

TRANSMARINE

1st October, 1998 Terms and Conditions

Class I, II, III and IV

Underwriting Agents:

Michael Else and Company Limited
65 Leadenhall Street, London, EC3A 2AD
Telephone: + 44 (0) 20 7702 3928
Fax: + 44 (0) 20 7702 3993
E-mail: transmarine@else.co.uk
Telex: 8812501

Chairman: Michael Else
Managing Director: Christopher Else
Claims Director: Richard Bokszczanin
Finance Director: Christopher Brown
General Manager: Ben Sharp
Secretariat: Jackie Gibson

CONTENTS

CLASS I - STRIKE INSURANCE

Clause	Name	Page
1	Strike Insurance	5
1.1	Risks Insured	5
1.2	Amount of Compensation	5
1.3	Exclusions and Qualifications	5
2	General Exclusions	6
3	Claims	7
4	Deductible	8
5	Automatic Termination of Insurance	8
6	Termination of Insurance by Notice	9
7	Liabilities of an Assured following Termination	10
8	Assignment	10
9	Subrogation	10
10	Set-off	11
11	Return of Premium	11
12	Law	11
13	Arbitration	12
14	Correspondence	12
15	Notices	12
15.1	Notices to Underwriters	12
15.2	Notices to the Assured	12
16	Definitions	12

CLASS II - TRADE DISRUPTION INSURANCE

Clause	Name	Page
1	Trade Disruption Insurance	15
1.1	Risks Insured	15
1.2	Amount of Compensation	18
1.3	Qualifications	18
2	Electronic Date Recognition	19
3	General Exclusions	20

4	Claims	22
5	Classification and Statutory	23
6	Deductible	24
7	Deferred repairs of the Insured Vessel	24
8	Automatic Termination of Insurance	24
9	Termination of Insurance by Notice	25
10	Liabilities of an Assured following Termination	26
11	Assignment	26
12	Subrogation	26
13	Set-off	26
14	Law	27
15	Arbitration	27
16	Correspondence	27
17	Notices	27
17.1	Notices to Underwriters	27
17.2	Notices to the Assured	27
18	Definitions	28

**CLASS III - TRADE DISRUPTION INSURANCE
FOR THE CRUISE AND PASSENGER VESSEL INDUSTRY**

Clause	Name	Page
1	Trade Disruption Insurance	29
1.1	Risks Insured	29
1.2	Amount of Compensation	32
1.3	Qualifications	32
2	Electronic Date Recognition	33
3	General Exclusions	34
4	Claims	36
5	Classification and Statutory	37
6	Deductible	38
7	Deferred repairs of the Insured Vessel	38
8	Automatic Termination of Insurance	38
9	Termination of Insurance by Notice	40
10	Liabilities of an Assured following Termination	40
11	Assignment	40

12	Subrogation	40
13	Set-off	41
14	Law	41
15	Arbitration	41
16	Correspondence	41
17	Notices	42
17.1	Notices to Underwriters	42
17.2	Notices to the Assured	42
18	Definitions	42

CLASS IV - CARGO CONSEQUENTIAL LOSS INSURANCE

Clause	Name	Page
1	Cargo Consequential Loss Insurance	44
1.1	Risks Insured	44
1.2	Amount of Compensation	46
1.3	Qualifications	46
2	Electronic Date Recognition	47
3	General Exclusions	48
4	Claims	50
5	Classification and Statutory	51
6	Deductible	52
7	Automatic Termination of Insurance	52
8	Termination of Insurance by Notice	54
9	Liabilities of an Assured following Termination	54
10	Assignment	54
11	Subrogation	54
12	Set-off	55
13	Law	55
14	Arbitration	55
15	Correspondence	55
16	Notices	56
16.1	Notices to Underwriters	56
16.2	Notices to the Assured	56
17	Definitions	56

CLASS I - STRIKE INSURANCE

1. STRIKE INSURANCE

1.1 RISKS INSURED

An Assured shall be entitled to compensation for any Applicable Delay or Delays suffered by an Insured Vessel whilst at or off any port which occurs during the Policy Year and as a result of one or more of the following risks, subject to these Terms and Conditions and the terms stated in the Certificate of Insurance.

- (a) Strike or Lockout (other than a Crew Strike);
- (b) Crew Strike.

1.2 AMOUNT OF COMPENSATION

- (a) The amount recoverable in respect of any delay shall be limited (subject to any agreed deductible) to the amount of the Daily Insured Sum for each day (and pro rata for any part of a day) upon which delay occurred and for which a claim is allowable under these Terms and conditions.
- (b) If no deductible has been agreed, a claim will be allowed if, and only if, the occurrence caused delay for a continuous period of more than twenty-four hours' duration.
- (c) The amount recoverable in respect of any Applicable Delay or Delays which have arisen out of any one occurrence shall be limited to a sum equivalent to sixty times the Daily Insured Sum applicable to that Insured Vessel or to such lesser claim limits as may have been agreed and recorded in the Certificate of Insurance. For the purposes of this provision, Applicable Delay or Delays caused by one or more Strikes or Lockouts in relation to any call or calls at any port/place or ports/places arising out of any one occurrence shall be subject to the limit specified above whether or not such Applicable Delay or Delays is/are continuous.

1.3 EXCLUSIONS AND QUALIFICATIONS

An Assured shall not be entitled to compensation under this Class:

- (a) in respect of 1.1(a) above unless the Insured Vessel could not reasonably have been diverted to any other port or place where she would not have been subjected to delay, and
 - (1) the Insured Vessel was at or off the port or place affected by the Strike or Lockout during some part of the time while the strike or lockout was actually continuing (whether or not the Vessel was thereby delayed); or
 - (2) the Insured Vessel reached the relevant port or place within ten days after the termination of the Strike or Lockout affecting such port or place; or
 - (3) in the case of a Strike or Lockout simultaneously affecting a range of ports, the Insured Vessel proceeded to the relevant port or place (being one within the affected range to which she was scheduled to proceed) after having already suffered delay, whilst engaged on the same voyage, at some other port or place within the affected range.
- (b) in respect of 1.1(b) above unless

- (1) he has an Owner's Cover, or
 - (2) the Underwriters have otherwise agreed in writing,
- (c) in the case of an Owner's or Time Charterer's Cover if either
- (1) the Insured Vessel was at the relevant time employed under charter or sub-charter (whether by demise, time or voyage) to a third party and if the Assured was entitled to be paid charter hire or demurrage during the period of delay; or
 - (2) the claim relates to delay occurring during a period in relation to which partial relief from premium has been claimed pursuant to clause 11 and the loss suffered by the Assured derives from the presence in the charter of any special provision (including any amendment made to the printed form of off-hire clause in the charter), the effect of which is to exclude the Assured's right to hire in circumstances in which hire would have continued to be payable under the usual form of off-hire clause, which shall mean the unamended, printed form of off-hire clause in the relevant charter or, if the charter does not contain a printed form of off-hire clause, the off-hire clause in the current New York Produce Exchange form of charter; or
 - (3) the Insured Vessel was at the relevant time unemployed, or laid up, unless, and subject to being agreed in writing by the Underwriters, the Insured Vessel was being repaired or overhauled during the relevant time.
- (d) in the case of a Time Charterer's cover, in respect of any period for which charter hire ceased to be payable by the Assured.

2. GENERAL EXCLUSIONS

2.1 In no case shall this insurance cover loss arising out of or consequent upon:

- (a) the trade, voyage or operation upon which the Insured Vessel was engaged being unduly hazardous or otherwise imprudent;
- (b) the Assured and/or his agents failing to take such steps, including but not limited to the making of and acting upon all reasonable inquiries, as could reasonably be expected to be taken by a competent and prudent uninsured operator in the same or similar circumstances; and/or
- (c) the Assured failing in any material respect to comply with his obligations under this insurance.

2.2 An Assured shall not be entitled to compensation under this Class:

- (a) if the circumstances giving rise to the delay existed at the time the Insurance Cover attached;
- (b) if the Insured Vessel was carrying contraband or was involved in blockade-running;
- (c) if the Insured Vessel was employed in any unlawful trade or used in any unlawful manner;
- (d) for any amount in excess of the loss actually suffered by the Assured due to delay during the period in respect of which the claim is made.

2.3 In no case shall this insurance cover loss or expense directly or indirectly caused or contributed to by:

- (a) war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power;

- (b) capture, seizure, arrest, restraint or detainment of the Insured Vessel, and the consequences thereof or any attempt thereat;
- (c) derelict mines, torpedoes, bombs or other derelict weapons of war;
- (d) any terrorist or any person acting maliciously or from a political motive including but not limited to environmental activists;
- (e) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
- (f) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof or any material therefrom;
- (g) any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter including the use of chemical and/or biological weapons.

3. **CLAIMS**

- (a) Any occurrence or circumstance which is likely to give rise to a claim shall be immediately notified in writing to the Underwriters.
- (b) Every claim shall be submitted to the Underwriters, on the claim form in current use, within six months from the date on which the relevant delay begins.
- (c) The claim form shall be duly signed by, or on behalf of, the Assured and shall be accompanied by all relevant documents available to the Assured.
- (d) The Assured shall supply such further documents, information or evidence (including evidence on oath) as the Underwriters may require.
- (e) If an Assured makes any claim which he knew or should have known was false or fraudulent as regards amount or in any other way whatsoever his insurance for all Insured Vessels shall become void from inception and all claims shall be forfeited absolutely.
- (f) Acceptance of liability by Underwriters in respect of a claim shall be notified to the Assured by formal letter from Underwriters, and no admission of liability on behalf of Underwriters shall be constituted by, or inferred from, anything done or omitted to be done prior to the dispatch of such formal notification by letter.
- (g) If at the time of any loss there shall be any other subsisting insurance covering such loss, or any part thereof, the Underwriters shall not be liable to pay more than their rateable proportion of the loss.
- (h) In the event of termination of the insurance, claims shall be allowable only in respect of delay suffered prior to the date of termination.
- (i) In no circumstances shall an Assured be entitled to interest on his claim whether before or after any judgement and/or arbitration award is made.
- (j) The Underwriters shall have an absolute discretion to disallow any claim or to reduce the amount paid in respect thereof if any of the provisions of clause 3 (a-e) are not in the Underwriter's opinion observed.

