

CREWS MESS

Yacht and Liability Wording

CMAT 1.3.21

## **DEFINITIONS**

- 1) "You and your" refer to the insured(s) named in the Schedule.
- 2) "We, us and our" refer to the insurers named in the Schedule.
- 3) "Divers" means any person using underwater artificial breathing apparatus, and/or submersible mechanical or electrical devices including, but not limited to, submarines, diving bells and/or dive suits.
- 4) "Insured vessel" means the vessel described in the Schedule, including machinery, electrical equipment, sails, masts, spars, rigging, furniture, and all other equipment normally required for the operation and maintenance of the vessel and which would normally be sold with the vessel.
- 5) "Trailer" refers to the trailer, which is used exclusively for that purpose by insured vessel.
- 6) Words of masculine gender are deemed to encompass the female gender and vice versa. Words in the singular are deemed to encompass the plural and vice versa.
- 7) "Navigational limits" means all waters as limited and shown in the Schedule or amended by endorsement to the Schedule.
- 8) "Salvage charges" means those reasonable charges and expenses which may be incurred by you if necessary, to prevent or minimise damage, injury or loss of life and with our permission to prevent or minimise any further loss or damage covered by the Hull Section of this insuring agreement.
- 9) "Deductible" is the first amount of any claim, which must be paid by you. If a deductible is applicable to any cover afforded by this insuring agreement the amount will be shown in the Schedule and this amount would be deducted from the amount payable on each agreed claim.
- 10) "Bodily injury/property damage" means actual bodily injury, illness, disease, death or damage to property which may occur during the period of this insuring wording arising from the ownership of or use of the insured vessel.
- 11) "Seaworthy" means fit for the insured vessel's intended purpose and applies not only to the physical condition of the vessel's hull, but to all its parts, equipment and gear and includes the responsibility of assigning an adequate crew. For a vessel to be seaworthy, it and the crew must be reasonably proper, fit, able and suitable for its intended use.
- 12) "Sinking" means when the scheduled vessel has sunk as far as is physically possible for the vessel to sink, and is totally submerged under water.
- 13) "Family" means any person related to you by blood, marriage or adoption, including wards and foster children.
- 14) "Personal Property" means property purchased and owned by you or any member of your family, provided that such property is situated on the scheduled vessel insured hereunder at the time of the loss excluding the scheduled vessel as defined in (4) above.
- 15) "Race or speed trial" means any event involving speed and or of a competitive nature, including, but not limited to, regattas and or rallies. "Preparing for a race or speed trial," means any navigation of the vessel necessary to ensure eligibility of either you or your vessel to participate in a race or speed trial.
- 16) "Named Wind Storm" damage is damage related to or resulting from a named windstorm or any numbered tropical weather pattern from the time the "named windstorm" or "numbered tropical weather pattern" impacts the area and until 72 hours later.

## **COINSURANCE NOTICE**

This policy contains a coinsurance clause. It is a requirement of this clause the watercraft is insured for the agreed value as shown in the Hull section on the application form which is deemed to be One Hundred Percent (100%) of its value for the purpose of this insurance. This clause applies to partial and total losses.

## **INSURING AGREEMENT**

This is a legally binding insurance agreement between you and us, and includes in full the information given by you contained in the application form signed by you. We will provide the insurance coverage described in this insuring agreement and its endorsements, in return for the remuneration due and compliance by you with the provisions, conditions and warranties of this insuring agreement.

### **Coverage for, Hull, Machinery, Equipment and Dinghy**

If a sum insured is shown for Hull in the insuring agreement Schedule, we will provide coverage for accidental physical loss of, or damage to the insured vessel, which occurs during the period of this insurance and within the limits set out in the Schedule, subject to the insuring agreement provisions, conditions, warranties, deductibles and exclusions herein.

Reasonable expenses incurred by you in attempting to avert or minimise a loss covered by this insuring agreement will be paid by us whether successful or not. These will be paid in addition to the sum insured under the applicable section(s).

We will pay salvage charges incurred by you occasioned by a peril covered by this insuring agreement, up to the limit of the sum insured under the Hull section of this insuring agreement.

If the insured vessel shall come into collision with any other ship or vessel and, you, in consequence thereof, become legally liable to pay, by way of damages to any other person or persons, an amount not exceeding the agreed value of the insured vessel, we will reimburse you for the amount paid, up to the agreed sum hereby insured. If your liability has been contested, and, we have given consent in writing, we will also pay the costs thereby incurred and paid.

