

FÖRSÄKRINGSAKTIEBOLAGET ALANDIA

# P&I INSURANCE TERMS AND CONDITIONS FOR CHARTERERS

1.1.2016



# Contents

**page**

**3–4 PART I**

**INTRODUCTORY RULES**

---

1. Definitions
2. Nature of cover

**4–7 PART II**

**THE SCOPE OF INSURANCE**

---

3. Liability in respect of loss of or damage to the insured ship
4. Liability in respect of persons
5. Liability in respect of cargo
6. Extraordinary bunker handling costs
7. General average and salvage
8. Liability in respect of pollution
9. Other liability
10. Liability for costs

**7–9 PART III**

**GENERAL CONDITIONS FOR COVER**

---

11. Obligations of the policyholder
12. Regulations issued by the insurer
13. Terms of contracts

**9–11 PART IV**

**GENERAL EXCLUSIONS FROM COVER**

---

14. Exclusions

**11–14 PART V**

**OTHER PROVISIONS**

---

15. Survey
16. Identification
17. Provision of security
18. Set-off
19. Right of recourse
20. Time bar
21. Payment
22. Conduct of the insurer
23. Governing law, jurisdiction and average adjustment
24. Omnibus clause
25. Period of insurance
26. Insurance premium tax
27. Interest
28. Premiums and deductibles
29. Termination
30. Cesser
31. Effect of termination and cesser
32. Several assureds and co-assureds
33. Fleet insurance
34. Affiliated companies
35. Mortgaged ships

# P&I Insurance Terms and Conditions for Charterers

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## PART I INTRODUCTORY RULES

### 1. Definitions

In these Terms and Conditions the following words and expressions are given the following meanings.

#### **Agree/Agreement**

"Agree to in writing"/"written agreement".

#### **Approve/Approval**

"Approve in writing"/"written approval".

#### **Assured**

Any individual or legal entity whose liability is covered by the insurance policy and who is identified as assured in the insurance policy.

#### **Charterer**

A charterer of the insured vessel, or part of that vessel, other than a bareboat or demise charterer, insured under these Terms and Conditions and named in the insurance policy as the policyholder and/or assured.

#### **Co-assured**

Any individual or legal entity identified in the insurance policy as co-assured.

#### **Consent**

"Consent to in writing"/"written consent".

#### **Crew**

Any person, including the Master, contractually obliged to serve on board the insured ship, when on board or proceeding to or from the ship.

#### **Electronic trading system**

Any system which replaces or is intended to replace paper documents used for the sale of goods and/or their carriage by sea or partly by sea and other means of transport and which:

- (a) are documents of title, or
- (b) entitle the holder to delivery or possession of the goods referred to in such documents, or
- (c) evidence a contract or carriage under which the rights and obligations of either of the contracting parties may be transferred to a third party.

A "document" shall mean anything in which information of any description is recorded including, but not limited to, computer or other electronically generated information.

#### **Hague Rules**

The International Convention for the Unification of Certain Rules Relating to Bills of Lading 1924.

#### **Hague-Visby Rules**

Hague Rules as amended by the Brussels Protocol 1968.

#### **Hull insurance**

Insurance effected on the hull and machinery of the insured ship and other insurance against total loss.

#### **Insurer**

Alandia Insurance Ltd (Försäkringsaktiebolaget Alandia).

#### **ISM Code**

International Safety Management Code.

#### **ISPS Code**

International Ship and Port Facility Security Code.

#### **OPA 90**

US Oil Pollution Act of 1990.

#### **Passenger**

Any person who is carried onboard a ship under a contract of carriage.

#### **Policyholder**

Any individual or legal entity who has entered into an insurance contract with the insurer and who is identified as the policyholder in the insurance policy. The policyholder shall always be assured under the insurance contract unless otherwise agreed.

#### **Ship**

A ship or other floating structure used or intended to be used in navigation on water or any part thereof or share therein in respect of which the insurer has granted insurance in accordance with these Terms and Conditions.

## 2. Nature of cover

The scope of the insurance is set out in these Terms and Conditions unless otherwise agreed between the policyholder and the insurer.

The insurance shall cover legal liability, costs or expenses incurred by the policyholder in his capacity as charterer of the insured vessel and arising out of an event during the period of insurance as a direct consequence of the operation or trading of the ship.

The cover afforded by the insurer shall not include the deductible fixed by the insurer or otherwise agreed with the policyholder.

Liability, costs or expenses as per Part II (The scope of insurance) will be covered by the insurer only to the extent that these have first been discharged by the policyholder unless otherwise is decided by the insurer or otherwise is stipulated in these Terms and Conditions ("pay to be paid" principle).

The insurance contract only applies between the insurer and the policyholder and any other assured or co-assured. According to these Terms and Conditions a claimant shall not be entitled to direct his claim directly to the insurer except when it is so stipulated in mandatory rules of law or is expressly set out in these Terms and Conditions.

Where the policyholder is entitled to direct action against the insurer pursuant to mandatory rules of law, the cover afforded by the insurer shall always be limited to what has been agreed between the insurer and the policyholder.

The cover afforded by the insurer shall be limited in accordance with applicable law or other rules of law on limitation of the shipowner's liability, if applicable, even if the policyholder for any reason has lost his right to limitation and regardless of whether a limitation fund (global limitation fund) has been established or not.

The cover afforded by the insurer shall always be limited to the limit of liability as agreed between the insurer and the policyholder. The limit of liability shall apply regardless of whether or not the event give rise to several claims made with reference to one or several provisions in these Terms and Conditions. Should the aggregate of such claims exceed the limit of liability as stated in the insurance policy, the insurer shall pay for each claim that portion of the limit of liability that corresponds to the claim's portion of the total sum of claims made.