- (k) The Underwriters shall have an absolute discretion to disallow any claim or reduce the amount paid in respect thereof of any claim where an Assured fails to notify the Underwriters of any change in the particulars or information supplied by an Assured in the proposal form.
- (l) The Underwriters shall be entitled in the exercise of their absolute discretion:
 - (1) to authorise reimbursement of an Assured in respect of expenses reasonably incurred by him in order to prevent loss which would otherwise have resulted in a claim on the Underwriters;
 - (2) to allow in whole or in part any claim which they consider to be within the spirit of these terms and conditions.

4. DEDUCTIBLE

No claim arising from a peril insured against shall be payable under this insurance unless the aggregate of all days the vessel is delayed shall for each separate occurrence exceed the number of days specified as the deductible in the Certificate of Insurance in which case this number of days shall be subtracted from such aggregate before any payment is made.

5. AUTOMATIC TERMINATION OF INSURANCE

5.1 An Assured shall cease to be insured and the Period of Cover shall be terminated forthwith in respect of all vessels insured by him with the Underwriters upon the happening of any of the following events or circumstances:

- (a) where an Assured is an individual, upon his death or if a receiving order shall be made against him or if he shall become bankrupt or make any composition or arrangement with his creditors generally or if he shall become incapable by reason of mental disorder of managing and administering his property and affairs or if under any system of law other than English Law there occurs an event in relation to that individual which has a similar effect to any of the aforesaid events or circumstances;
- (b) where an Assured is a corporation, upon the passing of any resolution for voluntary winding up (other than voluntary winding up for the purpose of company or group reorganisation) or upon an order being made for compulsory winding up or upon dissolution or upon a receiver or manager of all or part of the corporation's business or undertaking being appointed or upon possession being taken by or on behalf of the holders of any debentures secured by floating charge of any property comprised in or subject to the charge or if under any system of law other than English Law there occurs an event in relation to that corporation which has a similar effect to any of the aforesaid events or circumstances;
- (c) if having failed to pay when due and demanded by the Underwriters, any sum which the Underwriters consider to be due from him to the Underwriters, he is served with a notice by or on behalf of the Underwriters requiring him to pay such sum on or before any date which may be specified in such notice and he fails to pay such sum in full on or before the date so specified.

- 5.2
- (a) When the insurance of an Insured Vessel or vessels terminates under clause 5.1(a) and (b) hereof then the Underwriters shall remain liable in respect of any Insured Vessels insured by such Assured for all claims under these Terms and Conditions arising by reason of any event which had occurred prior to the time of termination but shall be under no liability whatsoever by reason of anything occurring after the time of termination;
 - (b) When an Assured ceases to be insured by virtue of clause 5.1(c) hereof then the Underwriters shall thereupon cease to be liable for all and any claims under the Terms and Conditions in respect of all and any Insured Vessels insured with the Underwriters, irrespective of whether:

- (1) such claims have accrued or arisen or may arise by reason of any event which had occurred before the date of termination or before the commencement of the policy year in which the date of termination occurred; and/or
- (2) such claims may arise by reason of any event occurring after the date of termination; and/or
- (3) the Underwriters may have decided to support the Assured or admitted liability for such claims or appointed lawyers, surveyors or any other person to deal with such claims; and/or
- (4) at the date of termination the claims were likely to accrue or the event giving rise thereto was or was not known to the Underwriters;

but as from the date of termination any liability for such claims shall retrospectively terminate and the Underwriters shall be under no liability to such Assured for the said or any other claims or on any account whatsoever;

PROVIDED ALWAYS that:-

The Underwriters may, in their absolute discretion and upon such terms as to the payment of any contribution or otherwise as they think fit, admit either wholly or partly any claim in respect of any Insured Vessel for which the Underwriters are under no liability under either paragraph (a) or paragraph (b) of this clause, whether arising before or after any date of termination as hereinbefore referred to.

6. TERMINATION OF INSURANCE BY NOTICE

- (a) The insurance of any Assured shall terminate upon the expiry of 45 days (or such longer period as may be specified in the notice) from the date of one party giving to the other a notice of termination in writing, which notice either party shall be entitled to give in its absolute discretion and without giving any reason, but subject always to the period of insurance specified in the Certificate of Insurance.
- (b) On the occurrence of any of the following events cover shall be deemed to have terminated at the times respectively stated if, but only if, the Underwriters are notified in writing of the relevant event within one month of its occurrence:
 - (1) in the case of an Owner's Insured Vessel, at Midnight at the end of the day on which the Assured was divested of his ownership or share in the vessel upon transfer thereof by Bill of Sale or other instrument, or was divested of control and possession of the vessel upon her delivery to a third party for employment on demise or bareboat charter;
 - (2) where the Insured Vessel is demise or bareboat chartered or time chartered to the Assured, at Midnight on the day on which the charter party was terminated by redelivery or otherwise;
 - (3) where the Insured Vessel is voyage chartered to the Assured, at Midnight on the day on which the charterparty was terminated by completion of the voyage or otherwise;
 - (4) irrespective of the nature of the interest insured:
 - (i) At Midnight on the day on which the Insured Vessel became an actual total loss;
 - (ii) At Midnight on the day on which notice of abandonment was given to hull underwriters on the grounds that the Insured Vessel was a constructive total loss;

- (iii) At Midnight on the tenth day following the day on which the Insured Vessel was last heard of or on which she was posted missing at Lloyd's;
- (iv) At Midnight at the end of the day on which the Insured Vessel was requisitioned for title or use.

7. LIABILITIES OF AN ASSURED FOLLOWING TERMINATION

Following the termination of an Assured's cover pursuant to any of the provisions of these Terms and Conditions the Assured shall remain liable to Underwriters in respect of all sums which the Underwriters consider due or which become due including, but not limited to premiums then accrued or thereafter accruing due for the period prior to such termination, the premiums being calculated on a pro-rata basis if cover is terminated during the course of a Period of Cover by the Underwriters.

8. ASSIGNMENT

- (a) No insurance given by the Underwriters and no interest under these Terms and Conditions or under any contract between the Underwriters and any Assured may be assigned without the written consent of the Underwriters who shall have the right in their absolute discretion to give or refuse such consent without stating any reason or give such consent upon any such terms or conditions as they may think fit. Any purported assignment made without such consent or without there being due compliance with any such terms and conditions as the Underwriters may impose shall, unless the Underwriters in their absolute discretion otherwise determine, be void and of no effect.
- (b) Whether or not the Underwriters shall expressly so stipulate as a condition for giving their consent to any assignment, the Underwriters shall be entitled in setting any claim presented by the assignee to deduct or retain such amount as the Underwriters may then estimate to be sufficient to discharge any liabilities of the assignor to the Underwriters, whether existing at the time of the assignment or having accrued or being likely to accrue thereafter.

9. SUBROGATION

- (a) When a claim has been paid under these Terms and Conditions the Underwriters shall be subrogated to all rights and remedies in respect of that claim which the Assured may have against any third party.
- (b) The Underwriters shall be entitled to use the name of the Assured in bringing, defending, enforcing or settling any legal proceedings (including proceedings in any arbitration) and the Assured shall give all necessary information and assistance and produce and forward all documents to enable the Underwriters to substantiate, pursue, settle or resist any claim or any legal proceedings (including proceedings in any arbitration).
- (c) The Underwriters shall, where they use the name of the Assured indemnify him against all costs, charges, expenses and liabilities arising therefrom.

10. SET-OFF

- (a) The Assured shall have no right of set-off against the Underwriters. In determining for any purpose the amount due at any time from an Assured to the Underwriters no account shall be taken of any amount which either is, or is alleged to be, due from the Underwriters to an Assured, and in any proceedings brought by the Underwriters to recover outstanding premiums, no set-off of any kind (including one which might otherwise have arisen by reason of the bankruptcy or winding up of an Assured) shall be allowed against the amount due by an Assured to the Underwriters. The Underwriters may (in their absolute discretion), when making a demand for payment of outstanding premiums, make allowance for any amount due from the

Underwriters to an Assured, but no set-off permitted at any time in the past shall constitute a waiver by the Underwriters of the provisions of this clause.

- (b) The Underwriters shall have a general right of set-off against an Assured.

11. RETURN OF PREMIUM

- (a) In the case of an Owner's cover the Assured shall be entitled to claim relief from premiums in an amount equivalent to 95 per cent per annum of such portion of the premiums paid or payable in respect of the insurance as is attributable to any period during which the Insured Vessel is unemployed and laid up (otherwise than for repair or overhaul), provided that the Vessel is so laid up for a period of fifteen or more consecutive days.
- (b) In the case of an Owner's or Time Charterer's cover the Assured shall be entitled to claim relief from premiums in an amount equivalent to 95 per cent per annum of such portion of the premiums paid or payable in respect of the insurance as is attributable to any period during which the Insured Vessel is employed under time charter to a third party. An Assured shall not be entitled to claim relief from premiums for that portion of the premiums paid or payable in respect of the cover which relates to Crew Strikes and has been recorded as such in the Certificate of Insurance.
- (c) Relief from premiums under sub-paragraphs (a) or (b) above may only be claimed if within seven days of the Insured Vessel being so laid up or so employed the Underwriters are notified in writing of that circumstance and that relief from premiums will be claimed.
- (d) In relation to any Insured Vessel in respect of which the Underwriters have been so notified they shall be likewise notified when the period of such lay up or employment ends, and the claim to relief from premiums shall be submitted in writing to the Underwriters within six months of the Vessel ceasing to be so laid up or employed. A provisional adjustment will then be effected when the next premium is charged and any further adjustment (if required) will be effected as soon as practicable thereafter.
- (e) If an Assured fails to submit his claim for relief within the time prescribed above the Underwriters shall be entitled in their absolute discretion to disallow the claim in whole or in part.

12. LAW

- 12.1 The construction of these Terms and Conditions and the respective rights and obligations of the Underwriters and the Assured hereunder shall be governed by and construed in accordance with English Law.
- 12.2 The particulars and information given in the proposal form together with any supplementary information supplied on request shall be deemed to form part of the Contract of Insurance and the accuracy of all such particulars and information shall form the basis of the Contract of Insurance.