If both vessels are to blame, then, unless the liability of the owners of one or both vessels becomes limited by law, claims under this section shall be settled on the principles of cross liabilities, as if the owners of each vessel had been compelled to pay the owners of the other vessel(s) such as one half or other proportion of the latter's damages as may have been properly allowed in ascertaining the amount payable by or to you in consequence of such a collision.

This principle shall apply in cases where both vessels are owned in part or in whole by you and all questions of responsibility and amount of liability between two vessels shall be left to a single Arbitrator.

Both parties to agree as to the location of the arbitration, agreement not to be withheld unreasonably. If the parties fail to agree, then arbitration will take place in London, United Kingdom and a decision agreed to by two of the arbitrators will be binding.

In no case shall the foregoing clause extend to cover any amount you may become legally liable to pay in respect of removal of obstructions under statutory powers or for injury or damages to harbours, wharves, piers, stages or similar structures consequent on such collisions, or in respect of the cargo or engagements of the Insured vessel or for loss of life or personal injury.

Whilst the insured vessel is afloat, theft coverage shall exclude theft or mysterious disappearance of equipment or personal property unless occurring in conjunction with theft of the entire vessel or unless there is visible evidence of forcible entry and/or removal; made by tools, explosives, electricity or chemicals.

Whilst on land, theft coverage is restricted to theft of the entire vessel including its equipment from a locked garage or locked storage building, or from such other storage place and subject to such other storage conditions, as we have prior approved in writing.

Whilst the insured vessel is stored on a trailer, coverage is restricted to theft of the entire vessel including equipment from a locked garage or locked storage building or a locked fenced enclosure. If secured to a vehicle the trailer must be secured with a trailer ball lock.

It is understood and agreed that this insuring agreement does not cover loss or damage caused by the theft of your vessel and/or equipment whilst stored on a trailer unless occasioned by person or persons making forced entry into the locked fenced enclosure, garage or building and by destruction of the ball lock. Theft must be accompanied by actual force and violence of which there shall be visible marks made by tools, explosives, electricity or chemicals.

The deductible shown within the insuring agreement Schedule page shall apply to each claim under the insuring agreement, including claims for expenses incurred in attempting to avoid or minimise a loss covered by the insuring agreement but excluding claims for actual and/or constructive and/or compromised total loss of the scheduled vessel or scheduled item. In the event of a claim under more than one section, only the single largest deductible to apply.

Loss or damage to the vessel arising from a named windstorm or a numbered tropical weather pattern shall be subject to a deductible of twice the hull/machinery deductible within the Schedule and shall apply to all claims, including actual and/or constructive and/or compromised Total Loss of the insured vessel

#### **Exclusions to Hull Machinery Equipment and Dinghy Coverage**

Unless specifically agreed by us in writing and an additional premium paid the following exclusions apply:

- 1) Damage sustained by your insured property whilst being transported over land, unless specifically requested and agreed to the contrary
- 2) Losses caused by or due to wear and tear, gradual deterioration, lack of maintenance, inherent vice, weathering, insects, mould, animal and marine life.
- 3) Marring, scratching or denting.
- 4) Osmosis, blistering or electrolysis.
- 5) Manufacturing defects or design defects, including latent defects.
- 6) Unrepaired damage claims if the insured vessel is subsequently an actual or agreed or constructive total loss, due to an insured peril, during the insuring agreement period.
- 7) Losses caused directly or indirectly by ice or freezing.
- 8) Theft of the dinghy or tender and/or its outboard motor unless stolen together with the insured vessel from a storage place approved for theft coverage or unless there is physical and or visible evidence of forcible entry and or removal.
- 9) Loss or damage to the towing vessel or dinghy and/or tender whilst being towed.
- 10) Damage to the insured vessel caused by theft, and/or attempted theft unless coverage would have been provided under the theft provisions and restrictions.
- 11) Losses caused by delay and or loss of use and or enjoyment of the scheduled vessel and or its equipment.

12) Your personal expenses or those of your family included but not limited to, cost of your own labour, hotel or accommodation costs, travelling expenses, repatriation or evacuation costs, car rentals and communication costs.

