shall only be insured on this basis.
- 3.8 Where there are Joint Assureds or Co -assureds, any reference to the Assured in this Policy will be deemed to include any Joint Assured or Co-assured, so far as applicable.

#### **4. UNDERLYING AMOUNT(S) / DEDUCTIBLE(S)**

This Policy shall only pay in excess of deductible(s) specified in the Insurance Schedule in respect of claim(s) resulting from any one Accident or series of Accidents arising out of one event. Costs and defence expenses shall also be subject to such deductible(s).

#### **5. RADIOACTIVE CONTAMINATION \ CHEMICAL \ BIOLOGICAL \ BIO CHEMICAL \ ELECTROMAGNETIC WEAPONS AND CYBER ATTACK EXCLUSION CLAUSE**

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

- A. Ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
- B. The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;
- C. Any weapon employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
- D. Any chemical, biological, bio chemical or electromagnetic weapon;
- E. The use or operation as a means for inflicting harm, of any computer, computer system, computer software programme, computer virus or process or any other electronic system.

## **6. WAR, STRIKES AND TERRORISM EXCLUSION**

6.1 This Policy excludes:

- A. loss damage, cost or expense directly or indirectly caused by, contributed to or arising from or in consequence of any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;
- B. strike, lock-out, labour disturbance, riot, civil commotion, war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, 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;
- C. any act of terrorism, which means an act, including but not limited to the use of force or 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 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;
- D. this Policy also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way related to 6.1.

6.2 The burden of proving that this exclusion does not apply (if it is alleged to apply by Underwriters) shall be upon the Assured;

6.3 If any part of this exclusion is found to be invalid or unenforceable, the remainder will remain in full force and effect.

## **7. DANGEROUS CARGOES**

It is a condition precedent of liability under this Policy that the Assured shall take all reasonable and proper steps to ensure compliance with all relevant and applicable regulations and/or statutory provisions relating to the carriage, handling and storage of dangerous cargoes. Underwriters will not be liable for any claims arising out of the Assured's breach of this condition.

## **8. DUE DILIGENCE/ PRECAUTIONARY MEASURES (ASSURED'S DUTY TO MINIMISE LOSS)**

- 8.1 It is a condition of this Policy that the Assured shall act as if a prudent uninsured at all times and at their own expense take such measures as may be reasonable for the purpose of averting or minimising a loss. The Assured shall not admit liability or assume any obligation without prior agreement by Underwriters. In the event of a breach of this condition, Underwriters shall be entitled to cancel this Policy from inception, and shall not be liable for any claims arising under the Policy.
- 8.2 The Assured shall maintain all precautionary measures given as information to Underwriters with regard to loss prevention and risk management. The Assured shall, in addition, implement any measures required by Underwriters and notify Underwriters of any material change in or affecting the Assured's Operation(s). In the event of any material change, Underwriters will be entitled to amend the terms and conditions of this Policy, or cancel this Policy with effect from the date of the material change.

## **9. SURVEY / ISPS**

It is a condition of this Policy that in the event Underwriters require a survey to be carried out, the Assured shall comply with any recommendations, requirements or restrictions imposed as a consequence of the survey by the date required by the survey or by the date set by Underwriters. The Assured must comply with the International Ship and Port Facility Security Code (ISPS).

In the event of a breach of this condition, Underwriters shall be entitled to cancel this Policy, with from inception, and shall not be liable for any claims arising under the Policy.

## **10. ELECTRONIC EXCLUSION CLAUSE**

- 10.1 Notwithstanding anything to the contrary contained within this Policy, it shall not provide cover in respect of claims, losses, expenses or costs arising by reason of any defect in the operation of any Computer Equipment, the operation or any function of such Computer Equipment, or the sending, receipt, processing or manipulation of data (including e-mails and data accessible via the internet) . For this purpose, "Computer Equipment" includes any combination of software and hardware.
- 10.2 This clause applies regardless of any other cause and/or event that contributes concurrently or in any sequence to any loss, damage, cost, claim, and/or expense.

