Marine Professional Liability Insurance

<u>This Policy is a Claims Made Wording</u>

POLICY CONTENTS

ENDORSEMENTS

Marine Professional Liability Insurance

Section 1 – Marine Professional Liability Coverage

Underwriters agree to indemnify the Insured in respect of their liability arising directly as a result of their Insured Operations for

1.1 Negligent performance;
1.2 Fraud by an employee of the Insured;
1.3 Libel, slander or infringement of personal rights;
1.4 Unintentional breach of authority.

Section 2 – Third Party General Liability Coverage

Underwriters agree to indemnify the Insured in respect of their legal liability to third parties arising from an Accident caused by the negligence of the Insured whilst directly performing their Insured Operations causing

2.1 Bodily Injury;
2.2 Physical Damage;
2.3 Pollution Liability;
2.4 Consequential losses directly arising from 2.1, 2.2 or 2.3 above.

Section 3 – Defence Costs and Expenses

Underwriters agree to indemnify the Insured in respect of Defence Costs and Expenses incurred in investigating, adjusting, appraising, defending or appealing a Claim made against the Insured for a covered Insured Operation. The Insured must receive Underwriters prior written approval before incurring such Defence Costs and Expenses.

Defence Costs and Expenses shall be included within the applicable limit of indemnity and not in addition to it.

Section 4 – Claims Made Insuring Clauses

Underwriters agree to indemnify the Insured in respect of a Claim made against the Insured and covered under this Policy, provided that all of the following conditions are met;

4.1 The Claim made against the Insured is first received by the Insured during the Policy Period; and
4.2 The incident giving rise to the Claim was not known by the Insured prior to the Policy Period; and
4.3 The Insured gives written notification to Underwriters of such Claim made which notification is received by Underwriters within 90 days of the Insured first receiving the Claim or discovering incident giving rise to such Claim, and the date of such receipt of notification by Underwriters is during the Policy Period.

B **Additional Notification Period -** Underwriters agree to provide the Insured with an additional notification period where a Claim is made against the Insured within the last 90 days of the Policy Period. Such additional period shall be for up to 90 days solely so as to treat notification received by Underwriters within such 90 day extension as if it had been received on the last day of the Policy Period.

C **Retroactive Date** – This Policy shall only provide cover for Insured Operations provided on or after the retroactive date which is deemed to be the inception date of this Policy unless Underwriters have agreed another date in writing.

D **Extended Reporting Period** – In the event of cancellation or non-renewal of this Policy by Underwriters, the Insured shall have the option to purchase a 12 month extended reporting period for Claims first made against the Insured and reported to Underwriters during the extended reporting period. The extended reporting period shall be the 12 month period after the end of the Policy Period. The extended reporting period will be provided upon payment by the Insured to the Underwriters of a further premium to be agreed with the Underwriters but not exceeding 100% of the annual premium. However the Underwriters shall only indemnify the Insured for Claims arising as a result of the Insured's Operations provided during the Policy Period, and not during the extended reporting period. The extended reporting period is subject to all other provisions of this Policy including the retroactive date. The extended reporting period is subject to payment of the agreed additional premium to Underwriters within 60 days of the date of cancellation or non-renewal as applicable.

The quotation by Underwriters of different terms and conditions shall not constitute a refusal to renew by Underwriters.

The option of an extended reporting period shall not be available to the Insured where cancellation or non-renewal by Underwriters is due to non-payment of premium, a material change in the Insured's operations or non-compliance with any provision of this Policy.

Section 5 – Exclusions

This policy excludes any actual or alleged liability directly or indirectly caused by or contributed to by or arising from;

A Exclusions

5.1 The Insured's illegal, dishonest, fraudulent or malicious activity, or from any deliberate, intentional or reckless activity from which the Insured could reasonably have foreseen would result in a Claim being made against them.

5.2 The physical handling or storage of Cargo by the Insured, unless otherwise agreed by Underwriters hereon.

5.3 The infringement of copyright, patent, service mark or trade name.

5.4 The Insured's insolvency, liquidation, bankruptcy, receivership or other financial default.

5.5 Any fine, penalty, punitive or exemplary damages however awarded or described, or any additional damages resulting from the multiplication of compensatory damages.

5.6 Any contractual penalty.

5.7 Any indemnity agreement or agreement not to rely on any defence or limitation of liability, unless specifically agreed by Underwriters hereon.