The insurer reserves its right to amend these Terms and Conditions during the period of insurance in order to avoid that he or his reinsurer becomes subject to any sanction, prohibition or restriction under resolutions of the United Nations or any other international organisation, or the trade or economics sanctions, laws or regulations of the European Union or any state.

## PART II THE SCOPE OF INSURANCE

### 3. Liability in respect of loss of or damage to the insured ship

The insurance shall cover liability to the owner of the insured ship for

- (a) physical loss of or damage to the insured ship or any equipment, fittings, stores, spare parts and supplies onboard, and
- (b) demurrage, loss of use or hire of the insured ship or any similar financial loss arising from the physical loss of or damage to the insured vessel.

### 4. Liability in respect of persons

#### 4.1 Personal injury, illness or death

The insurance shall cover liability for injury, illness or death of crew or any other persons on board or in relation to the insured ship.

#### 4.2 Liability in respect of stowaways and diversions

The insurance shall cover liability to pay additional costs and expenses reasonably and necessarily incurred by the policyholder in meeting its legal obligations in respect of stowaways, persons saved at sea or refugees, including the cost of maintaining, landing and where necessary repatriating such persons. Costs and expenses shall only be covered to the extent that they cannot be recovered from any other party.

There shall be no cover under sub-clause 4.2 in respect of any liability pursuant to the terms of any charterparty to the extent that such liability is wider than that provided for under the BIMCO Stowaways Clause for Time Charters.

The insurance shall cover liability to pay additional costs and expenses (including port charges and cost of extra fuel consumed) necessarily and reasonably incurred by reason of diversion or delay of the insured ship solely as a result of searching for or saving persons at sea or securing treatment of any injured or sick person on board the insured ship.

## 5. Liability in respect of cargo

### 5.1 Liability in respect of cargo

The insurance shall cover liability, costs or expenses for loss, damage or other responsibility relating to the carriage of cargo by the insured ship.

The insurance shall cover a period of time of a maximum of fourteen days before the commencement of loading, when the cargo is in the port of loading, and a maximum of fourteen days after the commencement of discharging, even if the cargo would still be on board the insured ship or in the port of discharge.

Deck cargo shall be covered by the insurance provided that the ship, cargo and containers or similar articles of transport are suitable for deck carriage in all circumstances and that the bill of lading, waybill or other transport document permits carriage of such cargo on deck and either

- (a) states that the cargo is being carried on deck and excludes all liability for loss of or damage to such cargo, or;
- (b) makes the carriage subject to the Hague Rules or the Hague-Visby Rules.

Where the value of any cargo is declared in the bill of lading, waybill or other transport document, the insurance cover shall be limited to the amount to which the policyholder would have been able to limit his liability in accordance with applicable law or other rules of law, unless otherwise agreed between the insurer and the policyholder.

### 5.2 Cargo liability during through transports and lighterage

The insurance shall cover liability, costs or expenses for loss, damage or other responsibility in respect of cargo during through transports while the cargo is in the care of another carrier provided that the transport is performed under a through or transshipment bill of lading or other transport document approved by the insurer providing for carriage partly to be performed by the insured ship.

The insurance shall cover liability, costs and expenses in respect of cargo during contractual and customary lighterage.

### 5.3 Liability for bill of lading particulars

The insurance shall cover liability for incorrect or incomplete description of the cargo or other incorrect statements in a bill of lading, waybill or other transport document, except in respect of liability, costs or expenses arising out of

- (a) the issuance of an antedated or post-dated transport document, meaning that the transport document is dated before or after the date when the cargo was in fact loaded on board or received for carriage,
- (b) the issuance of such transport document containing a description of cargo, its quantity or condition, or of its port of loading or discharge which the policyholder or an officer of the ship knew to be incorrect.

### 5.4 Liability for delivery of cargo

The insurance shall cover liability for misdelivery of cargo, except

- (a) as regards a negotiable bill of lading or similar document of title when delivery has been made without the production of that document by the person to whom delivery is made,
- (b) as regards a non-negotiable bill of lading, waybill or similar transport document when delivery has been made to a person who is neither named in the document as the person to whom delivery should be made nor, as regards a waybill, is lawfully nominated by the shipper as the person to whom delivery should be made,
- (c) as regards a non-negotiable bill of lading, waybill or similar transport document when delivery has been made without production of such document by the person to whom delivery is made, where such production is required by the express terms of such document or by operation of law or custom.

### 5.5 Liability in respect of paperless trading

Unless the insurer otherwise decides there shall be no recovery from the insurer in respect of liability, losses, costs and expenses arising from the use of any electronic trading system, other than a system approved by the insurer, to the extent that such liability, losses, costs and expenses would not (save insofar as the insurer in its absolute discretion otherwise determines) have arisen under a paper trading system.

### 5.6 Extraordinary cargo handling costs

The insurance shall cover reasonable and necessary costs in excess of those which would normally be expected to be incurred in respect of

- (a) discharging or disposing of damaged, rejected or worthless cargo,
- (b) discharging, handling, storing and reloading cargo where the ship has sustained damage recoverable under a standard hull insurance on full conditions.

Extraordinary costs under a–b above are recoverable only if and to the extent that the policyholder is legally obliged to pay these and to the extent compensation is not afforded in general average or recoverable from any other party and provided such costs are not caused by the nature of the cargo which was known or should have been known by the policyholder.