13. ARBITRATION

- (a) Any dispute or difference between an Assured and the Underwriters shall, unless the Underwriters decide in their absolute discretion that any such dispute or difference shall be decided by the English High Court of Justice, be referred to arbitration in London by an arbitrator to be appointed by agreement between the parties concerned.
- (b) In the absence of agreement within 14 (fourteen) days of a request by either party to agree to an arbitrator, an arbitrator who is a Member of the Institute of Arbitrators shall be appointed by the President for the time being of the Law Society of England and Wales at the request of either party.

- (c) The submission to arbitration and all proceedings therein shall be subject to the provisions of the Arbitration Acts 1950 to 1996 or any statutory re-enactment or modification thereof.
- (d) The arbitrator shall have power to admit any evidence whether legally admissible or not.
- (e) Subject to the foregoing provisions of this clause, the obtaining of an arbitration award as hereinbefore provided shall be a condition precedent to the right of any Assured to bring or maintain any action, suit or other legal proceedings against the Underwriters.

14. CORRESPONDENCE

Michael Else and Company Limited of 65 Leadenhall Street, London EC3A 2AD are hereby recognised as the Underwriting agents of the Underwriters in all matters connected with the insurance provided by this Policy and all communications relating thereto should be addressed to Michael Else and Company Limited.

15. NOTICES

15.1 Notices to Underwriters

All notices required to be given by the Assured under these Terms and Conditions shall be addressed to Michael Else and Company Limited in writing at the address specified in clause 14, or as subsequently advised.

15.2 Notices to the Assured

Any notice required to be given to an Assured in accordance with these Terms and Conditions may be sent by post to his address as furnished by him in writing to Michael Else and Company Limited, or, if such address is outside the United Kingdom, by telegram, cable, telex or fax, and, if no such address has been furnished, at the same address which is his last known address to the knowledge of Michael Else and Company Limited, and such notice shall be deemed to have been duly served on the day after the same is put into the post, or in the case of telegrams or cables when handed in to the telegram or cable office, and in the case of telex or fax on the day of transmission.

16. DEFINITIONS

In these Terms and Conditions the following expressions shall, unless the context or subject matter otherwise requires, have the following meanings:

Applicable Delay	Any delay covered by the Underwriters under these Terms and Conditions.
Certificate of Insurance	Any document issued by the Underwriters evidencing the terms and conditions of insurance with the Underwriters, including any Endorsement evidencing any change in or addition to such terms and conditions.
Crew Strike	A Strike by any of the seafarers for the time being employed for service on an Insured Vessel.
Daily Insured Sum	The daily amount insured by the Underwriters in respect of an Insured Vessel as agreed between the Assured and the Underwriters.
	Note: <i>The Daily Insured Sum is the sum with reference to which claims will be calculated and premiums will be payable, and will normally be agreed as follows:-</i>

- (1) *in the case of an Owner's Cover, by reference to the estimated daily running costs of the Insured Vessel whilst in port;*
- (2) *in the case of a Time Charterer's Cover, by reference to the charterer's estimated daily costs under the charter whilst the Insured Vessel is in port;*
- (3) *in the case of a Voyage Charterer's Cover by reference to the daily demurrage liability for the Insured Vessel under the charter.*

Day	A period of twenty-four hours from midnight to midnight Greenwich Mean Time.
Insured Vessel	A vessel insured under there Terms and Conditions and identified as such in the Certificate of Insurance.
Lockout	Any form of industrial action taken by employers involving deliberate exclusion of workers from their place of employment or the termination or suspension of their employment, but excluding any action taken by the Assured on whose behalf the insurance was effected.
Midnight	Midnight Greenwich Mean Time.
Month	Calendar month.
Owner's Cover	Insurance cover taken out by or on behalf of a person who is the owner or bareboat charterer of the vessel or any share therein or by or on behalf of any person having an analogous interest in the operation and employment of the vessel.
Period of Cover	The period for which an Assured or Insured Vessel is insured as set out in the Certificate of Insurance or any subsequent endorsements.
Policy Year	As stated in the Certificate of Insurance.
Strike	Any form of industrial action taken by workers which is carried on with the intention of preventing, restricting or otherwise interfering with the production of goods or the provision of services.
Terms and Conditions	The Terms and Conditions for the time being in force.
Time Charterer's Cover	Insurance cover taken by or on behalf of a person who is the time charterer of the vessel.
Underwriters	Lloyd's Underwriters.
Vessel	Any description of vessel or craft used in navigation, trade or commerce, of any nationality, including vessels or craft under construction and hovercraft.
Voyage Charterer's Cover	Insurance cover taken by or on behalf of a person who is the voyage or sub-voyage charterer of the vessel.

Words importing the masculine gender shall include the feminine gender.

Words importing persons shall include individuals, partnerships, corporations and associations.

Words importing the singular shall include the plural and vice versa.

CLASS II- TRADE DISRUPTION INSURANCE

1. TRADE DISRUPTION INSURANCE

1.1 RISKS INSURED

An Assured shall be entitled to compensation for one or more of the following disruptions to trade, subject to the terms specified in his Certificate of Insurance:

- (a)
 - (1) delayed arrival or non-arrival of the Insured Vessel or Transshipment Vessel at a port or place of loading, transshipment or discharge (for the purpose of this sub-clause, "delayed" means occurring later than would otherwise have been the case, based on the reasonably calculated estimated time of arrival of the Insured Vessel or Transshipment Vessel at the relevant port or place);
 - (2) delayed loading, transshipment or discharge of cargo on or from the Insured Vessel or Transshipment Vessel (for the purpose of this sub-clause, "delayed" means occurring later than would otherwise have been the case, based on the reasonably calculated estimated time of loading, transshipment or discharge of the Insured Vessel or Transshipment Vessel at the relevant port or place);
 - (3) inability to load, tranship or discharge cargo on or from the Insured Vessel or Transshipment Vessel;
 - (4) delayed delivery of cargo from the port of discharge to final inland destination (for the purpose of this sub-clause, "delayed" means occurring later than would otherwise have been the case, based on the reasonably calculated estimated time of delivery of the cargo to its final destination);
 - (5) inability to deliver cargo from the port of discharge to final inland destination;

provided that:

- (b) the disruption to trade is caused by one or more of the following insured perils:
 - (1) fire or explosion on land;
 - (2) storm, hurricane, tempest, flood, snow, ice, fog, lightning or any other extraordinary weather;
 - (3) earthquake, heave, landslip, subsidence or volcanic eruption;
 - (4) contact with aircraft, helicopters or similar objects, or objects falling therefrom;
 - (5) overturning, capsizing, sinking, or collision of, or contact with any external object by, any conveyance carrying cargo prior to loading on or after discharge from the Insured Vessel or Transshipment Vessel;
 - (6) emergency total or partial closure of any port, road, airport or navigable waterway by or under the lawful order of any authority having jurisdiction to make such an order;
 - (7) those perils covered by the Institute Time Clause Hulls 1/11/95, set out below, and the Institute War and Strikes Clause Hulls-Time 1/11/95, as set out in the amended form below, (standard London Market War Risk Trading Warranties, in force at the time, to be included), or other International Marine Hull and War and Strikes clauses that may be

agreed by Underwriters, (provided that an appropriate endorsement is made on the Certificate of Insurance), insofar as they are suffered by the Insured Vessel:

(i) Perils covered by the Institute Time Clause Hulls 1/11/95 as amended hereon:

This insurance covers the delays and inabilities referred to in clause 1.1(a)(1)-(5) caused by:

- (1.1) perils of the seas, rivers, lakes or other navigable waters;
- (1.2) fire, explosion;
- (1.3) violent theft by persons from outside the Insured Vessel;
- (1.4) jettison;
- (1.5) piracy;
- (1.6) contact with land conveyance, dock or harbour equipment or installation;
- (1.7) earthquake, volcanic eruption or lightning;
- (1.8) accidents in loading, discharging or shifting of cargo or fuel.

This insurance covers the delays and inabilities referred to in clause 1.1(a)(1)-(5) caused by:

- (2.1) bursting of boilers, breakage of shafts or any latent defect in the machinery or hull (subject, if applicable, to the exclusion contained in clause 2 "Electronic Date Recognition");
- (2.2) negligence of Master, Officers, Crew or Pilots;
- (2.3) negligence of repairers or charterers, provided such repairers or charterers are not an Assured hereunder;
- (2.4) barratry of Master, Officers, Crew or Pilots;
- (2.5) contact with aircraft, helicopters or similar objects, or objects falling therefrom;
- (2.6) breakdown of machinery, including electrical machinery, provided such breakdown has not resulted from wear and tear.

Provided that such loss or damage has not resulted from want of due diligence by the Assured, Owners, Charterers, Managers or Superintendents or any of their onshore management.

Masters, Officers, Crew or Pilots not to be considered Owners within the meaning of this clause should they hold shares in the Insured Vessel.