5.8 Any deliberate or intention act by the Insured resulting in failure to perform or the abandonment of any Insured Operation.

5.9 Any customs duty, sales or excise tax or similar fiscal charge except as may be specifically agreed by Underwriters hereon.

5.10 The contravention of the rules or regulations of a liner conference, freight tariff, competition or similar agreement.

5.11 The Insured's customs bond or guarantee being made available to a third party.

5.12 Any vessel or aircraft which is owned, chartered or leased by the Insured or on their behalf.

5.13 The ownership, lease, operation or use of any vehicle, chassis or trailer.

5.14 Loss of or damage to any property owned, leased, rented or occupied by the Insured or in the Insured's care, custody or control, whether or not the Insured is required by contract to insure, or arising as a result of the Insured being the owner or lessee of any property or arising out of the condition or maintenance of any such property.

5.15 Discrimination or humiliation, wrongful termination or discharge of employment, failure to employ or promote, wrongful demotion, or the breach of any obligation by the Insured as an employer to employees, employees of a subagent or subcontractor, or any third party considered to be an employee of the Insured.

5.16 Bodily Injury to the Insured's employees, employees of any subagent or subcontractor, or any person deemed to be an employee of the Insured. This exclusion also applies to liability under any worker's compensation, unemployment compensation, disability benefits law or employer's liability acts or any other statutory or common law liability to an employee or dependents thereof.

5.17 The unsuitability of or any defect in goods or products manufactured, processed, graded, blended, supplied or sold, materials used or repairs carried out by the Insured or on their behalf, or any withdrawal, recall, return, inspection, replacement or loss of use arising therefrom.

5.18 Bullion, precious stones, cash, credit cards, bank notes, bonds, negotiable instruments or securities of any kind.

5.19 A Claim being made by one Insured against any other Insured that is an associate, parent or subsidiary company or by any person or entity having a financial or executive interest.

5.20 Dredging or land reclamation operations, unless otherwise agreed by Underwriters hereon.

5.21 The dumping, handling, processing, treatment, storage of any waste or spoil.

5.22 Industrial disputes, boycotts, strikes, riots, civil commotions, lockouts, stoppages or restraints of labour of whatsoever nature or kind whether partial or general and whether or not involving the Insured's employees.

5.23 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.

5.24 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.

B Additional Exclusions and Conditions Precedent applicable to Ship Management only

Where ship-management (which shall include yacht management, technical management and crew management) are included within the Insured Operation(s), it is a condition precedent to liability under this Policy that:

5.25 The vessel to which a Claim relates is scheduled to this Policy or has otherwise been notified to and agreed by Underwriters.

5.26 Such vessel has full protection and indemnity insurance, with either a member of the International Group P&I Association, or an insurer of Standard & Poor's rating A minus or above, and the Insured is named on such policy.

5.27 Such vessel has hull and machinery insurance with an insurer of Standard & Poor's rating A minus or above, and the Insured is named on such policy.

5.28 Such vessel is International Safety Management Code certified.

5.29 The Claim has not arisen from any contravention by the Insured of the rules and/or recommendations of the classification society with which the vessel is classed.

5.30 In respect of Crew Management, Underwriters agree to waive the provisions under clauses 5.26 and 5.28 above, provided the Insured can demonstrate that best endeavours were made to comply with those clauses.

C War etc Exclusion

5.31 This Policy excludes any actual or alleged liability directly or indirectly caused by or contributed to by or arising from war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, terrorism or sabotage, rebellion, revolution, insurrection military or usurped power or confiscation, nationalisation or requisition or destruction of or damage to property by or under the order of any Authority.

D Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electronic Weapons Exclusion Clause

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

5.32 Ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel.

5.34 The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.

5.35 Any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

5.36 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.

5.36 Any chemical, biological, bio chemical or electromagnetic weapon.

5.37 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.

Section 6 – General Policy Terms

6.1 **Continuity Credit Clause**

Provided that the Insured renews this Policy with Underwriters, Underwriters agree to rebate of 10% of the premium paid by the Insured. However, this rebate shall only be allowed if the incurred loss ratio under this Policy is less than 35%.

6.2 Limit of Indemnity and Deductible

Underwriters shall only indemnify the Insured for the limit of indemnity shown in the Policy. An aggregate limit of indemnity is the maximum amount that Underwriters will indemnify the Insured under this Policy for all Claims during the Policy Period. Defence Costs and Expenses shall be included within the applicable limit of indemnity and not payable in addition to it. The deductible shall reduce the limit of indemnity by the deductible amount. The limit of indemnity for any extended reporting period shall be part of, and not in addition to, the limit of indemnity for the Policy Period.