13) We do not provide coverage for loss resulting from cancellation of charters, non-collectability of fare or freight, bad debt, insolvency of agents or others, detention or demurrage of the Vessel.

### **Coverage for Third Party Liability**

If a sum insured is shown under the Liability section of the insuring agreement Schedule, we will provide coverage for any sum or sums which you become legally liable to pay and shall pay as a result of ownership or operation of the insured vessel.

We will settle or defend as we deem appropriate any claims or suits brought against you, using attorneys of our choice. Our obligation to settle or defend all third party liability claims under this insuring agreement ends when the amount we pay for damages, legal expenses and removal of wreck equals the sum insured under this section of the insuring agreement.

The deductibles shown in the liability section of the insuring agreement Schedule shall apply to each third party liability claim.

### **Exclusions to Third Party Liability Coverage**

Unless specifically agreed by us otherwise in writing liability cover is not provided for:

- 1) Your liability to your spouse, or other members of your family or persons who reside in your household, or their liability to you.
- 2) Liability assumed by you under any contract or agreement.
- 3) Liability which may arise while the scheduled vessel is being transported on its own trailer or otherwise, except where the vessel is being hauled out or launched by an insured person when specifically requested and agreed
- 4) Fines or penalties imposed by any Government agency.
- 5) Punitive damages.
- 6) Intentional acts.
- 7) Bodily injury or death benefits which are required to be or are covered by any State or Federal Act or Statute.
- 8) Bodily injury or death benefit to any persons employed by you, hired as crew or not.
- 9) Liability to persons being towed, or to be towed, or having been towed in or on the water or in the air, from the time they commence to leave the insured vessel until they are back safely on board.
- 10) Liability to divers operating from the insured vessel, from the time they commence to leave the scheduled vessel, until they are back safely on board.
- 11) Liability to fare paying passengers or passengers carried under charter.

12) Liability for damage to any marine estuary, artificial or natural reef, living or dead coral or other marine organisms, caused by the insured vessel or its operators or passengers.

13) Loss or damage to any other vessel caused by the insured vessel in so far as the same would have been covered under the Hull / /Equipment /Dinghy section of this insuring agreement.

14) Liabilities, medical expenses, costs, fees or any other related expense whatsoever arising out of illness or injury in any way related to or caused by exposure to the sun or the suns rays either cumulatively or suddenly.

15) Any claim arising from directly or indirectly caused by or associated with Human T-Cell Lymphotropic Virus type III (HILV II) or Lymphadenopathy Associated Virus (LAV) or the mutants derivatives or variations there from or in any way related to Acquired Immune Deficiency Syndrome or any syndrome or condition of a similar kind howsoever it may be named.

#### **Limited Pollution Coverage**

If a sum insured is shown in the "pollution" section of the insuring agreement Schedule we will extend this insuring agreement to include pollution cover provided that the pollution is caused by an occurrence neither intended or expected by you which takes place in its entirety at a specific time and place during the period of this insurance, became known to you within seventy two (72) hours of the pollution commencement and is reported to insurers in writing within seven (7) days of becoming known to you. The maximum amount recoverable for a pollution claim shall be the sum insured shown in the "pollution" section of the insuring agreement Schedule less the shown deductible; such deductible will apply to each pollution claim and shall form part of the maximum amount recoverable under the Third Party Liability sum insured.

#### **Uninsured Boaters Coverage**

If a sum insured is shown under the Uninsured Boaters section of the insuring agreement Schedule, we will provide coverage for any sums which you are legally entitled to recover from a third party vessel owner or operator, but which cannot be recovered after your diligent effort to recover from any third party vessel owner or operator, either because they have no marine liability insurance and no realisable assets, or they cannot be identified, such as a hit-and-run operator.

The deductible shown in the insuring agreement Schedule shall apply to each claim made under this section of the insuring agreement.

The sum insured in respect of this coverage is our maximum liability for all uninsured boater claims regardless of the number of people involved and the number of claims made.

#### **Exclusions to Uninsured Boaters Coverage**

We do not provide coverage for:

- 1) Claims settled without our prior written consent.
- 2) Loss due to an uninsured vessel which is a Government vessel.
- 3) Loss due to a vessel operated or owned by you.
- 4) Loss where no physical damage to your insured property exists, evidencing collision.
- 5) Loss where no written report has been made to the Police, Coast Guard or any appropriate authority, of the loss/occurrence and its circumstances, such report to be submitted to Underwriters.