(ii) Institute War and Strikes Clause Hulls-Time 1/11/95:

This insurance covers the delays and inabilities referred to in clause 1.1(a)(1)-(5) caused by:

- (a) war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power;
- (b) capture, seizure, arrest, restraint or detainment, and the consequences thereof or any attempt thereat;
- (c) derelict mines torpedoes bombs or other derelict weapons of war;
- (d) strikers, locked-out workman, or persons (in each case, other than servants or agents of the Assured) taking part in labour disturbances, riots or civil commotions;
- (e) any terrorist or any person acting maliciously or from a political motive;
- (f) confiscation or expropriation;

- (8) any abnormal physical obstruction of a berth at the port of loading, transhipment, discharge or of the approaches thereof which prevents the use of the berth by the Insured Vessel or the Transhipment Vessel, provided that this peril shall not include:

- (i) inaccessibility of a berth due to port congestion or routine operations of maintenance or dredging;
 - (ii) any obstruction which could reasonably have been foreseen by the Assured at the time of entering into the contract of affreightment;
 - (iii) use or occupation of the berth by another vessel provided that if the other vessel is incapable of vacating the berth solely as a result of physical damage or otherwise such circumstances will be regarded as an insured peril;
- (9) any reasonable refusal by the Master of the Insured Vessel or Transshipment Vessel to proceed through any areas through which she must pass in order to reach the port or place of loading, transshipment or discharge on the grounds that such area, port or place is dangerous;
- (10) any hostile act affecting the Insured Vessel including piracy, capture, seizure, restraint or detainment and the consequences thereof or any attempt thereat, or acts of terrorists or persons acting maliciously or from a political motive;
- (11) closure of borders (whether national or regional) for political purposes which restricts or prohibits the Insured Vessel or Transshipment Vessel or cargo which is the subject of a contract of affreightment with the Assured from entry into or exit from any country specified in the Certificate of Insurance or its territorial waters;
- (12) physical loss or damage directly caused by:
- (i) strikers, locked-out workmen or persons taking part in labour disturbances or riots or civil commotions; or
 - (ii) vandalism, sabotage or malicious acts, including acts of persons, whether or not agents of a sovereign state, carried out for political, terroristic or ideological purposes and whether any loss resulting therefrom is accidental or intentional; or
 - (iii) covert acts committed by an agent of any government or political party or faction engaged in hostilities or warlike operations;
- (13) expropriation, confiscation, seizure, requisition for title or use, or wilful destruction of the Insured Vessel, Transshipment Vessel or cargo by or under the order of the government of any country other than the flag state (whether civil, military or de facto) or any public or local authority in any such country;
- (14) the imposition, or official and public announcement, of import or export controls by the authorities of any country in which cargo is to be loaded on or discharged from the Insured Vessel or Transshipment Vessel;
- (15) arrest, restraint or detainment of the Insured Vessel or Transshipment Vessel under quarantine regulations;
- (16) infectious diseases or poisoning on board the Insured Vessel or Transshipment Vessel;
- (17) illness, death or injury to persons on board the Insured Vessel or Transshipment Vessel;
- (18) the discovery of stowaways on board the Insured Vessel or Transshipment Vessel or rescuing of refugees or life saving, salvage or other assistance given by the Insured Vessel or Transshipment Vessel;
- (19) detention of the Insured Vessel following actual or alleged pollution emanating from the Insured Vessel.

1.2 AMOUNT OF COMPENSATION

- (a) Subject to these Terms and Conditions and subject also to any terms set out in the Certificate of Insurance, the Assured may recover one or more of the following amounts in respect of any Insured Disruption to Trade which begins within the Period of Cover:
- (1) the net loss of earnings suffered by the Assured;
 - (2) additional costs and expenses in respect of storage, warehousing, handling, freight, labour, deadfreight, demurrage, detention, insurance, chartering or (subject to the Underwriters' prior approval) legal services, or other expenses of a similar nature, which are reasonably and necessarily incurred for the purpose of enabling the Insured Vessel, Transshipment Vessel or their cargoes to proceed to their intended destination or of avoiding or reducing loss by procuring one or more alternative vessels or alternative cargoes;
 - (3) contractual liability under an express term or terms for any Insured Disruption to Trade to the extent that such liability would not otherwise have arisen but for such term and could not be avoided or reduced by reasonable action on the part of the Assured, provided that such term or terms have been approved by the Underwriters in writing and specified as such in the Certificate of Insurance and cover for liability has been agreed between the Assured and the Underwriters on such terms as the Underwriters shall require.
- (b) All losses, additional costs and expenses and liability recovered under 1.2(a) above must be incurred by the Assured and will be indemnified on a proven loss basis only.
- (c) The daily amount recoverable under clause 1.2(a) shall be subject to the following limits:
- (1) the daily amount of any recovery in respect of net loss of earnings under clause 1.2(a)(1) shall be limited to the amount of the daily insured sum for each day (and pro rata for any part of a day) as stated in the Certificate of Insurance over the period of the Insured Disruption;
 - (2) unless otherwise specified in the Certificate of Insurance the combined daily amount of any recovery for net loss of earnings under clause 1.2(a)(1) and additional costs and expenses under clause 1.2(a)(2) shall be limited to one and a half times the daily insured sum;
 - (3) unless otherwise specified in the Certificate of Insurance compensation under clause 1.2(a) is limited to 180 days (after application of the excess period) after the relevant Insured Disruption begins or the Assured becomes aware of the Insured Disruption.

1.3 QUALIFICATIONS

The Assured shall not be entitled to any compensation from the Underwriters whatsoever, **unless:**

- (a) the relevant insured peril or perils occurred during the Period of Cover; and
- (b) save as set out in clause 1.1(b)(7) the relevant insured peril or perils occurred in circumstances outside the control of the Assured, his agents and/or his servants; and
- (c) the relevant insured peril or perils prevented or hindered:
 - (1) the transport of cargo to or from the Insured Vessel or the Transshipment Vessel by the route which the Assured or the Assured's customer has reasonably arranged or was

reasonably intending to use, or in the absence of any specific arrangement or intention, the customary or reasonable route; or

- (2) the passage of the Insured Vessel or of the Transshipment Vessel to a port of loading, transshipment or discharge by the route which the Assured (or operator of the Transshipment Vessel concerned) has arranged or was intending to use or, in the absence of any specific arrangement or intention, the customary or reasonable route; and

2. ELECTRONIC DATE RECOGNITION

The provisions of this clause shall prevail notwithstanding any provision whether written typed or printed in these Terms and Conditions inconsistent therewith.

- (a) This insurance does not cover any loss, damage, liability or expense directly or indirectly caused by or in any way in consequence of:
 - (1) the failure or anticipated failure or inability of any computer system, software, hardware, integrated circuit, microchip, operating system and/or any other electronic device or component, whether or not belonging to or in possession of the Assured or of any third party, correctly, unambiguously or completely to assign, exchange, interpret, manipulate, process, recognise, sequence or transfer any time, year, date or date-like code, data or information;
 - (2) any implemented or attempted change or modification or test of any computer system, software, hardware, integrated circuit, microchip, operating system and/or any other electronic device or component, whether or not belonging to or in possession of the Assured or of any third party, in anticipation of or in response to any change of year, date or time, or any advice given or services performed in connection with any such change or modification;
 - (3) any non-use or unavailability for use of any property or equipment of any kind whatsoever resulting from any act, failure to act or decision of the Assured or of any third party related to (1) and/or (2) above.
- (b) Subject to the Assured receiving written confirmation from the Underwriters, paragraph (a) of this clause shall not apply to exclude a claim which the Assured can demonstrate:
 - (1) would be recoverable under this insurance in the absence of the exclusion in paragraph (a),
and
 - (2) has not resulted from want of due diligence by the Assured, Owners, Managers or Superintendents or any of their onshore management in respect of any of the matters referred to in paragraph (a) of this clause,
and
 - (3) is proximately caused by any of the following perils:
 - (i) perils of the seas rivers lakes or other navigable waters;
 - (ii) fire, explosion;
 - (iii) violent theft by persons from outside the Vessel;
 - (iv) jettison;
 - (v) piracy;
 - (vi) contact with land conveyance, dock or harbour equipment or installation;

- (vii) earthquake, volcanic eruption or lightning;
 - (viii) accidents in loading, discharging or shifting cargo or fuel;
 - (ix) bursting of boilers, breakage of shafts;
 - (x) negligence of repairers or charterers provided such repairers or charterers are not an Assured hereunder or Master Officers or Crew;
 - (xi) contact with aircraft, helicopters or similar objects, or objects falling therefrom.
- (c) Notwithstanding paragraph (b) above in no circumstances shall the cover provided herein extend to a claim for loss, damage, liability or expense:
- (1) in respect of any software, programming, operating system , code or data,
or
 - (2) arising from or in any way connected, whether directly or indirectly, with any measures taken with the intention of averting or minimising any of the matters referred to in paragraphs (a)(1) or (a)(2) above or any of their possible or anticipated consequences.
- (d) The cover provided in this clause is subject in all other respects to all other terms, conditions, exclusions and limits contained in these Terms and Conditions.

3. GENERAL EXCLUSIONS

- (a) Save as set out in clause 1.1(b)(7) and 1.1(b)(10) there is no cover for any loss or expense directly or indirectly caused or contributed to by or consequent upon:
- (1) war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power;
 - (2) derelict mines, torpedoes, bombs or other derelict weapons of war;
 - (3) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
 - (4) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof or any material therefrom;
 - (5) any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter including the use of chemical and/or biological weapons;
 - (6) the outbreak of war (whether there be a declaration of war or not) between any of the following countries: United Kingdom, United States of America, France, Russia, the People's Republic of China;
 - (7) any delay in dry-docking or repairs or redelivery of the Insured Vessel or Transshipment Vessel from dry-docking or repairs, unless specifically agreed by Underwriters;
 - (8) any delay in delivery of a new building or delays incurred as a result of construction, conversion or upgrade of the Insured Vessel or Transshipment Vessel, unless specifically agreed by Underwriters;
 - (9) arrest, restraint, detainment, confiscation or expropriation by reason of infringement of any customs or trading regulations;
 - (10) the operation of ordinary judicial process, failure to provide security or to pay any fine or penalty or any financial cause.

- (b) The Assured shall **not** be entitled to compensation from the Underwriters:
- (1) for physical loss of or damage to the Insured Vessel, Transshipment Vessel or cargo;
 - (2) for loss arising from any debt, insolvency, failure to provide any bond or security, whether under court order or otherwise, or any other financial cause;
 - (3) for loss arising from any failure of the Assured or of his agent to comply with the laws of any jurisdiction in which such Assured or agent is incorporated or has a place of business or in which the cargo or the Insured Vessel or Transshipment Vessel are at any time located;
 - (4) for loss arising from any failure of the Assured or his agent to obtain all necessary permits and authorisations, unless prevented from doing so by the occurrence of a peril referred to in clause 1.1(b); or
 - (5) for loss arising out of or in any way contributed to by the wrongful act, negligence or wilful misconduct of the Assured or his agent (other than negligence referred to in clause 1.1(b) (7));
 - (6) if the circumstances giving rise to the claim existed before or at the time the Insurance Cover attached;
 - (7) if the Insured Vessel or Transshipment Vessel was carrying contraband or was involved in blockade-running;
 - (8) if the Insured Vessel or Transshipment Vessel was employed in any unlawful trade or used in any unlawful manner;
 - (9) for any delay caused by disputes arising out of any contract;
 - (10) for cancellation, abandonment or curtailment of consecutive voyages due to insufficient financial resource, financial default or insolvency of the Assured.
- (c) In no case shall this insurance cover loss arising out of or consequent upon:
- (1) the trade, voyage or operation upon which the Insured Vessel was engaged being unduly hazardous or otherwise imprudent; and /or
 - (2) the Assured and/or his agents failing to take such steps, including but not limited to the making of and acting upon all reasonable inquiries, as could reasonably be expected to be taken by a competent and prudent uninsured operator in the same or similar circumstances; and/or
 - (3) the Assured failing in any material respect to comply with his obligations under this insurance.