The insurance shall not cover costs as a consequence of work carried out, or could have been carried out, by the crew of the insured ship or by reasonable use of the ship or her equipment.

### 5.7 Deviation

The insurance shall not cover the policyholder's liability, costs or expenses for cargo due to deviation, whether geographical deviation or other forms of deviation, which deprives the policyholder of the right to rely on defences or rights of limitation.

The policyholder shall report the deviation to the insurer as soon as he becomes aware of it. The insurer may in its absolute discretion grant cover fully, partly or against special conditions or an additional premium.

#### 5.8 Liability in respect of delay

The insurance shall cover liability pursuant to mandatory rules of law for loss caused by delay in the carriage by the insured ship of cargo.

### 6. Extraordinary bunker handling costs

The insurance shall cover liability for extra costs in connection with the removal, storage, processing and disposal of bunkers supplied for the policyholder's account where such costs are necessarily, reasonably and solely incurred as a direct result of such bunkers being defective, contaminated or unfit for use.

This insurance shall however not cover liability for costs which result from a failure to order bunkers of the correct specification, or would have been subject to a right of recourse against the bunker suppliers or other third party but for a waiver or exemption agreed to by the policyholder.

### 7. General average and salvage

The insurance shall cover the policyholder's contribution to general average, salvage, salvage charges and expenses for which the policyholder is liable in respect of the policyholder's interest in freight or hire or bunkers or other property (other than cargo).

The insurance shall cover liability to owners for the insured ship's proportion of general average, salvage and salvage charges as stated in the general average adjustment or as determined by a court, competent tribunal or independent adjudicator appointed by the insurer or as otherwise agreed.

The insurance shall cover general average expenditure and special charges incurred by the policyholder which the policyholder is or would be entitled to claim from cargo or from some other party to the marine adventure and which is not recoverable by reason of a breach of the contract of carriage.

### 8. Liability in respect of pollution

The insurance shall cover liability, costs or expenses incurred as a result of the discharge or escape from the insured ship of oil or any other substance or the threat of such discharge or escape unless such liability, costs or expenses form part or could form part of general average under the York/Antwerp Rules 1994. The insurance shall also cover costs reasonably incurred due to actions taken to prevent the damage or minimise the extent of the damage.

However, the insurance shall not cover liability, costs or expenses in respect of pollution when the policyholder is liable or incurs costs in his capacity as owner of the cargo.

Unless otherwise decided by the insurer, the insurance shall not cover liability, costs or expenses incurred due to the discharge or escape of hazardous waste previously carried on board the insured ship, from a land-based dump, storage or disposal facility.

The insurance shall not cover liability, costs and expenses, including fines, attributable to an event where OPA 90 is applicable.

## 9. Other liability

### 9.1 Liability for other property

The insurance shall cover liability, costs or expenses for loss of or damage to property on board or outside the insured ship to the extent such risks are not specified elsewhere in these Terms and Conditions.

The insurance does not, however, cover the loss of or damage to property which the policyholder owns or has borrowed, leased or bought under reservation of title.

### 9.2 Collision and contact liability

The insurance shall cover liability to pay damages to any person and/or party arising out of the collision between the insured ship and another ship or contact between the insured ship and a fixed or floating object.

### 9.3 Obstruction to navigation and wreck liability

The insurance shall cover liability to owners where the insured ship as a result of a casualty has caused an obstruction to navigation.

The insurance shall also cover liability for costs incurred as a result of the raising, removal, destruction or marking of the wreck of the insured ship, or of equipment or cargo which relates to the insured ship or wreck, when such acts are compulsory by law or the costs thereof are legally recoverable from the policyholder.

The insurance shall cover liability incurred by the policyholder as a result of the presence of the wreck of the insured ship or its cargo.

Where the hull underwriters have not acquired title to the wreck, the insurance cover is limited to a period of three years from the day the insurance ceased.

### 9.4 Liability in respect of fines

The insurance shall cover fines or other charges as set out under a–d below which are judicially imposed upon the policyholder, his representative or a member of the crew of the insured ship that the policyholder may be liable to reimburse or reimburses with the approval of the insurer.

- (a) Fines imposed for shortage or overdelivery of cargo, or failure to comply with regulations concerning the declaration of goods, or documentation of cargo provided that the policyholder is insured for liability in respect of such cargo under Clause 5 (Liability in respect of cargo),

- (b) Fines imposed for breach of any immigration law or regulation,
- (c) Fines imposed in respect of the accidental discharge or escape of oil or any other polluting substance, or threat thereof, provided that the policyholder is insured for such discharge or escape by the insurer,
- (d) Fines imposed for smuggling or breach of customs regulations by the master or a member of the crew provided that such activity was unknown to the policyholder.

#### 9.5 Quarantine expenses

The insurance shall cover additional costs or expenses reasonably and necessarily incurred by the policyholder in connection with quarantine and disinfection of the insured ship, its crew or passengers as a consequence of an infectious disease, except for the ship's running expenses during the delay or indirect consequences thereof.

#### 9.6 Towage liability

Where the insured ship is towed, the insurance shall cover

- (a) liability arising from customary towage for the purpose of entering or leaving port or of manoeuvring within the port or from towage of such ships which are habitually towed from place to place,
- (b) liability arising from other towage, provided that the contract for such towage has been approved by the insurer.

Where the insured ship is towing, the insurance shall cover

- (a) liability arising from towage during a voyage with the purpose of saving life,
- (b) liability arising from other towage but only when the insurer has agreed in advance to afford cover for such towage.