### **General Conditions & Warranties**

- 1) It is warranted that the scheduled vessel is seaworthy at the inception of the insuring agreement. Violation of this warranty will void this insuring agreement from its inception.
- 2) This insuring agreement does not cover any loss or damage caused by your failure to exercise due diligence properly to manage the insured vessel or maintain it in a seaworthy condition.
- 3) This insuring agreement incorporates in full your application for insurance and it constitutes the entire contract between us. At your request, various provisions of this insuring agreement may be varied but only with our prior written agreement.
- 4) This insuring agreement does not cover any loss or damage, which occurs after its expiration. However, if you have been at sea in the scheduled vessel for at least 24 hours and this insuring agreement expires other than due to cancellation, you may renew or reinstate the insuring agreement at such time as the scheduled vessel arrives safely at its next port of call and for a further 24 hours thereafter, provided that you contact us during that 24 hours and make the necessary arrangements required by us to renew or reinstate the insuring agreement.
- 5) In the event of a claim under this insuring agreement for an actual or constructive total loss, the premium is deemed as being fully earned.
- 6) Provided that there has been no claim under this insuring agreement, this insuring agreement may be cancelled by either you or by us at any time, subject to 10 days prior written notice. If it is cancelled by us, we will pay you a pro rata return of premium. If you cancel it, we shall pay you a short rate return of premium calculated as - 50pct earned at inception and deemed to include all commission / brokerage with remainder at pro rata. Cancellations due to non-payment of the premium when due are deemed to be cancellations by you. If vessel sold, we shall pay you a short rate return of premium calculated as - 50pct earned at inception and deemed to include all commission / brokerage with remainder at pro rata
- 7) If you sell or pledge the insured vessel or otherwise transfer ownership in part or in full, this insuring agreement is immediately cancelled.
- 8) It is hereby agreed that your brokers or any substituted brokers (whether surplus lines approved or otherwise or duly licenced to act as your insurance agent, broker or intermediary or not), shall be deemed to be exclusively the agent(s) of you and not of us in any and all matters relating to, connected with or affecting this insurance. Any notice given or mailed by or on behalf of us to the said brokers in connection with or affecting this insurance, or its cancellation, shall be deemed to have been delivered to you.
- 9) We need not accept or pay for any property abandoned by you. At our option however we are entitled to the salvage value of any property or equipment where we have settled a claim in full under this insuring agreement, in respect of such property or equipment.
- 10) It is warranted that covered persons to the insured vessel must at all times comply with local and/or flag state regulations governing the use of the insured vessel(s).
- 11) If the insured vessel is fitted with fire extinguishing equipment, then it is warranted that such equipment is properly sized for the area to be protected, properly installed and properly maintained in good working order at all times. This includes the weighing of tanks once a year and recharging as necessary.
- 12) If you give up your rights or our rights to recover damages from anyone who may be liable to you, denying us the benefit of the right of recovery, payment of any admissible loss under this insuring agreement shall be reduced by the amount we have been denied.
- 13) This contract is null and void in the event of non-disclosure or misrepresentation of a fact or circumstances material to our acceptance or continuance of this insurance. No action or inaction by us shall be deemed a waiver of this provision.

14) If we take steps to protect the damaged or endangered property, this action does not constitute acceptance of abandonment of that property by us.

15) If any insured person has any other relevant insurance for a property damage loss covered by this insuring agreement, we will only pay the proportion of the claim which our sum insured bears to the total of all the sums insured covering the loss. If this insuring agreement provides liability coverage, this insurance shall be excess over all other valid and collectible liability insurances.

16) Unless it is agreed between us and you in writing, and the appropriate endorsement issued, this insuring agreement does not cover any loss or liability incurred during a race or speed trial or during preparation, setup and/or takedown for a race or speed trial.

17) Unless we agree in writing to the contrary, if we request a survey of the scheduled vessel then such survey must be received by us within 45 days of the effective date of this agreement.  
If the survey contains any recommendations with respect to the insured vessel, then it is warranted that all such recommendations are completed prior to any incident that may give rise to a claim hereunder, by skilled workmen using fit and proper materials and that you have signed a compliance form to that effect.  
Failure to comply with this warranty will void this agreement from inception

18) The insured vessel shall be valued at the agreed valuation shown in the insuring agreement Schedule or on any endorsement thereto issued by us.