4. **CLAIMS**

- (a) Any occurrence or circumstance which is likely to give rise to a claim shall be immediately notified in writing to the Underwriters.
- (b) Every claim shall be submitted to the Underwriters, on the claim form in current use, within six months from the date on which the relevant trade disruption begins.

- (c) The claim form shall be duly signed by, or on behalf of, the Assured and shall be accompanied by all relevant documents available to the Assured.
- (d) The Assured shall supply such further documents, information or evidence (including evidence on oath) as the Underwriters may require.
- (e) If an Assured makes any claim which he knew or should have known was false or fraudulent as regards amount or in any other way whatsoever his insurance for all Insured Vessels shall become void from inception and all claims shall be forfeited absolutely.
- (f) Acceptance of liability by Underwriters in respect of a claim shall be notified to the Assured by formal letter from Underwriters, and no admission of liability on behalf of Underwriters shall be constituted by, or inferred from, anything done or omitted to be done prior to the dispatch of such formal notification by letter.
- (g) If at the time of any loss there shall be any other subsisting insurance covering such loss, or any part thereof, the Underwriters shall not be liable to pay more than their rateable proportion of the loss.
- (h) In no circumstances shall an Assured be entitled to interest on his claim whether before or after any judgement and/or arbitration award is made.
- (i) The Underwriters shall have an absolute discretion to disallow any claim or reduce the amount paid in respect thereof if any of the provisions of clause 4(a-e) are not in the Underwriters opinion observed.
- (j) The Underwriters shall have an absolute discretion to disallow any claim or reduce the amount paid in respect thereof where an Assured fails to notify the Underwriters of any change in the particulars or information supplied by an Assured in the proposal form.
- (k) The Underwriters shall be entitled in the exercise of their absolute discretion:
 - (1) to authorise reimbursement of an Assured in respect of expenses reasonably incurred by him in order to prevent loss which would otherwise have resulted in a claim on the Underwriters;
 - (2) to allow in whole or in part any claim which they consider to be within the spirit of these terms and conditions.
- (l) Following the occurrence of an event which is likely to give rise to a claim under this cover the Assured must take all appropriate steps to avoid or minimise any additional costs or loss of earnings including (without limitation) by having repairs carried out in good time, making alternative arrangements or obtaining replacements, and in doing so must, wherever possible and reasonable, obtain and follow instructions from the Underwriters. This also applies if additional costs or loss of earnings have already been incurred.

The Assured must notify the Underwriters without delay of any measures he has taken which, given the circumstances, he considered to be advisable but for which he was unable to obtain the Underwriter's prior approval.

In particular the Assured shall also be obliged to safeguard any claims for compensation against third parties.
- (m) An Assured shall not in any circumstances make any admission, enter into any discussions or negotiations or conclude any settlement in relation to any claim by any third party for which he may be insured by the Underwriters unless or until he has obtained prior approval in writing from the Underwriters (which they may grant or refuse in their absolute discretion and on such terms as they may think fit).

5. CLASSIFICATION AND STATUTORY

- 5.1 In the event the Assured is the Owner or the Bareboat, Time, or Voyage Charterer of the Insured Vessel or Transshipment Vessel then it is a condition of this insurance that at all times whatsoever throughout the Period of Cover:
- (a) the Insured Vessel or Transshipment Vessel are fully classed with a Classification Society which is a member of the International Association of Classification Societies (IACS), approved by the Underwriters; and
 - (b) the Insured Vessel or Transshipment Vessel and “the Company” (as defined by Chapter IX of the International Convention for the Safety of Life at Sea (as amended), hereinafter referred as ‘SOLAS 1974’, and, as defined in the International Safety Management Code, hereinafter referred as ‘the ISM Code’) of the Insured Vessel and Transshipment Vessel comply with all applicable provisions and requirements of SOLAS 1974 and the ISM Code.
- 5.2 In the event the Assured is the Owner or Bareboat Charterer of the Insured Vessel or Transshipment Vessel then it is a condition of this insurance that at all times whatsoever throughout the Period of Cover:
- (a) the Assured will promptly report, as soon as is reasonably practicable, to the Classification Society any incident, condition or damage in respect of which the Assured believes, or which a reasonable and competent operator would have believed, the Classification Society might impose any recommendations, conditions or restrictions (or make any directions or instructions); and
 - (b) the Assured will comply with any recommendations, conditions or restrictions imposed (or any directions or instructions made) by the Classification Society and generally comply with its rules in respect of the Insured Vessel or Transshipment Vessel without delay and in any event within any time limits laid down by the Classification Society; and
 - (c) the Assured complies with all laws promulgated, and regulations maintained, by the government of the Insured Vessel’s or Transshipment Vessel’s flag State and of any State through whose waters the Insured Vessel or Transshipment Vessel passes in the course of being traded or operated whether for the Assured’s own account or not; and
 - (d) all the Insured Vessel’s or Transshipment Vessel’s statutory certificates as prescribed by the Insured Vessel’s and Transshipment Vessel’s flag State and by any State through whose waters the Insured Vessel and Transshipment Vessel passes are valid and kept maintained up to date and in good order and, in the event of an occurrence giving rise to a claim under the Policy, the Assured, in addition to any other documents with the Assured is required to provide to the Underwriters, shall also and on request by the Underwriters, provide the following:
 - (1) a copy of the current Safety Management Certificate (SMC) as referred to in the ISM Code;
 - (2) a copy of the current Document of Compliance (DOC) as referred to in the ISM Code;
 - (3) a statement from the “Designated Person” (as referred to in the ISM Code) confirming that all relevant aspects of the ISM Code for which he has specific responsibility have been carried out in accordance with the provisions stated therein.
- 5.3 If the Assured is the Time or Voyage Charterer of the Insured Vessel or Transshipment Vessel, then it is a condition of this insurance that the Assured, in addition to any other documents which the Assured is required to provide to the Underwriters, shall also and on request by the Underwriters provide copies of

any documents relating to compliance of the Insured Vessel and/or Transhipment Vessel with SOLAS 1974 and/or the ISM Code to which they are entitled under the charterparty.

- 5.4 There shall be no recovery whatsoever from the Underwriters in the event of any breach or breaches of any or all of the conditions of insurance set out in clauses 5.1, 5.2 and 5.3 hereof unless and to the extent the Underwriters in their sole discretion determine otherwise.

6. DEDUCTIBLE

No claim arising from a peril insured against shall be payable under this insurance unless the claim for each separate occurrence exceeds the deductible as specified in the Certificate of Insurance, in which case the deductible shall be subtracted from the amount of the claim.

7. DEFERRED REPAIRS OF THE INSURED VESSEL

In the event that Underwriters agree to defer repairs to a mutually convenient time, these repairs to be undertaken within one year of the end of the policy period and limited to a total of 180 days (or as stated in the Certificate of Insurance) in respect of any one occurrence.

8. AUTOMATIC TERMINATION OF INSURANCE

- 8.1 An Assured shall cease to be insured and the Period of Cover shall be terminated forthwith in respect of all vessels insured by him with the Underwriters upon the happening of any of the following events or circumstances:

- (a) where an Assured is an individual, upon his death or if a receiving order shall be made against him or if he shall become bankrupt or make any composition or arrangement with his creditors generally or if he shall become incapable by reason of mental disorder of managing and administering his property and affairs or if under any system of law other than English Law there occurs an event in relation to that individual which has a similar effect to any of the aforesaid events or circumstances;
- (b) where an Assured is a corporation, upon the passing of any resolution for voluntary winding up (other than voluntary winding up for the purpose of company or group reorganisation) or upon an order being made for compulsory winding up or upon dissolution or upon a receiver or manager of all or part of the corporation's business or undertaking being appointed or upon possession being taken by or on behalf of the holders of any debentures secured by floating charge of any property comprised in or subject to the charge or if under any system of law other than English Law there occurs an event in relation to that corporation which has a similar effect to any of the aforesaid events or circumstances;
- (c) if having failed to pay when due and demanded by the Underwriters any sum which Underwriters consider to be due from him to Underwriters, he is served with a notice by or on behalf of the Underwriters requiring him to pay such sum on or before any date which may be specified in such notice and he fails to pay such sum in full on or before the date so specified.
- (d) in respect of war risks cover under clauses 1.1(b)(7)(ii) and 1.1(b)(10), if there is an outbreak of war (whether there be a declaration of war or not) between any of the following countries:

United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China.

- 8.2 (a) When the insurance of the Insured Vessel or Vessels terminates under clause 8.1(a) and (b) hereof then Underwriters shall remain liable in respect of any Insured Vessels insured by such Assured for all claims under these Terms and Conditions arising by reason of any event which had occurred prior to the time of termination but shall be under no liability whatsoever by reason of anything occurring after the time of termination;

- (b) When an Assured ceases to be insured by virtue of clause 8.1(c) hereof then the Underwriters shall thereupon cease to be liable for all and any claims under the Terms and Conditions in respect of all and any Insured Vessels and Transshipment Vessels insured with the Underwriters, irrespective of whether:
- (1) such claims have accrued or arisen or may arise by reason of any event which had occurred before the date of termination or before the commencement of the policy year in which the date of termination occurred; and/or
 - (2) such claims may arise by reason of any event occurring after the date of termination; and/or
 - (3) the Underwriters may have decided to support the Assured or admitted liability for such claims or appointed lawyers, surveyors or any other person to deal with such claims; and/or
 - (4) at the date of termination the claims were likely to accrue or the event giving rise thereto was or was not known to the Underwriters;

but as from the date of termination any liability for such claims shall retrospectively terminate and the Underwriters shall be under no liability to such Assured for the said or any other claims or on any account whatsoever;

PROVIDED ALWAYS that:-

the Underwriters may, in their absolute discretion and upon such terms as to the payment of Premium or otherwise as they think fit, admit either wholly or partly any claim in respect of any Insured Vessel for which the Underwriters are under no liability under either paragraph (a) or paragraph (b) of this clause, whether arising before or after any date of termination as hereinbefore referred to.