6.3 Recoveries

Where an amount is paid by Underwriters under this Policy, the Insured’s rights of recovery against any other person or entity in respect of such amount shall be exclusively subrogated to Underwriters. At Underwriters' request the Insured will assist, co-operate and lend its name to the exercise of Underwriters' rights of recovery. The Insured shall not waive any rights of recovery in relation to any other party without prior written agreement from Underwriters. Any amounts recovered, whether through subrogation or otherwise, shall be for the benefit of Underwriters hereon in first instance until the full extent of Underwriters’ indemnity is satisfied.

6.4 Due Diligence and Co-operation of the Insured

The Insured shall co-operate with Underwriters in all matters relating to any Claim. The Insured shall act as if a prudent uninsured at all times and take such measures as may be reasonable for the purpose of averting or minimising a Claim. The Insured shall not admit liability without prior agreement by Underwriters. The Insured shall co-operate with Underwriters in all matters relating to any Claim. The Insured shall maintain all precautionary measures given as information to Underwriters. The Insured shall implement any measures required by Underwriters and notify Underwriters of any material change in or affecting their Insured Operations.

6.5 Claims

In the event of any Claim being made against the Insured which may or could possibly result in a Claim under this Policy, the Insured must give Underwriters written notice as soon as possible and within the timescale specified in this Policy. Underwriters may at any time appoint or employ lawyers, surveyors or other persons on the Insured’s behalf, for the purpose of dealing with any matter likely to give rise to a Claim under this Policy.

6.6 Cancellation

This Policy may be cancelled by either the Insured or Underwriters giving 30 days prior written notice of cancellation to the other party at any time. However, in the event of non-payment of premium by the Insured to Underwriters within any specified time-frame, this Policy shall be automatically cancelled from inception, and only reinstated at Underwriters sole discretion.

6.7 Rights of Recourse

The Insured must not waive any rights of recourse against any principal, agent, contractor or subcontractor, unless specifically agreed by Underwriters hereon.

6.8 Contracts and Agreements

The Insured, if so requested by Underwriters, must file a specimen standard terms of business contract with Underwriters that sets out the indemnity framework upon which Insured is expected to contract. If the Insured elects to contract on more onerous terms then the Insured must inform Underwriters prior to performing the Insured Operation and Underwriters have the option to charge additional premium or to assert further conditions as they deem necessary.

6.9 Other Insurance

Where the Insured is, irrespective of this Policy, entitled to be indemnified in whole or in part by any other insurance in respect of any damages, expenses or other 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 damages, expenses or loss for which the Insured is entitled to be indemnified by other such insurance. This condition will apply whether or not the Insured is actually indemnified by such other insurance.

6.10 Law

This Policy shall be governed by and construed in accordance with English Law. Any dispute arising out of or in connection with it shall be determined by the High Court of Justice in London.

6.11 Rights Against Insurers

A person who is not party to this contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

6.12 Assignment of interest

Assignment of interest under this Policy shall not be valid except with the written consent of Underwriters.

Section 7 – Definitions

7.1 Accident – shall mean a sudden event which was neither expected nor intended by the Insured.

7.2 Authority – shall mean a constituted court, tribunal or government authority of competent jurisdiction acting within its legal powers.

7.3 Bodily Injury – shall mean physical or mental injury to a Third Party human being including resultant death, disease, illness, disability and all mental injury or nervous shock to such human being resulting from such physical injury.

7.4 Claim – shall mean a written demand first received by the Insured in respect of their Insured Operations during the Policy Period, including the service of suit or institution of arbitration proceedings.

7.5 Defence Costs and Expenses – shall mean investigation, adjustment, appraisal, defence and appeal costs and expenses and pre and post judgement interest incurred by or on behalf of the Insured. The salaries, expenses or administration costs of the Insured or any insurer shall not be included within the meaning of Defence Costs and Expenses.