## **11. NOTICE OF POTENTIAL CLAIMS**

The Assured shall give to Underwriters, directly or via Underwriters representatives (as identified in the Insurance Schedule), immediate notice of an Accident which may give rise to a loss which could result in a claim under this Policy. The Assured shall then promptly deliver by mail or facsimile or e-mail to Underwriters, directly or via Underwriters' representatives, a written account of the nature of the Accident stating the cause, if known, the extent of any damage, liability or expense and the nature of the interest of the Assured. Should notice not be given within 30 days of the Assured becoming aware of the Accident, Underwriters will have the option to decide whether they have been prejudiced by the delay, and if so, to reduce the amount paid in respect of the claim, or not pay the claim at all.

## **12. ASSISTANCE OF THE ASSURED**

- 12.1 The Assured shall assist Underwriters in all matters relating to claim(s) and provide Underwriters with all information Underwriters or their agents may reasonably request in respect of a claim. The Assured will also allow Underwriters or their agents to interview witnesses and access to evidence supporting the claim(s).
- 12.2 The Assured is obliged under the due diligence obligation in clause 8.1 to take all reasonable steps to defend claim(s) made against the Assured which could become a claim under this Policy. Underwriters shall have the right, but not the duty, to participate with the Assured in the defence, settlement or litigation of any claim(s) made against the Assured, or to appeal against any judgement or award. Underwriters agree, provided prior written consent is obtained from Underwriters, subject to any terms imposed by Underwriters such as selection of lawyers, and subject to any deductible/underlying amount, to indemnify the legal costs and expenses in relation to any claim(s) against the Assured arising out of an insured Accident. However, Underwriter's liability including such legal costs and expenses shall in no event exceed the relevant Overall Section Limit(s) and/or Section Sub-Limit(s) as identified in the Insurance Schedule.
- 12.3 Underwriters shall have the right to elect at any time to take over the conduct of the defence, settlement or litigation of any claim(s) from the Assured upon giving notice to the Assured or the Assured's Broker by mail, facsimile or e-mail. Should Underwriters make such an election, the Assured agrees to continue to provide Underwriters with all reasonable assistance in handling the claim(s).
- 12.4 Underwriters shall be entitled at any time to elect not to continue to support the

defence, settlement or litigation of any proceedings and any liability for legal costs and expenses shall cease at the time of their election.

### **13. SUBROGATION**

The Assured is not authorised to waive any rights of recovery in relation to any other party without prior written agreement from Underwriters. Where an amount is paid by Underwriters under this Policy, the Assured's rights of recovery against any other party in respect of such amount shall be exclusively subrogated to Underwriters. At Underwriters' request the Assured will assist (including attendance at hearings and ensuring attendance of witnesses), co-operate and lend its name to the exercise of Underwriters' rights of subrogation. In the event that any subrogated recovery is made, Underwriters will be entitled to reimbursement of all sums they have paid under the Policy before the Assured is entitled to receive any uninsured losses or deductible that has been applied.

### **14. AUDIT**

Underwriters may on reasonable notice examine and audit the Assured's books and records at any time relating to the subject matter of this Policy.

### **15. PRIOR KNOWLEDGE / OTHER INSURANCES**

- 15.1 Underwriters will have no liability under this Policy arising from any Accident, of which the Assured had knowledge, prior to the inception date of this Policy.
- 15.2 Where the Assured has given notice to insurers under any other insurance or is, irrespective of this Policy, entitled to be indemnified in whole or in part by any other insurance in respect of any damages or loss which would otherwise be indemnifiable in whole or in part by the Underwriters of this Policy, there shall be no contribution or participation by the Underwriters of this Policy on the basis of any deficiency, concurrent or double insurance for such loss or damage for which the Assured is entitled to be indemnified by such other insurance. This condition will apply whether or not the Assured is actually indemnified by such other insurance.

### **16. INSOLVENCY OR BANKRUPTCY**

- 16.1 The insolvency, liquidation, bankruptcy, receivership, administration or the like, or any refusal or inability to pay of the Assured or any Underwriter shall not operate to:
  - A. Increase Underwriter's liability under this Policy, or;

- B. To increase any Underwriter's share of liability under this Policy, or;
- C. To deplete any underlying amount(s).