### 10. Liability for costs

#### 10.1 Sue and labour clause

The insurance shall cover legal costs and other expenses reasonably and solely incurred by the policyholder to avoid or reduce liability which is falling or is likely to fall under these Terms and Conditions and for which insurance has been effected, provided that the insurer has approved the costs or expenses in advance or in its absolute discretion considers the costs or expenses to have been reasonably incurred.

The insurance shall cover costs incurred after instructions from the insurer.

#### 10.2 Preventive costs and amounts saved

The insurance shall cover costs reasonably incurred by the policyholder in order to prevent or limit liability covered under these Terms and Conditions and the individually agreed conditions, provided that the insurer has approved the costs or expenses in advance or in its absolute discretion considers the costs or expenses to have been reasonably incurred. If such costs have

been incurred jointly for the interest insured and for other interests, only such portion is compensated that falls on the interest insured.

Where the policyholder, as a result of a casualty or other event for which he is covered under these Terms and Conditions, has obtained extra revenue, saved expenses or avoided liability, which would otherwise have been incurred and which would not have been covered by the insurance, the insurer may deduct from the compensation an amount corresponding to the benefit obtained.

## PART III GENERAL CONDITIONS FOR COVER

### 11. Obligations of the policyholder

#### 11.1 Duty of disclosure

Prior to conclusion of the insurance contract, the policyholder shall in detail give the insurer any information requested by the insurer regarding the ship, as well as any other information that can be considered material for the insurer for the assessment of the insurance risk. If the policyholder subsequently discovers that the information given by him is incomplete, incorrect or misleading, he shall notify the insurer thereof without delay.

If the policyholder has failed to fulfil his duty of disclosure according to the first paragraph with fraudulent intent, the insurer shall not be bound by the insurance contract.

If the policyholder has given any information that he knew or ought to have known to be incomplete, incorrect or misleading and there is reason to assume that the insurer would not have granted the insurance had he been aware of the true circumstances, the insurer is exempt from liability. If it can be assumed that the insurer would have granted the insurance had he been aware of the true circumstances, but only against a higher insurance premium or on conditions other than those contained in the contract entered, the insurer shall be liable for the occurrence of a recoverable casualty only to the extent it is proven that the circumstance, that such incomplete, incorrect or misleading information concerns, had no effect on the occurrence or on the extent of the loss or damage sustained.

If the policyholder has through negligence failed to notify the insurer of such circumstance which is known or which, in the ordinary course of business, ought to be known by the policyholder to be of importance for the insurer, the third paragraph shall apply. The same shall apply to cases of failure to give the information referred to in the second sentence of the first paragraph.

If it can be assumed that the policyholder neither understood nor, in the ordinary course of business, ought to have understood that the information given by him was incorrect, delivery of such incorrect information shall not have any effect on the insurer's liability.

### 11.2 Increase in risk

An increase in risk arises when the insured risk increases as a result of changes in the circumstances prevailing at the time the insurance contract was concluded and constituting the basis of the contract. The policyholder is under the obligation to inform the insurer of any increase in risk promptly after gaining knowledge of the increase in risk.

If after the conclusion of the insurance contract the policyholder causes an increase in risk or consents thereto and if the increase in risk is not of a nature that the insurer is to be deemed to have taken into account, the insurer is exempted from liability, providing that the insurance had not been granted had the insurer been aware of the increase in risk. If it can be assumed that the insurer would have granted the insurance despite the increase in risk but only against a higher insurance premium or otherwise on conditions other than those agreed in the insurance contract, the insurer shall be liable for the loss or damage sustained only to the extent it is proven that the increase in risk did not contribute either to the occurrence of the recoverable casualty or to the extent of the loss or damage sustained.

If the risk has increased without contribution by or consent from the policyholder, and the policyholder has failed to notify the insurer thereof without any acceptable reason, the consequences referred to in the second paragraph shall apply.

If the action that increased the risk was taken with an intention to prevent injury to person or damage to property under circumstances where such action is to be deemed justifiable, the action shall not affect the insurer's liability.

### 11.3 Classification and insurance

The policyholder shall ensure that the insured ship is on the date of commencement of the charter period

- (a) classed with a classification society approved by the insurer,
- (b) fully insured for owners' account against Hull and Machinery Risks, and
- (c) entered or insured for owners' account in a P&I Club or another liability insurer approved by the insurer.

The policyholder shall use the best endeavours to ensure that the requirements mentioned in (a) to (c) are complied with throughout the period of insurance.

Where the Assured fails to comply with any of the above obligations, he shall not be entitled to any recovery under the insurance during the period of non-compliance.

### 11.4 Obligations as to the charter

The policyholder shall refrain from chartering or trading a ship which the policyholder knows or should know

- (a) does not comply with the requirements or recommendations of its classification society, or

- (b) does not comply with obligations and requirements imposed by the flag state or other competent authorities, or
- (c) does not maintain valid certificates covering the requirements under (b) above, including ISM and ISPS certificates, or
- (d) is loading or carrying cargo in breach of the guidelines and/or requirements of the IMDG Code or any other applicable regulations or conventions, or
- (e) is unfit or unsuitable for the intended trade.

The policyholder shall exercise reasonable care in the chartering, operation and management of the insured ship, including taking reasonable steps to check the solvency and reputation of the other party to the charterparty.

The insurance shall not cover liability, costs or expenses to the extent they result from the policyholder's failure to fulfil the obligations as stated in the first and second paragraph of this Section.