9. TERMINATION OF INSURANCE BY NOTICE

- (a) The insurance of any Assured shall terminate upon the expiry of 45 days (or such longer period as may be specified in the notice) from the date of one party giving to the other a notice of termination in writing, which notice either party shall be entitled to give in its absolute discretion and without giving any reason, but subject always to the period of insurance specified in the Certificate of Insurance.
- (b) In respect of War risks, clauses 1.1(b)(7)(ii) and 1.1(b)(10) cover may be cancelled by written notice of cancellation by Underwriters, such cancellation to become effective after 7 days from midnight GMT at the end of the day on which notice of cancellation was issued by Underwriters.

10. LIABILITIES OF AN ASSURED FOLLOWING TERMINATION

Following the termination of an Assured's cover pursuant to any of the provisions of these Terms and Conditions the Assured shall remain liable to Underwriters in respect of all sums which Underwriters consider due or which become due including, but not limited to premiums then accrued or thereafter accruing due for the period prior to such termination, the premiums being calculated on a pro-rata basis if cover is terminated during the course of a Period of Cover.

11. ASSIGNMENT

- (a) No insurance given by the Underwriters and no interest under these Terms and Conditions or under any contract between the Underwriters and any Assured may be assigned without the

written consent of the Underwriters who shall have the right in their absolute discretion to give or refuse such consent without stating any reason or give such consent upon any such terms or conditions as they may think fit. Any purported assignment made without such consent or without there being due compliance with any such terms and conditions as the Underwriters may impose shall, unless the Underwriters in their absolute discretion otherwise determine, be void and of no effect.

- (b) Whether or not the Underwriters shall expressly so stipulate as a condition for giving their consent to any assignment, the Underwriters shall be entitled in setting any claim presented by the assignee to deduct or retain such amount as the Underwriters may then estimate to be sufficient to discharge any liabilities of the assignor to the Underwriters, whether existing at the time of the assignment or having accrued or being likely to accrue thereafter.

12. SUBROGATION

- (a) When a claim has been paid under these Terms and Conditions the Underwriters shall be subrogated to all rights and remedies in respect of that claim which the Assured may have against any third party.
- (b) The Underwriters shall be entitled to use the name of the Assured in bringing, defending, enforcing or settling any legal proceedings (including proceedings in any arbitration) and the Assured shall give all necessary information and assistance and produce and forward all documents to enable the Underwriters to substantiate, pursue, settle or resist any claim or legal proceedings (including proceedings in any arbitration).
- (c) The Underwriters shall, where they use the name of the Assured, indemnify him against all costs, charges, expenses and liabilities arising therefrom.

13. SET-OFF

- (a) The Assured shall have no right of set-off against the Underwriters. In determining for any purpose the amount due at any time from an Assured to the Underwriters no account shall be taken of any amount which either is, or is alleged to be, due from the Underwriters to an Assured, and in any proceedings brought by the Underwriters to recover outstanding premiums, no set-off of any kind (including one which might otherwise have arisen by reason of the bankruptcy or winding up of an Assured) shall be allowed against the amount due by an Assured to the Underwriters. The Underwriters may in their absolute discretion, when making a demand for payment of outstanding premiums, make allowance for any amount due from the Underwriters to an Assured, but no set-off permitted at any time in the past shall constitute a waiver by the Underwriters of the provisions of this clause.
- (b) The Underwriters shall have a general right of set-off against an Assured.

14. LAW

- 14.1 The construction of these Terms and Conditions and the respective rights and obligations of the Underwriters and the Assured hereunder shall be governed by and construed in accordance with English Law.
- 14.2 The particulars and information given in the proposal together with any supplementary information supplied on request shall be deemed to form part of the Contract of Insurance and the accuracy of all such particulars and information shall form the basis of the Contract.

15. ARBITRATION

- (a) Any dispute or difference between an Assured and the Underwriters shall, unless the Underwriters decide in their absolute discretion that any such dispute or difference shall be decided by the English High Court of Justice, be referred to arbitration in London by an Arbitrator to be appointed by agreement between the parties concerned.
- (b) In the absence of agreement within 14 (fourteen) days of a request by either party to agree to an Arbitrator, an Arbitrator who is a Member of the Institute of Arbitrators shall be appointed by the President for the time being of the Law Society of England and Wales at the request of either party.
- (c) The submission to arbitration and all proceedings therein shall be subject to the provisions of the Arbitration Acts 1950 to 1996 or any statutory re-enactment or modification thereto.
- (d) The Arbitrator shall have power to admit any evidence whether legally admissible or not.
- (e) Subject to the foregoing provisions of this clause, the obtaining of an arbitration award as hereinbefore provided shall be a condition precedent to the right of any Assured to bring or maintain any action, suit or other legal proceedings against Underwriters.

16. **CORRESPONDENCE**

Michael Else and Company Limited of 65 Leadenhall Street, London EC3A 2AD are hereby recognised as the Underwriting agents of the Underwriters in all matters connected with the insurance provided by this Policy and all communications relating thereto should be addressed to Michael Else and Company Limited.

17. **NOTICES**

17.1 **Notices to Underwriters**

All notices required to be given by the Assured under these Terms and Conditions shall be addressed to Michael Else and Company Limited in writing at the address specified in clause 16 or as subsequently advised.

17.2 **Notices to the Assured**

Any notice required to be given to an Assured in accordance with these Terms and Conditions may be sent by post to his address as furnished by him in writing to Michael Else and Company Limited, or, if such address is outside the United Kingdom, by telegram, cable, telex or fax, and, if no such address has been furnished, at the same address which is his last known address to the knowledge of Michael Else and Company Limited, and such notice shall be deemed to have been duly served on the day after the same is put into the post, or in the case of telegrams or cables when handed in to the telegram or cable office, and in the case of telex or fax on the day of transmission.

18. **DEFINITIONS**

In these Terms and Conditions the following expressions shall, unless the context or subject matter otherwise requires, have the following meanings:

Certificate of Insurance	Any document issued by the Underwriters evidencing the terms and conditions of insurance with the Underwriters, including any endorsement evidencing any change in or addition to such terms and conditions.
Day	A period of twenty-four hours from midnight to midnight Greenwich Mean Time
Deductible	Deductible, Franchise or Excess as specified in the Certificate of Insurance.

Insured Disruption to Trade	Any disruption covered under the provisions of clause 1.1. hereof.
Insured Vessel	A vessel (other than a Transshipment Vessel) insured under these Terms and Conditions and identified as such in the Certificate of Insurance.
Midnight	Midnight Greenwich Mean Time.
Month	Calendar month.
Period of Cover	The period for which an Assured or Insured Vessel is insured as set out in the Certificate of Insurance or any subsequent endorsements.
Policy Year	As stated in the Certificate of Insurance.
Terms and Conditions	The Terms and Conditions for the time being in force.
Transshipment Vessel	Any vessel, on which cargo is transhipped to or from the Insured Vessel, for carriage to the destination at which the Assured has contracted to deliver such cargo.
Underwriters	Lloyd's Underwriters.
Vessel	Any description of vessel or craft used in navigation, trade or commerce, of any nationality, including vessels or craft under construction and hovercraft.

Words importing the masculine gender shall include the feminine gender.

Words importing persons shall include individuals, partnerships, corporations and associations.

Words importing the singular shall include the plural and vice versa.

CLASS III- TRADE DISRUPTION INSURANCE FOR THE CRUISE AND PASSENGER VESSEL INDUSTRY

1. TRADE DISRUPTION INSURANCE

1.1 RISKS INSURED

An Assured shall be entitled to compensation for one or more of the following disruptions to trade, subject to the terms specified in his Certificate of Insurance:

- (a) (1) delayed arrival or non-arrival of an Insured Vessel or Transshipment Vessel at a port of embarkation, transshipment or disembarkation (for the purpose of this sub-clause, "delayed" means occurring later than would otherwise have been the case, based on the reasonably calculated estimated time of arrival of the Insured Vessel or Transshipment Vessel at the relevant port or place);
- (2) delayed embarkation, transshipment or disembarkation of passengers on or from an Insured Vessel or Transshipment Vessel (for the purpose of this sub-clause, "delayed" means occurring later than would otherwise have been the case, based on the reasonably calculated estimated time of loading, transshipment or discharge of the Insured Vessel or Transshipment Vessel at the relevant port or place);
- (3) inability to embark, tranship or disembark passengers on or from an Insured Vessel or Transshipment Vessel;
- (4) cancellation, abandonment or curtailment of voyage(s);

provided that:

- (b) the disruption to trade is caused by one or more of the following insured perils:
 - (1) fire or explosion on land;
 - (2) storm, hurricane, tempest, flood, snow, ice, fog, lightning or any other extraordinary weather;
 - (3) earthquake, heave, landslip, subsidence or volcanic eruption;
 - (4) contact with aircraft, helicopters or similar objects, or objects falling therefrom;
 - (5) emergency total or partial closure of any port, road, airport or navigable waterway by or under the lawful order of any authority having jurisdiction to make such an order;
 - (6) those perils covered by the Institute Time Clause Hulls 1/11/95, set out below, and the Institute War and Strikes Clause Hulls-Time 1/11/95, as set out in the amended form below, (standard London Market War Risk Trading Warranties, in force at the time, to be included), or other International Marine Hull and War and Strikes clauses that may be agreed by Underwriters, (provided that an appropriate endorsement is made on the Certificate of Insurance), insofar as they are suffered by the Insured Vessel:
 - (i) Perils covered by the Institute Time Clause Hulls 1/11/95 as amended hereon:

This insurance covers the delays and inability referred to in clause 1.1(a)(1)-(5) caused by:

- (1.1) perils of the seas, rivers, lakes or other navigable waters;

- (1.2) fire, explosion;
- (1.3) violent theft by persons from outside the Insured Vessel;
- (1.4) jettison;
- (1.5) piracy;
- (1.6) contact with land conveyance, dock or harbour equipment or installation;
- (1.7) earthquake, volcanic eruption or lightning;
- (1.8) accidents in loading, discharging or shifting of cargo or fuel.