16.2 Upon any of the circumstances described in 16.1 occurring to the Assured, then this Policy shall immediately terminate. The Assured will not be entitled to any return of premium, and will remain liable for premium due up to the date of cancellation.

16.3 In no event shall any Underwriter of this Policy assume the responsibilities or obligations of the Assured or any insurer or any Underwriter upon any of the circumstances described in 16.1 occurring to the Assured.

**17. CANCELLATION**

The insurer (Company) may at any time cancel the Policy on grounds of mis-representation, non-disclosure of material facts, fraud ,non-cooperation by the insured or if any adverse development in risk is noticed by the Insurer, by sending thirty days' notice in writing to the insured at his last known address in which case the Company shall return to the insured a proportion/ pro-rata portion of the premium corresponding to the unexpired period of insurance provided that if no claim has been paid under the policy.

The policy may also be cancelled by the insured at any time by giving thirty days' notice in writing to the Company and in such event the Company shall allow refund of premium at Company's short period premium calculation as given below provided no claim has occurred up to the date of cancellation.

| <b>Table of Short Period Rates</b> |  |
|------------------------------------|--|
| <b>Period of Risk (days up to)</b> | <b>Amount of premium to be retained by the Company</b> |
| 7                                  | 10%  |
| 30                                 | 25%  |
| 60                                 | 35%  |
| 90                                 | 50%  |
| 120                                | 60%  |
| 180                                | 75%  |
| 240                                | 85%  |
| Exceeding 240                      | 100%   |

**18. PREMIUM PAYMENT CLAUSE**



The Assured warrants that premium will be paid in full to Underwriters by the settlement due date set out in the Slip and Insurance Schedule (or in respect of instalment premiums, when due), or any longer period set by the applicable law of this Policy.

If the premium has not been paid in accordance with this warranty, Underwriters shall have the right to cancel this Policy by notifying the Assured either direct or via the broker in writing. Cancellation shall take effect either from the date of default, or date of inception as elected by the Underwriters in the slip and Insurance Schedule. In the event of cancellation as at the date of default, premium is due to Underwriters on a pro rata basis for the period that Underwriters are on risk but the full policy premium shall be payable to Underwriters in the event of a loss or occurrence prior to the date of termination which gives rise to a valid claim under this Policy.

Unless otherwise agreed, the Leading Underwriters are authorised to exercise rights under this clause on their own behalf and on behalf of all Underwriters participating on this Policy.

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

Where the premium is to be paid through a London Market Bureau, payment to Underwriters will be deemed to occur on the day of delivery of a premium advice note to the Bureau.

## **19. ASSIGNMENT**

No assignment of any interest under this Policy shall be valid except with the written consent of Underwriters.

## **20. SEVERAL LIABILITY NOTICE**

The subscribing Underwriters' obligations under this Policy are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing Underwriters are not responsible for the subscription of any co-subscribing Underwriter who for any reason does not satisfy all or part of its obligations.

## **21. GOVERNING LAW**

This insurance shall be governed by and construed in accordance with the laws of India.

## **22. ARBITRATION**

Any and all disputes or differences 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 amounts payable under this policy shall be referred for resolution by binding arbitration at Mumbai, in accordance with the provisions of the Indian Arbitration and Conciliation Act 1996, as amended and shall be settled in accordance with Indian law.

Arbitration shall be conducted as follows:

- a. All proceedings in any arbitration shall be conducted in English and a daily transcript in English of such proceedings shall be prepared.
- b. Within thirty (30) days after either We or You issue notice under this Arbitration condition, the parties shall each appoint an arbitrator. The two arbitrators shall appoint a third arbitrator who shall serve as the presiding arbitrator.
- c. The arbitration award shall be final and binding on the parties, and the parties agree to be bound thereby and to act accordingly.
- d. The arbitrators shall have the power to give injunctive relief and such other relief to the extent appropriate.
- e. The arbitrators shall have the power to award interest up to the date of payment of any monies due under the award. The arbitrators shall have no authority to award punitive or exemplary damages.
- f. The parties shall each bear their own costs associated with the arbitration and shall share equally in the costs of the arbitration proceedings and presiding arbitrator.
- g. When any dispute is under arbitration, except for the matters under dispute the parties shall continue to exercise their remaining respective rights and fulfil their remaining respective obligations under this policy subject to the other terms and conditions of the policy.
- h. Judgment upon the award rendered may be entered in any court having jurisdiction, or application may be made to such court for a judicial recognition of the award or an order of enforcement thereof, as the case may be.