### 11.5 Obligations with regard to casualties and claims

In connection with a casualty the policyholder shall:

- (a) take all reasonable steps, including maintaining the right of recourse towards third parties or the right of limitation of liability, to avert or minimise liability, costs or expenses in respect of any event which may give rise to a claim upon the insurer,
- (b) promptly notify the insurer of any such event and of any related formal enquiry or legal proceedings involving the insured ship. The policyholder must also promptly notify the insurer when a claim has been made against the policyholder which may give rise to a claim upon the insurer, and
- (c) promptly and at his own expense provide the insurer with all documents and evidence which may be relevant to the case and must produce any person for interview or to give evidence. Furthermore the insurer must at any time be allowed to conduct any surveys and investigations which the insurer considers necessary.

The policyholder shall not settle or admit liability for any claim that may lead to a claim against the insurer without the consent of the insurer. Neither shall the policyholder waive any rights without the prior approval of the insurer.

Where the policyholder commits any breach of these obligations, the insurer may reject any claim by the policyholder against the insurer or reduce any sum payable by the insurer arising out of the casualty.

Where the policyholder does not accept a settlement of a claim recommended by the insurer, the insurer shall be entitled to limit his liability to the amount so recommended.



### 11.6 Proof of loss in claims for compensation

When the policyholder claims compensation for any loss or damage, the policyholder shall prove that the loss or damage is recoverable in accordance with the Terms and Conditions and provide evidence of the extent of the loss or damage. The policyholder shall as soon as possible provide the insurer with all documents and information which may be of importance for the insurer when assessing whether the claim is recoverable under the insurance.

If the loss or damage, in the opinion of the insurer, has been caused by an event that is not covered by the insurance, it is the responsibility of the insurer to prove this unless otherwise indicated in these Terms and Conditions.

### 12. Regulations issued by the insurer

The insurer may issue general or particular regulations in writing.

The insurer may reject any claim or reduce any sum payable in respect of claims arising as a consequence of the policyholder not complying with such regulations.

### 13. Terms of contracts

The following applies to contracts or agreements entered into by or on behalf of the policyholder.

#### (a) Contracts for carriage of goods

Such contracts shall not impose upon the policyholder a more extensive liability than would follow from the Hague Rules or the Hague-Visby Rules except where such contracts impose upon the policyholder a more extensive liability solely due to any mandatory provisions under applicable law.

#### (b) Contracts for through transport of goods

Such contracts shall not impose upon the policyholder a more extensive liability than would follow from any mandatory provisions applicable to any separate part of such through transport.

#### (c) Contracts for towage

Such contracts as are referred to in Clause 9.6 paragraphs 1 (b) and 2 (b) must be approved by the insurer in advance.

#### (d) Other contracts

Such contracts must be approved by the insurer in advance.

The insurance shall not cover liability, costs or expenses which would have been avoided had the policyholder complied with the conditions set out above.

The insurer may reject claims for compensation for liability, costs or expenses arising from the policyholder having entered into contracts or agreements on unusually burdensome terms without the approval of the insurer.

## PART IV GENERAL EXCLUSIONS FROM COVER

### 14. Exclusions

#### 14.1 Policyholder's intent, gross negligence or fraudulent acts

The insurance shall not cover liability, costs or expenses caused by

- (a) the intentional or grossly negligent acts or omissions of the policyholder,
- (b) such acts or omissions which the policyholder knew or ought to have known would cause liability, costs or expenses, or
- (c) the policyholder's fraudulent acts.

#### 14.2 Excluded risks

The insurance shall not cover

- (a) costs or expenses incurred for the normal fulfilment of the policyholder's transport obligation,
- (b) costs or expenses incurred to make the ship fit to receive cargo,
- (c) costs or expenses incurred to discharge, reload, restow, store or tranship cargo or other similar measures caused by overloading, bad trim or incorrect stowage of the ship,
- (d) liability, costs and expenses which arise out of the policyholder knowingly sending to sea or operating the ship in an unseaworthy condition,
- (e) liability in relation to precious metals, precious stones, jewellery or other objects of a rare or precious nature, cash and negotiable instruments, regardless of whether these are carried as cargo or are the personal effects of a member of the crew or are part of a passenger's luggage, unless the carriage thereof has been approved by the insurer,
- (f) liability, costs or expenses arising out of the insured ship being employed in an unlawful, imprudent, unsafe, unduly hazardous or improper trade, which the policyholder is or should be aware of, or out of the insured ship carrying illegal goods or contraband or being employed in blockade running,
- (g) loss of or damage to containers or similar articles of transportation owned, borrowed, leased or bought under reservation of title by the policyholder,
- (h) liability, costs or expenses arising out of the failure to arrive or late arrival of the insured ship at the port of loading or out of the failure to load any contracted cargo in the insured ship, or arising out of cancellation or termination of any charterparty or other engagement of the insured ship,
- (i) liability, costs or expenses arising out of intentional discharge of cargo at a place other than that stipulated in the contract of carriage,
- (j) liability arising out of failure to discharge all cargo from the insured ship, except insofar as the policyholder takes all reasonable steps to discharge the cargo,

- (k) liability, costs or expenses in respect of any claim in respect of detention, delay, loss of use of the insured ship or in respect of hire, freight or demurrage, unless this is covered under Clause 3 (Liability in respect of loss of or damage to the insured ship) or Clause 5 (Liability in respect of cargo),
- (l) any consequential loss, general monetary loss, loss of time, loss through price, market or currency fluctuations, loss of market, loss of production, depreciation, loss of opportunity, loss of profit or similar loss, except where the policyholder is legally liable to a third party for such loss and such liability is covered under these Terms and Conditions, and
- (m) loss or liability arising out of the insolvency or inability to pay.