This insurance covers the delays and inabilities referred to in clause 1.1(a)(1)-(5) caused by:

- (2.1) bursting of boilers, breakage of shafts or any latent defect in the machinery or hull (subject, if applicable, to the exclusion contained in clause 2 "Electronic Date Recognition");
- (2.2) negligence of Master, Officers, Crew or Pilots;
- (2.3) negligence of repairers or charterers, provided such repairers or charterers are not an Assured hereunder;
- (2.4) barratry of Master, Officers, Crew or Pilots;
- (2.5) contact with aircraft, helicopters or similar objects, or objects falling therefrom;
- (2.6) breakdown of machinery, including electrical machinery, provided such breakdown has not resulted from wear and tear.

Provided that such loss or damage has not resulted from want of due diligence by the Assured, Owners, Charterers, Managers or Superintendents or any of their onshore management.

Masters, Officers, Crew or Pilots not to be considered Owners within the meaning of this clause should they hold shares in the Insured Vessel.

(ii) Institute War and Strikes Clause Hulls-Time 1/11/95:

This insurance covers the delays and inabilities referred to in clause 1.1(a)(1)-(5) caused by:

- (a) war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power;
- (b) capture, seizure, arrest, restraint or detainment, and the consequences thereof or any attempt thereat;
- (c) derelict mines torpedoes bombs or other derelict weapons of war;
- (d) strikers, locked-out workman, or persons (in each case, other than servants or agents of the Assured) taking part in labour disturbances, riots or civil commotions;
- (e) any terrorist or any person acting maliciously or from a political motive;
- (f) confiscation or expropriation;

(7) any abnormal physical obstruction of a berth at the port of embarkation, transshipment, disembarkation or of the approaches thereof which prevents the use of the berth by the Insured Vessel or the Transshipment Vessel, provided that this peril shall not include:

- (i) inaccessibility of a berth due to port congestion or routine operations of maintenance or dredging;
- (ii) any obstruction which could reasonably have been foreseen by the Assured or his agent at the time of entering into the contract of affreightment;
- (iii) use or occupation of the berth by another vessel provided that if the other vessel is incapable of vacating the berth solely as a result of physical damage or otherwise such circumstances will be regarded as an insured peril;

- (8) any reasonable refusal by the Master of the Insured Vessel or Transshipment Vessel to proceed through any areas through which she must pass in order to reach the port or place of loading, transshipment or discharge on the grounds that such area port or place is dangerous;
- (9) war, revolution, rebellion, or civil strife arising therefrom or any hostile act including piracy, capture, seizure, restraint or detainment and the consequences thereof or any attempt thereat, or acts of terrorists or persons acting maliciously or from a political motive (standard London Market War Risk Trading Warranties to be included), excluding the consequences of loss or damage to the property of the assured on land;
- (10) closure of borders (whether national or regional) for political purposes which restricts or prohibits the Insured Vessel or Transshipment Vessel from sailing from or to a country within the intended cruise schedule;
- (11) physical loss or damage directly caused by:
 - (i) strikers, locked-out workmen or persons taking part in labour disturbances or riots or civil commotions; or
 - (ii) vandalism, sabotage or malicious acts, including acts of persons, whether or not agents of a sovereign state, carried out for political, terroristic or ideological purposes and whether any loss resulting therefrom is accidental or intentional; or
 - (iii) covert acts committed by an agent of any government or political party or faction engaged in hostilities or warlike operations;
- (12) expropriation, confiscation, seizure, requisition for title or use, or wilful destruction of the Insured Vessel, Transshipment Vessel or cargo by or under the order of the government of any country other than the flag state (whether civil, military or de facto) or any public or local authority in any such country;
- (13) the imposition, or official and public announcement, of travel restrictions by the authorities of any country in which passengers or crew are to be embarked / disembarked on or from the Insured Vessel;
- (14) arrest, restraint or detainment of the Insured Vessel or Transshipment Vessel under quarantine regulations;
- (15) infectious diseases or poisoning on board the Insured Vessel or Transshipment Vessel;
- (16) illness, death or injury to persons on board the Insured Vessel or Transshipment Vessel;
- (17) the discovery of stowaways on board the Insured Vessel or Transshipment Vessel or rescuing of refugees or life saving, salvage or other assistance given by the Insured Vessel or Transshipment Vessel;
- (18) detention of the Insured Vessel following actual or alleged pollution emanating from the Insured Vessel.

1.2 AMOUNT OF COMPENSATION

- (a) Subject to these Terms and Conditions and subject also to any terms set out in the Certificate of Insurance, the Assured may recover one or more of the following amounts in respect of any Insured Disruption to Trade which begins within the Period of Cover:

- (1) the net loss of earnings suffered by the Assured;
 - (2) additional costs and expenses in respect of storage, warehousing, handling, freight, labour, deadfreight, demurrage, detention, insurance, chartering or (subject to the Underwriters' prior approval) legal services, or other expenses of a similar nature, which are reasonably and necessarily incurred for the purpose of enabling the Insured Vessel, Transshipment Vessel or passengers to proceed to their intended destination or of avoiding or reducing loss by procuring one or more alternative vessels. Additional types of expenses may be agreed and will be defined in the Certificate of Insurance;
 - (3) contractual liability under an express term or terms for any Insured Disruption to Trade to the extent that such liability would not otherwise have arisen but for such term and could not be avoided or reduced by reasonable action on the part of the Assured, provided that such term or terms have been approved by the Underwriters in writing and specified as such in the Certificate of Insurance and cover for liability has been agreed between the Assured and the Underwriters on such terms as the Underwriters shall require.
- (b) All losses, additional costs and expenses and liability recovered under 1.2(a) above must be incurred by the Assured and will be indemnified on a proven loss basis only.
- (c) The daily amount recoverable under clause 1.2(a) shall be subject to the following limits:
- (1) the daily amount of any recovery in respect of net loss of earnings under clause 1.2(a)(1) shall be limited to the amount of the daily insured sum for each day (and pro rata for any part of a day) as stated in the Certificate of Insurance over the period of the Insured Disruption.

“Net loss of earnings” shall be calculated on the basis of the amount of direct passenger revenue lost as a result of the Insured Disruption less the amount of normal operating costs and expenses not incurred as a result of the circumstances giving rise to the claim (for the purposes of calculating direct revenue from passengers, both committed and anticipated passenger bookings are included, taking average earnings for the preceding three weeks trading or, if the claim occurs as the start of season, an equivalent period in the previous year).
 - (2) Unless otherwise specified in the Certificate of Insurance the combined daily amount of any recovery for net loss of earnings under clause 1.2(a)(1) and additional costs and expenses under clause 1.2(a)(2) shall be limited to one and a half times the daily insured sum.
 - (3) Unless otherwise specified in the Certificate of Insurance compensation under clause 1.2(a) is limited to 180 days (after application of the excess period) after the relevant Insured Disruption begins or the Assured becomes aware of the Insured Disruption .

1.3 QUALIFICATIONS

The Assured shall not be entitled to any compensation from the Underwriters whatsoever, **unless:**

- (a) the relevant insured peril or perils occurred during the Period of Cover; and
- (b) save as set out in clause 1.1(b)(6) the relevant insured peril or perils occurred in circumstances outside the control of the Assured, his agents and/or his servants; and
- (c) the relevant insured peril or perils prevented or hindered:

- (1) the transport of passengers to or from the Insured Vessel or the Transshipment Vessel by the route which the Assured or Assured's customer has reasonably arranged or was reasonably intending to use, or in the absence of any specific arrangement or intention, the customary or reasonable route; or
- (2) the passage of the Insured Vessel or the Transshipment Vessel to a port of embarkation, transshipment or disembarkation by the route which the Assured (or operator of the Transshipment Vessel concerned) has arranged or was intending to use or, in the absence of any specific arrangement or intention, the customary or reasonable route; and

2. ELECTRONIC DATE RECOGNITION

The provisions of this clause shall prevail notwithstanding any provision whether written typed or printed in these Terms and Conditions inconsistent therewith.

- (a) This insurance does not cover any loss, damage, liability or expense directly or indirectly caused by or in any way in consequence of:
 - (1) the failure or anticipated failure or inability of any computer system, software, hardware, integrated circuit, microchip, operating system and/or any other electronic device or component, whether or not belonging to or in possession of the Assured or of any third party, correctly, unambiguously or completely to assign, exchange, interpret, manipulate, process, recognise, sequence or transfer any time, year, date or date-like code, data or information;
 - (2) any implemented or attempted change or modification or test of any computer system, software, hardware, integrated circuit, microchip, operating system and/or any other electronic device or component, whether or not belonging to or in possession of the Assured or of any third party, in anticipation of or in response to any change of year, date or time, or any advice given or services performed in connection with any such change or modification;
 - (3) any non-use or unavailability for use of any property or equipment of any kind whatsoever resulting from any act, failure to act or decision of the Assured or of any third party related to (1) and/or (2) above.
- (b) Subject to the Assured receiving written confirmation from the Underwriters, Paragraph (a) of this clause shall not apply to exclude a claim which the Assured can demonstrate:
 - (1) would be recoverable under this insurance in the absence of the exclusion in paragraph (a),
and
 - (2) has not resulted from want of due diligence by the Assured, Owners, Managers or Superintendents or any of their onshore management in respect of any of the matters referred to in paragraph (a) of this clause,
and
 - (3) is proximately caused by any of the following perils:
 - (i) perils of the seas rivers lakes or other navigable waters;
 - (ii) fire, explosion;
 - (iii) violent theft by persons from outside the Vessel;
 - (iv) jettison;
 - (v) piracy;

- (vi) contact with land conveyance, dock or harbour equipment or installation;
 - (vii) earthquake, volcanic eruption or lightning;
 - (viii) accidents in loading, discharging or shifting cargo or fuel;
 - (ix) bursting of boilers, breakage of shafts;
 - (x) negligence of repairers or charterers provided such repairers or charterers are not an Assured hereunder or Master Officers or Crew;
 - (xi) contact with aircraft, helicopters or similar objects, or objects falling therefrom.
- (c) Notwithstanding paragraph (b) above in no circumstances shall the cover provided herein extend to a claim for loss, damage, liability or expense:
- (1) in respect of any software, programming, operating system , code or data,
or
 - (2) arising from or in any way connected, whether directly or indirectly, with any measures taken with the intention of averting or minimising any of the matters referred to in paragraphs (a)(1) or (a)(2) above or any of their possible or anticipated consequences.
- (d) The cover provided in this clause is subject in all other respects to all other terms, conditions, exclusions and limits contained in these Terms and Conditions.