### **23. THIRD PARTY RIGHTS**

No party other than the Underwriters and the Assured specified in the Insurance Schedule shall have any right to enforce any part of this Policy.

### **24. DEFINITIONS**

- 24.1 ACCIDENT - wherever used means a sudden event which was neither expected nor intended by the Assured and which first occurred or commenced on an identifiable specific date during the Policy period.
- 24.2 ASSURED - wherever used shall mean the Assured (as identified in the Insurance Schedule) and any, executive officer, managing employee, director or trustee thereof while acting within the scope of the duties bestowed on that person by the Assured.
- 24.3 BODILY INJURY - wherever used shall mean all physical injury to a third party including death, sickness, disease, mental injury, anguish or shock resulting from such physical injury.
- 24.4 CO-ASSURED – wherever used shall mean any party defined in the Insurance Schedule as a Co-assured.
- 24.5 COMPUTER EQUIPMENT - wherever used shall mean computer hardware and/or software.
- 24.6 CONFINES OF THE PORT AND/OR CONFINES OF THE TERMINAL AND/OR CONFINES OF THE INSURED LOCATION wherever used shall mean those areas within the limits of the Port as set out in the Insured Operations Clause of the Insurance Schedule, and in the case of local collection and delivery within a 10 kilometre radius of the Confines of the Port or Terminal or Insured Location.
- A Port includes ports, marine terminals, warehouses, container freight stations, container or trailer repair or storage depots, inland clearance depots and rail freight intermodal transfer depots.
- 24.7 INSURANCE SCHEDULE - wherever used shall mean the schedule to the Insurance Policy.
- 24.8 INSURED HANDLING EQUIPMENT - wherever used shall mean the handling equipment specified in the Handling Equipment Schedule of the Insurance Schedule.
- 24.9 INSURED LOCATION - shall mean those locations specified in the Insurance Schedule.
- 24.10 INSURED PROPERTY - shall mean the insured property set out in the Property Schedule of the Insurance Schedule.

- 24.11 JOINT ASSURED - wherever used shall mean any party defined in the Insurance Schedule as a Joint Assured
- 24.12 INSURED OPERATIONS - wherever used shall mean the insured operations which the Assured has requested to be insured for and has been granted coverage for by Underwriters as identified in the Insurance Schedule.
- 24.13 OVERLOADED - wherever used shall mean when the safe working load specified for the equipment by the manufacturer or by any other similarly qualified party is exceeded.
- 24.14 POLICY - wherever used shall mean all Sections, including extensions to those Sections, General Policy Provisions, Insurance Schedule, and Questionnaire.
- 24.15 PORT AUTHORITY - wherever used shall mean the party stipulated in the Port Authority Questionnaire and the operator or owner of the port specified in the Insurance Schedule.
- 24.16 TERMINAL OPERATOR - wherever used shall mean the party(s) stipulated in the Terminal Operator Questionnaire and the operator of any terminal operations specified in the Insurance Schedule.

**INSTITUTE RADIOACTIVE CONTAMINATION, CHEMICAL, BIOLOGICAL, BIO-CHEMICAL AND ELECTROMAGNETIC WEAPONS EXCLUSION CLAUSE.**

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

1. In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from
  - 1.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
  - 1.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
  - 1.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
  - 1.6 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.

- 1.7 any chemical, biological, bio-chemical, or electromagnetic weapon.

#### **INSTITUTE CYBER ATTACK EXCLUSION CLAUSE**

Subject only to clause 1.2 below, in no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

- 1.2 Where this clause is endorsed on policies covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, Clause 1.1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

#### **SANCTION LIMITATION AND EXCLUSION CLAUSE**

No (re)insurer shall be deemed to provide cover and no (re)insurer 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 (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.