#### 14.3 Special risks excluded for certain ships

The insurance shall not cover

- (a) in respect of salvage ships or other ships intended to be used for salvage operations, liability arising as a result of any salvage service or attempted salvage service,
- (b) in respect of drilling ships or other ships used for drilling operations, coresampling, oil production or gas production including any accommodation unit moored or positioned on site as an integral part of any such operations, liability arising as a result of such operations. The insurer shall, however, be liable for storage of oil or gas in ships provided that the insurer has given its advance approval of all circumstances and safety precautions which may be of importance for the assessment of the risk,
- (c) in respect of dredgers, liability arising as a result of dredging operations,
- (d) in respect of ships used in the operation of pile-driving, pipe or cable laying or blasting, liability arising as a result of such operations,
- (e) in respect of semi-submersible heavy lift vessels or any other vessels designed exclusively for the carriage of heavy lift cargo, liability arising from loss of, damage to, or wreck removal of, or destruction of cargo carried on board. Insurance cover is afforded provided the cargo is transported under a transport contract approved in advance by the insurer, and
- (f) in respect of other ships used for special operations, liability arising from such operations unless approved by the insurer.

#### 14.4 Sanctions

The insurance shall not cover liability, costs or expenses where the reimbursement or payment in respect of such liability, costs or expenses or any provision of other benefits would expose the insurer or his reinsurer to the risk of being or becoming subject to sanctions, prohibitions or restrictions under the resolutions of the United Nations or any other international organisation, or the trade or economic sanctions, laws or regulations of the European Union or any state.

#### 14.5 War risks

The insurance shall not cover liability, costs or expenses arising from loss, damage, injury, illness, death or other events caused by

- (a) war, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power, or any act of terrorism (provided that, in the event of any dispute between the policyholder and the insurer as to whether or not an act constitutes an act of terrorism, the insurer shall in its absolute discretion determine that dispute and the insurer's decision shall be final),
- (b) capture, seizure, arrest, mutiny, piracy, restraint or detainment and the consequences thereof or any attempt thereat,
- (c) mines, torpedoes, bombs, rockets, shells, explosives or other similar weapons of war save for those liability, costs or expenses which arise solely by reason of the transport of any such weapons. This exclusion shall not apply to the use of such weapons as a result either of government order or with the agreement of the insurer where the reason for such use is avoidance or mitigation of liability, costs or expenses which would otherwise fall within the insurance cover.

The above conditions shall apply irrespective of whether a contributory cause of the liability arising or the costs or expenses being incurred is any negligence on the part of the policyholder or of any person for whom he is responsible.

#### 14.6 Nuclear risks

The insurance shall not cover liability, costs or expenses directly or indirectly caused by or contributed to by

- (a) radioactive radiation or radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel,
- (b) the radioactive, toxic, explosive or otherwise hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof,
- (c) any weapon or device employing atomic or nuclear fission and/or fusion or other similar reaction or radioactivity,
- (d) the radioactive, toxic, explosive or otherwise hazardous or contaminating properties of any radioactive matter.

However, the insurer may extend the insurance to cover liability, costs or expenses arising out of the carriage of such "excepted matter" as defined in the Nuclear Installations Act 1965 of the United Kingdom, provided that it is carried as cargo and that the carriage has been approved by the insurer.

"Excepted matter" consists of radioisotopes which are used or intended to be used for industrial, commercial, agricultural, medical or scientific purpose, natural uranium and depleted uranium.

This provision shall override any other provisions in these Terms and Conditions.

#### 14.7 Subsidiarity

The insurance shall not cover liability, costs or expenses which are recoverable by the Assured under any other insurance policy.

The insurance shall not cover deductibles or other similar deductions which the policyholder himself is to bear under such other insurance.

## PART V OTHER PROVISIONS

#### 15. Survey

The insurer may at any time during the period of insurance appoint a surveyor to inspect the ship on behalf of the insurer.

Should the policyholder refuse to co-operate in an inspection, the insurer will thereafter be liable only to the extent that the policyholder can prove that any liability, cost or expense is not attributable to defects in the ship that would have been detected in the course of an inspection under the first paragraph.

Where an inspection reveals matters which, in the determination of the insurer, represent a deficiency in the ship, the insurer may exclude specified liability, losses, costs and expenses from the cover until the deficiency has been remedied.

#### 16. Identification

##### 16.1 Persons identified with the policyholder

The insurer may invoke against the policyholder acts by persons in a leading position within the company or in a company in the same group as the policyholder or by an individual or organisation to whom the policyholder has delegated decision-making powers in matters which are of material importance for the insurance cover.

A person in a leading position shall mean the board of directors, managing director, deputy managing director, responsible partner, principal owner of a shipping partnership or similar persons that has been delegated equivalent managing functions.

The insurer may not invoke against the policyholder acts by the master of the ship, any member of the crew, or any other person working for the ship in connection with their service as seamen. If the policyholder works onboard the ship, the insurer may not invoke acts by the policyholder, if such actions are connected with the policyholder's service as seaman.

##### 16.2 Breach of a safety regulation

If any safety regulation or other regulation as stipulated pursuant to these Terms and Conditions has not been complied with, the acts by any person, who is responsible on behalf of the policyholder to comply with the regulation or to supervise compliance therewith, shall be identified with the acts by the policyholder as provided in Clause 16.1. The same shall apply to cases where such person is performing a service as seaman as referred to in the third paragraph of Clause 16.1.