19) If the hull is made in whole or in part of plywood, fibreglass, metal or other material of similar nature its repair shall be made by applying suitable patches to the damaged hull area in accordance with generally accepted good repair practice. It is a condition of this insurance, in respect of any damage occurring to the vessel or any of its parts, components or fittings which requires replacement of planking or wood, structural or non-structural, insurers have the option to elect any such damage be repaired using any suitable alternative hardwood or softwood.

20) This insuring agreement does not cover the cost or expense of painting or impregnating colour beyond the immediate damaged area or areas.

21) We have the right to settle any physical loss or damage claim under this insuring agreement, either by making payment to you of the estimated loss agreed between you and us, or by making repairs or replacements, like with like, for your lost or damaged property.

22) No suit or action on this insuring agreement for the recovery of any claim will be sustainable in any court of law or equity, unless you have fully complied with all the requirements of this insuring agreement, nor unless commenced within one (1) year from the date of the happening or the occurrence out of which the claim arose. However that where such limitation of time is prohibited by law or statute wherein this Insuring agreement is issued, then, and in that event, no suit or action under this Insuring agreement shall be sustainable unless commenced within the shortest limitations permitted under such law or statute.

23) Unless specifically agreed in writing otherwise, it is hereby noted and agreed by all parties hereto, that this insuring agreement shall be subject to the exclusive jurisdiction of the English Courts and to English Law and Practice. However if any incident or claim occurs within the jurisdiction of the United States, then and only then, if a provision is in conflict with United States law it is agreed US law would apply.

26) Neither this insuring agreement nor any document issued pursuant to this insuring agreement shall confer any benefits on any Third Parties. No Third Party may enforce any term of this insuring agreement or any provision contained in any document issued under this insuring agreement.

27) The Contracts (Rights of Third Parties) Act 1999 is hereby expressly excluded from this from this insuring agreement, including any other document issued pursuant thereto.

28) Where a lay-up period has been specified within the insuring agreement Schedule, it is warranted that the scheduled vessel will not be used, navigated or utilised, in any manner whatsoever, during the dates so specified. This includes, but is not restricted to, living on board the insured vessel.



29) No coverage is provided under this policy when the Insured vessel(s) is/are being operated by anyone other than those listed as operators including those listed on any bareboat charter agreement.

30) It is warranted any insured vessel insured as a bareboat charter vessel shall be rented to others subject to a bareboat charter agreement that shall include a "Hold Harmless" agreement in favour of Underwriters. Failure to provide such "Hold Harmless" protection to insurers shall be grounds to avoid a claim under this policy.

31) Unless specifically agreed between us and you in writing and upon payment of the additional premium and the appropriate endorsement issued, this insuring agreement does not cover any loss howsoever caused and or any liability incurred whilst the insured sailing vessel hereon is operated by one person only, i.e. "single handed".

#### **War Exclusion**

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

- i) Radioactive contamination, or nuclear reaction
- ii) War declared or not, civil war, insurrection, riot, civil commotion, unlawful assembly, rebellion, revolution or civil strife arising therefrom, or any hostile act by or against a belligerent power or the consequence of any of these
- iii) Capture, seizure, arrest, restraint or detainment by any government power or authority, lawful or otherwise, and the consequences thereof or any attempt thereat
  - a. Notwithstanding the foregoing the Insured shall notify insurers of any capture, seizure, restraint or detainment of any vessel(s) covered under this policy, within ten (10) days of the actual appropriation of said vessel(s).
  - b. The Insured shall file a written complaint opposing the appropriation and/or procedure and/or correctness of said confiscation, within ten (10) days of the actual appropriation of said vessel(s) and file with the proper authorities, at the Insured's expense, whatever bond is necessary in order to take immediate possession of the vessel(s).
- iv) derelict mines torpedoes bombs or other derelict weapons of war."

#### **Sanction Limitation and Exclusion Clause (JH2010/009 29th July 2010)**

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.