7.6 Insured – shall be the person or entity named in the Policy. The Insured shall also include:

A. Any partner, executive officer, managing employee, director, president or vice-president thereof while acting within the scope of the duties bestowed on that person by the Insured,

and

B. Any wholly or substantially owned subsidiaries of the Insured.

As used in the foregoing, the term “substantially owned subsidiaries” means any legal entity with respect to which the stock, voting power or other interest entitled to vote or otherwise control 50% or more of the votes cast for the election of directors or appointment or selection of management is owned or controlled, directly or indirectly, by the person or entity named in the Policy.
The coverage afforded under this Policy shall only be made available to the person named in the Policy. If so requested by the Insured, Underwriters may agree to add other persons or entities as an Insured at terms, conditions and an appropriate additional premium to be agreed by the Underwriters prior to attachment of such persons or entities under this Policy.

Where required under a written contract entered into as part of the Insured Operation(s), the Insured is entitled to include other persons or entities as an additional Insureds but the cover afforded to such additional Insured’s shall only be in respect of Insured Operations carried out by and on behalf of the Insured and will only extend insofar as the additional Insured may be found to pay in the first instance for a liability that is properly the responsibility of the Insured. Nothing shall be construed as extending cover for liabilities that would not have been recoverable had such Claim been correctly made or enforced against the Insured

This clause does not extend coverage under this Policy to any liability under any contract to compensate another party unless such liability would have attached to the Insured in the absence of such contract unless specifically agreed by Underwriters.

Nothing contained herein shall operate to increase the limit of liability under this Policy. The limit of liability shall not be varied by the number or type of Insured's, additional Insureds or Claims.

7.7 Insured Operation(s) – shall be those services for which the Insured has requested to be insured and has been granted coverage for by Underwriters hereon.

7.8 Physical Damage – shall mean physical loss of, physical damage to or destruction of tangible property of a Third Party.

7.9 Policy – shall mean the documentation evidencing this contract of insurance.

7.10 Policy Period – shall be the duration of the Policy shown in the Policy and as agreed by Underwriters, but shall not include the Additional Notification Period or the Extended Reporting Period.

7.11 Pollution – shall mean the emission, discharge, disposal, release or escape of any smoke, vapour, soot, dust, liquid, gas, petroleum substance or derivative, chemical or waste material or toxic material of any kind into or upon land, sea, the atmosphere, or any watercourse or body of water. The incident giving rise to Pollution must be discovered and the Insured is made aware of it within 30 days after the emission, discharge, disposal, release or escape resulting in the Pollution first commenced, unless such emission, discharge, disposal, release or escape arises from a cargo not in the Insured's care, custody or control.

7.12 Third Party – shall mean any person or entity other than an Insured under this Policy.

Endorsement A – Cargo Transportation Liability Coverage

1 Coverage

Underwriters agree to indemnify the Insured for Claims in respect of their legal liability arising in respect of;

1.1 Physical Damage to cargo provided that such arises from

a. An international transport convention;

b. National transport law which is compulsorily applicable to the Insured;

c. A standard trading condition approved by a national freight forwarding, road haulage or warehousing association of which the Insured is a member;

d. A FIATA or COMBICON bill of lading;

e. The Insured's bill of lading or standard trading conditions provided such conditions accept no greater liability or responsibility than those in the FIATA standard bill of lading or national association standard conditions;

f. Another contract that has been agreed by Underwriters hereon for use by the Insured;

1.2 Physical Damage to a vessel or to cargo carrying or handling equipment owned or operated by the Insured's contractual partners.

1.3 Consequential loss directly arising from 1.1 or 1.2 above.

1.4 A negligent error or omission by the Insured or the Insured's contractual partners resulting in incorrect or wrongful delivery of cargo, delay in the handling of cargo or failure to fulfil the Insured's contractual obligations

1.5 The cargo's contribution to general average and salvage which the Insured is unable to recover from their contractual partners

2 Additional Exclusions applicable to Endorsement A

This Policy excludes actual or alleged liability arising from:

2.1 Any increase due to any declaration of value by the Insured's contractual partners.

2.2 Any agreement by the Insured to perform services or deliver cargo at or within an agreed time.

2.3 Any agreement without a weight or package limitation

2.4 A provision in a contract whereby liability is incurred without the Insured's fault or negligence

2.5 Any of the Insured's services that are subcontracted to a third party operating in any country in Africa (excluding South Africa), all former states of the Union of Soviet Socialist Republics, Iran, Iraq, Yemen, Lebanon, Syria, Afghanistan, Myanmar, Cambodia, Bolivia, Columbia, Ecuador, Albania, Cuba or North Korea except where the Insured subcontract the carriage of cargo to a party under a single contract which covers at least the same period of responsibility as the Insured's contract and such party does not contract to act as the Insured's agent for such period.