#### 17. Provision of security

The insurer shall under no circumstances be obliged to provide security to obtain the release of or to prevent the arrest or attachment of the insured ship or of any property or assets of the policyholder. The insurer is not to be liable for security that the policyholder has issued himself.

The policyholder shall upon demand reimburse the insurer for such sums as the insurer has paid on behalf of the policyholder under any security provided by the insurer to the extent that such payment is not recoverable under these Terms and Conditions.

#### 18. Set-off

The insurer shall be entitled to set off any amount due from the policyholder to the insurer against any amount due to the policyholder or any other assured under these Terms and Conditions or any other insurance policy.

#### 19. Right of recourse

For any amount paid by the insurer to the policyholder or other assured or to a claimant, the policyholder's right of recovery from third parties is transferred to the insurer. The insurer is entitled to any amount recovered by way of such recourse action. In the event of a recourse action, the insurer is entitled to obtain a signed letter of subrogation from the policyholder or other assured.

The insurer has a right of recourse against the policyholder for any cost which the insurer has paid on behalf of the policyholder and for which the policyholder is not entitled to compensation under these Terms and Conditions.

#### 20. Time bar

The policyholder's claim against the insurer shall be extinguished if the policyholder

- (a) fails to notify the insurer of any casualty or event or claim against the policyholder in accordance with Clause 11.5 (b) or at the latest within six months after he has got knowledge thereof,
- (b) fails to claim compensation from the insurer within a year after having discharged liability or having paid costs or expenses.

Where the policyholder's claim against the insurer has not been extinguished earlier, his right to claim compensation from the insurer shall be extinguished after ten years from the time of the casualty or other event. Where the policyholder cannot produce a claim for compensation from the insurer until a final judgement or average adjustment exists, the policyholder's right to compensation is not extinguished until one year after such judgement or adjustment having acquired legal force.

Where the insurer in connection with the issuance of his decision regarding insurance compensation has requested the policyholder in writing to submit his claim for decision by an Average Adjuster or court in accordance with Clause 23 (Governing law, jurisdiction and average adjustment) within a specific time, which shall not be shorter than six months from the time such request was received, the policyholder's rights to compensation shall be extinguished if he fails to comply with the request.

#### 21. Payment

Payment to the policyholder, any other assured or a claimant shall fully discharge the insurer of further liability under these Terms and Conditions unless otherwise agreed.

#### 22. Conduct of the insurer

No act, omission, course of dealing or delay by the insurer, nor advice or opinions from lawyers, surveyors and other experts appointed by the insurer shall constitute a waiver of the insurer's rights under these Terms and Conditions and entail no liability for the insurer.

#### 23. Governing law, jurisdiction and average adjustment

Finnish law shall apply to the insurance contract. The Finnish Insurance Contracts Act (543/1994) shall apply only to the extent nothing else follows from these Terms and Conditions or otherwise from the insurance contract.

The insurer may at any time during the handling of a claim refer the claim to the Finnish Average Adjuster for adjustment.

Disputes in respect of claims for compensation shall be decided by the Finnish Average Adjuster as first instance.

The insurer shall be liable for the expenses incurred by the Average Adjuster and for the Adjuster's fees. This also applies in cases where the policyholder has requested the adjustment, unless the policyholder's claim is manifestly unfounded.

Either of the parties may present a claim to the effect that the other party be ordered to reimburse the costs incurred by the claiming party in respect of the average adjustment. The Average Adjuster may then order the other party to reimburse the costs of the claiming party in full or in part, taking into consideration applicable parts of the provisions on compensation of legal costs in the Code of Judicial Procedure. This shall not apply to expenses incurred by the Average Adjuster or to the Adjuster's fees.

#### 24. Omnibus clause

The insurer may in its absolute discretion decide to compensate liability, loss, costs or expenses that are not otherwise covered under these Terms and Conditions. The insurer shall not be obliged to justify its decision and shall not be bound by the decision in similar matters in the future.

#### 25. Period of insurance

The insurance shall cover liability arising out of an event during the period of insurance.

The insurance shall take effect at 00.00 UTC on the agreed day of commencement and terminate at 24.00 UTC on the agreed last day, unless otherwise follows from the below.

#### 26. Insurance premium tax

The policyholder shall pay any tax or other demand relating to premiums or other sums relating to the insurance. In the event that the insurer has paid or has become liable for any such amounts, the policyholder shall reimburse the insurer for these.

#### 27. Interest

The insurer shall under no circumstances be liable to pay interest on sums that he shall compensate the policyholder for in accordance with these Terms and Conditions.

#### 28. Premiums and deductibles

Premiums and deductibles for the period of insurance to come are agreed between the insurer and the policyholder.

It shall be a condition precedent of the policyholder's right to recover from the insurer in respect of any liability, costs or expenses that all premiums and other sums due from the policyholder to the insurer shall have been paid in full and timeously. Where the premium or other sum has not been paid timeously, the insurer shall not be liable.

#### 29. Termination

The insurer may terminate the period of insurance with immediate effect in case of an event to which Clause 14.1 (Policyholder's intent, gross negligence and fraudulent acts) may be applied.

The insurer may further terminate the period of insurance in writing on fourteen days' notice

- (a) where the policyholder has failed to timeously pay premiums or other sums due,
- (b) where the insured ship cannot be considered seaworthy and the policyholder has not made it seaworthy with undue delay,
- (c) where the policyholder has failed to fulfil his obligations according to Clauses 11.1 (Duty of disclosure), 11.2 (Increase in risk), 11.3 (Classification and insurance), 12 (Regulations issued by the insurer) or where the policyholder does not give the insurer permission to inspect the ship in accordance with Clause 15 (Survey), or
- (d) where the policyholder has been declared bankrupt or is otherwise insolvent.