#### **Institute Radioactive Contamination, Chemical, Biological, Bio-chemical and Electromagnetic Exclusion Clause (CL370 10/11/2003)**

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

1.4 the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes

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

### **Marine Cyber Endorsement (LMA5403 11 November 2019)**

- 1 Subject only to paragraph 3 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, computer process or any other electronic system.
- 2 Subject to the conditions, limitations and exclusions of the policy to which this clause attaches, the indemnity otherwise recoverable hereunder shall not be prejudiced by the use or operation of any computer, computer system, computer software programme, computer process or any other electronic system, if such use or operation is not as a means for inflicting harm.
- 3 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, paragraph 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.

### **Communicable Disease Exclusion (JH2020-007A 20th November 2020)**

1. Notwithstanding any provision to the contrary in this (re)insurance, it is hereby agreed that this (re)insurance excludes absolutely all Communicable Disease Loss, save where the conditions of the Infected Individual Exception are met.
  - 2.1 "Communicable Disease Loss" shall mean all loss, damage, liability, or expense of whatsoever nature, proximately caused by or significantly caused by or contributed to by or resulting from or arising out of or in connection with any of the Excluded Circumstances, those Circumstances being
    - a) a Communicable Disease, and/or
    - b) the fear or threat, whether actual or perceived, of a Communicable Disease, and/or
    - c) any recommendation, decision or measure, made or taken to restrict, prevent, reduce or slow the spread of infection of a Communicable Disease or to remove or minimise legal liability in respect of such a disease, whether made or taken by a public authority or a private entity and/or
    - d) any recommendation, decision or measure made or taken to alter, reverse or remove any circumstance falling within (c) above, whether made or taken by a public authority or a private entityregardless of any other cause or circumstance contributing concurrently or in any other sequence thereto.
  - 2.2 Without prejudice to the effect of Clauses 2.1 (a), (b) and (d), recommendations, decisions and measures by whomsoever taken to tie-up, lay-up or maintain at anchor, in port or elsewhere, any vessel, conveyance, rig or platform pending resumption of cruising, operation, trading, cargo loading or discharge or other customary use shall not constitute Excluded Circumstances, notwithstanding they or any of them may have been taken for the reasons set out in 2.1 (c) above.
  - 2.3 Without prejudice to the effect of Clauses 2.1 (a), (b) and (d) for the purposes of a loss event first affecting a vessel, conveyance, rig or platform during a voyage undertaken as a consequence of a diversion, a prior recommendation, decision or measure by whomsoever taken to divert that vessel from an earlier loading or discharge or other destination shall not constitute an Excluded Circumstance solely by reason of that diversion having been made for the reasons set out in 2.1 (c) above.
  - 2.4 Without prejudice to the effect of Clauses 2.1 (a), (b) and (d), where loss, damage or liability have first been incurred in circumstances which are not excluded under 2.1 (a) to (d) above, increased expense or increased liability for expense shall not be excluded notwithstanding that increase may have been incurred for the reasons set out in 2.1(c) above.
3. "Communicable Disease" shall mean any disease, known or unknown, which can be transmitted by means of any substance or agent from one organism to another where:
  - a) the substance or agent includes but is not limited to a virus, bacterium, parasite or other organism or any variation or mutation of any of the foregoing, whether deemed living or not, and
  - b) the method of transmission, whether direct or indirect, includes but is not limited to human touch or contact, airborne transmission, bodily fluid transmission, transmission to or from or via any solid object or surface or liquid or gas and
  - c) the disease, substance or agent may, acting alone or in conjunction with other co-morbidities, conditions, genetic susceptibilities, or with the human immune system, cause death, illness or bodily harm or temporarily or permanently impair human physical or mental health or adversely affect the value of or safe use of property of any kind.
- 4.1 The Infected Individual Exception shall apply where (1) the actions or decisions of any individual infected or allegedly infected with a Communicable Disease cause or contribute to an alleged loss event and (2) neither such action nor decision nor the alleged cause of the loss event itself was a recommendation, decision or measure as defined in 2.1 (c) or 2.1 (d) above.

4.2 Where those conditions are met, the fact or possibility that the individual's action(s) or decision(s) were impaired or affected by or caused by that individual's alleged or actual infection shall not exclude recovery of a Loss otherwise recoverable hereon provided always that there shall be no cover for loss, damage, liability, or expense arising from any increase in the spread, incidence, severity or recurrence of a Communicable Disease or from any Circumstance as defined in Clause 2.1 (c) or (d) consequent on that individual's actions or decisions.