2.6 An increase in liability due to the bill of lading or contract of carriage showing a different number of packages to that stated in a contractual partners bill of lading or contract of carriage.

2.7 Consignments of cigarettes or tobacco products, spirits, wines, computers and any component or accessories thereof, mobile telephones and any component or accessories thereof, audio and video equipment and any component or accessories thereof, precious metal, jewellery, valuable art works or thoroughbred horses, unless agreed otherwise by

Underwriters hereon. A consignment shall be all such cargo in the same carrying equipment, depot or warehouse.

3 Additional Conditions applicable to Endorsement A

3.1 The Insured must exercise their best endeavours to ensure that services subcontracted to third parties are on back to back contractual terms with the Insured's contract with their customer.

3.2 The Insured must exercise due diligence and have procedures in place to ascertain the subcontractors and agents are suitably experienced and have a good industry reputation for reliability and honesty. Further the Insured must check that subcontractors and agents purchase and maintain adequate liability insurance.

3.3 Any agent the Insured appoints must be properly instructed in writing as to their responsibilities and duties.

3.4 The Insured must take all reasonable measures to comply with relevant regulations and statutory provisions relating to the carriage, handling and storage of dangerous and hazardous cargo.

This Endorsement is to be read in conjunction with the provisions of the full Policy wording
Nothing contained in this endorsement shall operate to increase the Insured's limit of indemnity
All other terms and conditions remain unaltered

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Endorsement B – Fines and Duty Liability Coverage

1 Coverage

Underwriters agree to indemnify the Insured for Claims in respect of their legal liability arising from an unintentional breach of any regulation, legal or statutory provision resulting in fines, customs duty, sales tax, excise tax, value added tax or similar fiscal charges or other penalty imposed by an Authority on the Insured or other person acting within their authority on the Insured's behalf
Provided that such breach directly relates to;

1.1 The import or export of cargo of the Insured's contractual partners
1.2 Immigration
1.3 The safety of working conditions
1.4 Pollution

2 Additional Exclusions applicable to Endorsement B

This Policy excludes any actual or alleged liability

2.1 Where the Insured's liability to pay has not been properly established or proved by an Authority acting within its powers and duties.
2.2 For any commercial fines or penalties in respect of freight tariffs, competition or the structure or operation of the Insured's business or that of any person acting on the Insured's behalf.
2.3 If any Authority determines that it is illegal to be insured for cover provided under this Endorsement.
2.4 For any amount that would have been payable by the Insured in absence of any breach.
2.5 For any breach relating to an illegal trade.

This Endorsement is to be read in conjunction with the provisions of the full Policy wording
Nothing contained in this endorsement shall operate to increase the Insured's limit of indemnity
All other terms and conditions remain unaltered

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Endorsement C – Misdirected Claims Coverage

1 Coverage

Underwriters agree to indemnify the Insured for Claims in respect of their legal liability arising from the provision of ship agency, ship broking or ship-management services to a third party arising

1.1.1 From an Accident for which legal liability would in the normal course of vessel operations be covered by the Protection and Indemnity Insurance of the Insured's principal.

1.1.2 Under a written contract into which the Insured entered, within the scope of the Insured Operations, where the Insured did not intend to contract in their own name, but as agent only to a principal.

This Endorsement is to be read in conjunction with the provisions of the full Policy wording
Nothing contained in this endorsement shall operate to increase the Insured's limit of indemnity
All other terms and conditions remain unaltered

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Endorsement D – First Party Agency Coverage

1 Coverage

Notwithstanding exclusion 5.19, Underwriters agree to indemnify the Insured in respect of their legal liability arising from any Claim made by an associate, parent or subsidiary company or by any person or entity having a financial or executive interest, if the Insured can demonstrate that all of the following conditions have been met:

1.1 That party suffered a financial loss as a direct result of the Insured's negligence, error or omission; and

1.2 The Claim would have been recoverable under the provisions of this Policy had it been made by a principal who had no proprietary interest in the Insured's business; and

1.3 That for the Insured Operation the Insured has standard operating procedures and the Claim would have arisen under a standard industry contract, such as a standard Bimco SHIPMAN contract or FONASBA agency agreement.

1.4 That there was no abuse of conditions of trade or relationship.

This Endorsement is to be read in conjunction with the provisions of the full Policy wording
Nothing contained in this endorsement shall operate to increase the Insured's limit of indemnity
All other terms and conditions remain unaltered

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