The insurer may also terminate the period of insurance on thirty days' notice without giving any reason.

The policyholder may terminate the insurance in writing without giving any reason no later than 30 days before the expiry of the period of insurance.

### 30. Cesser

The insurance shall cease without notice with immediate effect

- (a) when the policyholder is no longer charterer of the insured ship,
- (b) when the insured ship is posted at Lloyd's as missing or is missing for at least thirty days since last heard of, whichever is the earlier,
- (c) when the insured ship becomes a total loss or is accepted by the hull underwriters as being a constructive or condemned total loss,
- (d) when the insured ship is requisitioned, in which case the insurance shall cease at the time of such requisition,
- (e) when the insured ship, with the knowledge of the policyholder, has been used to carry illegal goods or contraband or been employed in blockade running or used in an unlawful, imprudent, unsafe, unduly hazardous or improper trade, or
- (f) when the policyholder uses the insured ship in carriage, trade or voyage which will in any way expose the insurer or his reinsurer to the risk of being or becoming subject to any sanction, prohibition or restriction under the resolutions of the United Nations or any other international organisation, or the trade or economic sanctions, laws or regulations of the European Union or any state.

### 31. Effect of termination and cesser

Termination or cesser of the insurance shall have the following effect.

The policyholder shall remain liable for all premiums due for the current or previous insurance period(s) up to the date of termination or cessation of the insurance. The policyholder is entitled to reimbursement of paid premiums in respect of the subsequent period.

The insurer shall remain liable for all claims under these Terms and Conditions arising out of events which occurred prior to the date of termination or cessation of the insurance provided that premiums due shall have been paid.

### 32. Several assureds and co-assureds

#### 32.1 Several assureds

The insurer may allow several assureds to be covered jointly with the policyholder under the same insurance policy. The assureds shall have the same obligations and rights as the policyholder

has under these Terms and Conditions and according to what has been individually agreed between the insurer and the policyholder.

All assureds shall be jointly and severally liable for premiums and other sums due to the insurer under the insurance contract.

The insurer may fully discharge its obligations with regard to payment under the insurance contract by payment to any one of the assureds.

Any communication by the insurer to any one of the assureds shall be deemed to be communicated to all. Failure by any one of the assureds to disclose information to the insurer in accordance with these Terms and Conditions shall be deemed to be the failure of all.

Any acts or omissions on the part of any of the assureds that cause the insurance to cease or that give the insurer the right to terminate the insurance or to reject or reduce claims, shall be considered an act or omission by all of the assureds.

Where there are several assureds, the total insurance cover is limited to such sum as would be recoverable from the insurer would the policyholder be the sole assured.

If one of the assureds is

- (a) any person interested in the operation, management or manning of the insured ship, or
- (b) the holding company or the beneficial owner of the policyholder or of any assured falling within category (a) above

the insurance cover is limited for such assured to cover only liability arising in connection with operations and/or activities customarily carried on by or at the risk and responsibility of charterers or on their account and which are within the scope of these Terms and Conditions or any special conditions set out in the insurance contract.

The insurer shall not cover any liability, costs or expenses in respect of any dispute between assureds or between an assured and a co-assured.

#### 32.2 Co-assureds

The insurer may allow other parties to become co-assured under the policyholder's insurance policy on the following conditions unless otherwise agreed.

The co-assured's cover under the insurance shall be limited to liability, costs or expenses which the policyholder would have incurred if the claim had been pursued against him and which would have been reimbursed by the insurer under these Terms and Conditions.

The total insurance cover is limited to such sum as would be recoverable from the insurer would the policyholder be the sole assured.

The insurer may fully discharge its obligations with regard to payment under the insurance contract by payment to any one of the co-assureds.

Any communication by the insurer to any one of the co-assureds shall be deemed to be communicated to all of the co-assureds. Failure by any one of the co-assureds to disclose information to the insurer in accordance with these Terms and Conditions shall be deemed to be the failure of all of the co-assureds.

Any acts or omissions on the part of any of the co-assureds that cause the insurance to cease or that give the insurer the right to terminate the insurance or to reject or reduce claims shall be considered an act or omission by all of the co-assureds.

The insurer shall not cover any liability, costs or expenses in respect of any dispute between co-assureds and between an assured and a co-assured.

### 33. Fleet insurance

When the insured ship forms part of a fleet of ships insured by the insurer, all policyholders shall be jointly and severally liable for premiums and any other sums due to the insurer in respect of any ship in the fleet.

Failure of any policyholder to pay premiums or other sums due shall be deemed to be a failure of all the policyholders for ships in the fleet and the insurer shall be entitled to termination under Clause 29 and to set-off under Clause 18.

### 34. Affiliated companies

The insurer may agree to extend the insurance cover to affiliated companies of the policyholder on such terms as may be agreed.

The cover provided to the affiliated company shall be limited to liability, costs or expenses which the policyholder would have incurred if the claim had been pursued against him and which would have been reimbursed by the insurer under these Terms and Conditions.

The total insurance cover is limited to such sum as would be recoverable from the insurer would the policyholder be the sole assured.

### 35. Mortgaged ships

Where the insured ship is mortgaged to a third party, the insurer may agree to extend the insurance cover also to the mortgagee but the insurance cover shall not provide better rights than those of the policyholder.

If you have any questions,  
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