4.3 For the purposes of this Exception, the Infected Individual need not be physically present on or in an interest affected by the loss event, provided that his or her actions or decisions causing or contributing to the loss event and affecting that interest, directly or indirectly, were of a kind which, when not impaired or affected, would fall within the ordinary course of his or her employment.

5. Loss, damage, liability and expense arising solely out of a loss event otherwise reinsured under this (re)insurance and not excluded thereby nor excluded pursuant to this Clause remain covered in accordance with the terms and conditions thereof.

#### **SEXUAL AND/OR PHYSICAL ABUSE AND HARASSMENT EXCLUSION**

This insurance does not apply to any injury sustained by any person arising out of or resulting from:

A: Sexual and/or Physical Abuse or Harassment by any person whatsoever, regardless of degree of culpability or intent and whether the acts are alleged to have been committed by the insured or any representative, officer, agent, servant or employee of the insured or by any other person; or

B: Any actual or alleged negligent act or omission in the:

- 1: Employment;
- 2: Investigation;
- 3: Supervision;
- 4: Reporting to the proper authorities or failure to so report; or
- 5: Retention of a person for whom the insured is or ever was legally responsible, which

results in Sexual and/or Physical Abuse; or

C: Any actual or alleged negligent act or omission in the prevention or suppression of any act of Sexual and/or Physical Abuse or Harassment.

Sexual and/or Physical Abuse or Harassment are defined as sexual or physical injury or abuse, including but not limited to assault and battery, negligent or deliberate touching, corporal punishment and verbal, mental or emotional abuse or harassment of any person.

#### **Several Liability Notice (Insurance) LSW1001:**

The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

Pre-Dispute Arbitration Clause English Law

A. You the insured(s) by accepting this insuring agreement agree(s) that the following disclosures are part and parcel of the Pre-dispute Arbitration Clause and are conditions precedent to the issuance of the insuring agreement.

1. The parties are hereby waiving their right to seek remedies in Court, including a jury trial.
2. Pre-arbitration discovery is generally more limited than and different from Court proceedings.
3. The arbitrator's award is not required to include factual findings or legal reasoning and any party's right to appeal or to seek modification of rulings by the arbitrators is strictly limited.

4. Arbitration is final and binding on all parties.

B. You the insured(s) agrees to submit any and all controversies arising under this insuring agreement to arbitration. This includes if that person is entitled to recover at all and if so how much in damages;

1. When any party makes a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third arbitrator.
2. Each party will pay the expenses it incurs; and bear the expenses of the third arbitrator equally.
3. No person will bring a putative or certified class action to arbitration.
4. Both parties to agree as to the location of the arbitration, agreement not to be withheld unreasonably. If the parties fail to agree, then arbitration will take place in London, United Kingdom and a decision agreed to by two of the arbitrators will be binding.
5. This arbitration and any coverage or damages will be interpreted in accordance with English Maritime Law and Customs.

### **YOUR DUTIES IN THE EVENT OF A LOSS**

- 1) Immediately take all possible steps to minimise the loss and protect the insured vessel from further loss or damage. Failure to do so may invalidate your insurance coverage or reduce the amount of any claim that may be payable hereunder.
- 2) As soon as possible give us direct written notification of the loss and its circumstances.
- 3) Comply with any reasonable request made of you, by us with regard to the loss.
- 4) Advise the Police, Coast Guard, or any appropriate authority of the loss and its circumstances.
- 5) Give us an opportunity to examine the damaged property before it is repaired or discarded.
- 6) Submit a claim form and/or statement describing the loss, together with two estimates of repair cost and/or records to substantiate the amount of the loss.
- 7) Neither assume obligation, nor admit liability without our express written permission to do so.
- 8) Immediately forward to us any legal papers or notices received in connection with the loss.
- 9) Co-operate with us in the investigation, defence or settlement of any loss and agree to be examined under oath if we so request
- 10) Allow examination by physicians of our choice.
- 11) Assist us in obtaining copies of medical records and reports.
- 12) Give us a notarised statement or statutory declaration if we so request.
- 13) Give us a proof of loss and discharge of liability once the amount of the claim under this insuring agreement has been agreed with you.
- 14) Preserve your right of recovery from others. When we pay a loss, your right to recover becomes ours up to the amount of our payment together with any legal fees and expenses. You must also co-operate with us to recover the losses we may pay. Any amounts recovered from others belong to us up to the amount of our payment together with any legal fees and expenses.