3. GENERAL EXCLUSIONS

- (a) Save as set out in clause 1.1(b)(6) and 1.1(b)(9) there is no cover for any loss or expense directly or indirectly caused or contributed to by or consequent upon:
- (1) war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power;
 - (2) derelict mines, torpedoes, bombs or other derelict weapons of war;
 - (3) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
 - (4) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof or any material therefrom;
 - (5) any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter including the use of chemical and/or biological weapons;
 - (6) the outbreak of war (whether there be a declaration of war or not) between any of the following countries: United Kingdom, United States of America, France, Russia, the People's Republic of China;
 - (7) any delay in dry-docking or repairs or redelivery of the Insured Vessel or Transshipment Vessel from dry-docking or repairs, unless specifically agreed by Underwriters;
 - (8) any delay in delivery of a new building or delays incurred as a result of construction, conversion or upgrade of the Insured Vessel or Transshipment Vessel, unless specifically agreed by Underwriters;
 - (9) arrest, restraint, detainment, confiscation or expropriation by reason of infringement of any customs or trading regulations;

- (10) the operation of ordinary judicial process, failure to provide security or to pay any fine or penalty or any financial cause.
- (b) The Assured shall **not** be entitled to compensation from the Underwriters;
- (1) for physical loss of or damage to the Insured Vessel, Transshipment Vessel or injury to or death of passengers;
 - (2) for loss arising from any debt, insolvency, failure to provide any bond or security, whether under court order or otherwise, or any other financial cause;
 - (3) for loss arising from any failure of the Assured or his agent to comply with the laws of any jurisdiction in which such Assured or agent is incorporated or has a place of business or in which the passengers or the Insured Vessel or Transshipment Vessel are at any time located;
 - (4) for loss arising from any failure of the Assured or his agent to obtain all necessary permits and authorisations, unless prevented from doing so by the occurrence of a peril referred to in clause 1.1(b);
 - (5) for loss arising out of or in any way contributed to by the wrongful act, negligence or wilful misconduct of the Assured or his agent (other than negligence referred to in 1.1(b)(6));
 - (6) if the circumstances giving rise to the claim existed before or at the time the Insurance Cover attached;
 - (7) if the Insured Vessel or Transshipment Vessel was carrying contraband or was involved in blockade-running;
 - (8) if the Insured Vessel or Transshipment Vessel was employed in any unlawful trade or used in any unlawful manner;
 - (9) any delay caused by disputes arising out of any contract;
 - (10) cancellation, abandonment or curtailment of consecutive voyages due to insufficient ticket sales or insufficient financial resource, financial default or insolvency of the Assured.
 - (11) for failure of passengers travelling on the Insured Vessel or Transshipment Vessel to obtain the necessary passports, visas, immigration, emigration or similar documentation regulating entry or exit to or from a country on the itinerary of the Insured Vessel or Transshipment Vessel.
- (c) In no case shall this insurance cover loss arising out of or consequent upon:
- (1) the trade, voyage or operation upon which the Insured Vessel was engaged being unduly hazardous or otherwise imprudent; and /or
 - (2) the Assured and/or his agents failing to take such steps, including but not limited to the making of and acting upon all reasonable inquiries, as could reasonably be expected to be taken by a competent and prudent uninsured operator in the same or similar circumstances; and/or
 - (3) the Assured failing in any material respect to comply with his obligations under this insurance.

4. CLAIMS

- (a) Any occurrence or circumstance which is likely to give rise to a claim shall be immediately notified in writing to the Underwriters.
- (b) Every claim shall be submitted to the Underwriters, on the claim form in current use, within six months from the date on which the relevant trade disruption begins.
- (c) The claim form shall be duly signed by, or on behalf of, the Assured and shall be accompanied by all relevant documents available to the Assured.
- (d) The Assured shall supply such further documents, information or evidence (including evidence on oath) as the Underwriters may require.
- (e) If an Assured makes any claim which he knew or should have known was false or fraudulent as regards amount or in any other way whatsoever his insurance for all Insured Vessels shall become void from inception and all claims shall be forfeited absolutely.
- (f) Acceptance of liability by Underwriters in respect of a claim shall be notified to the Assured by formal letter from Underwriters, and no admission of liability on behalf of Underwriters shall be constituted by, or inferred from, anything done or omitted to be done prior to the dispatch of such formal notification by letter.
- (g) If at the time of any loss there shall be any other subsisting insurance covering such loss, or any part thereof, the Underwriters shall not be liable to pay more than their rateable proportion of the loss.
- (h) In no circumstances shall an Assured be entitled to interest on his claim whether before or after any judgement and/or arbitration award is made.
- (i) The Underwriters shall have an absolute discretion to disallow any claim or reduce the amount paid in respect thereof if any of the provisions of clause 4(a-e) are not in the Underwriters opinion observed.
- (j) The Underwriters shall have an absolute discretion to disallow any claim or reduce the amount paid in respect thereof where an Assured fails to notify the Underwriters of any change in the particulars or information supplied by an Assured in the proposal form.
- (k) The Underwriters shall be entitled in the exercise of their absolute discretion:
 - (1) to authorise reimbursement of an Assured in respect of expenses reasonably incurred by him in order to prevent loss which would otherwise have resulted in a claim on the Underwriters;
 - (2) to allow in whole or in part any claim which they consider to be within the spirit of these terms and conditions.
- (l) Following the occurrence of an event which is likely to give rise to a claim under this cover the Assured must take all appropriate steps to avoid or minimise any additional costs or loss of earnings including (without limitation) by having repairs carried out in good time, making alternative arrangements or obtaining replacements, and in doing so must, wherever possible and reasonable, obtain and follow instructions from the Underwriters. This also applies if additional costs or loss of earnings have already been incurred.

The Assured must notify the Underwriters without delay of any measures he has taken which, given the circumstances, he considered to be advisable but for which he was unable to obtain the Underwriter's prior approval.

In particular the Assured shall also be obliged to safeguard any claims for compensation against third parties.

- (m) An Assured shall not in any circumstances make any admission, enter into any discussions or negotiations or conclude any settlement in relation to any claim by any third party for which he may be insured by the Underwriters unless and until he has obtained prior approval in writing from the Underwriters (which they may grant or refuse in their absolute discretion and on such terms as they may think fit).

5. CLASSIFICATION AND STATUTORY

5.1 In the event the Assured is the Owner or the Bareboat, Time, or Voyage Charterer of the Insured Vessel or Transshipment Vessel then it is a condition of this insurance that at all times whatsoever throughout the Period of Cover:

- (a) the Insured Vessel and Transshipment Vessel are fully classed with a Classification Society which is a member of the International Association of Classification Societies (IACS), approved by the Underwriters; and
- (b) the Insured Vessel and Transshipment Vessel and “the Company” (as defined by Chapter IX of the International Convention for the Safety of Life at Sea (as amended), hereinafter referred as ‘SOLAS 1974’, and, as defined in the International Safety Management Code, hereinafter referred as ‘the ISM Code’) of the Insured Vessel and Transshipment Vessel comply with all applicable provisions and requirements of SOLAS 1974 and the ISM Code.

5.2 In the event the Assured is the Owner or Bareboat Charterer of the Insured Vessel or Transshipment Vessel then it is a condition of this insurance that at all times whatsoever throughout the Period of Cover:

- (a) the Assured will promptly report, as soon as is reasonably practicable, to the Classification Society any incident, condition or damage in respect of which the Assured believes, or which a reasonable and competent operator would have believed, the Classification Society might impose any recommendations, conditions or restrictions (or make any directions or instructions); and
- (b) the Assured will comply with any recommendations, conditions or restrictions imposed (or any directions or instructions made) by the Classification Society and generally comply with its rules in respect of the Insured Vessel and Transshipment Vessel without delay and in any event within any time limits laid down by the Classification Society; and
- (c) the Assured complies with all laws promulgated, and regulations maintained, by the government of the Insured Vessel’s and Transshipment Vessel’s flag State and of any State through whose waters the Insured Vessel and Transshipment Vessel passes in the course of being traded or operated whether for the Assured’s own account or not; and
- (d) all the Insured Vessel’s and Transshipment Vessel’s statutory certificates as prescribed by the Insured Vessel’s and Transshipment Vessel’s flag State and by any State through whose waters the Insured Vessel and Transshipment Vessel passes are valid and kept maintained up to date and in good order and, in the event of an occurrence giving rise to a claim under the Policy, the Assured, in addition to any other documents with the Assured is required to provide to the Underwriters, shall also and on request by the Underwriters, provide the following:
 - (1) a copy of the current Safety Management Certificate (SMC) as referred to in the ISM Code;

- (2) a copy of the current Document of Compliance (DOC) as referred to in the ISM Code;
- (3) a statement from the "Designated Person" (as referred to in the ISM Code) confirming that all relevant aspects of the ISM Code for which he has specific responsibility have been carried out in accordance with the provisions stated therein.

5.3 If the Assured is the Time or Voyage Charterer of the Insured Vessel or Transshipment Vessel, then it is a condition of this insurance that the Assured, in addition to any other documents which the Assured is required to provide to the Underwriters, shall also and on request by the Underwriters provide copies of any documents relating to compliance of the Insured Vessel and/or Transshipment Vessel with SOLAS 1974 and/or the ISM Code to which they are entitled under the charterparty.

5.4 There shall be no recovery whatsoever from the Underwriters in the event of any breach or breaches of any or all of the conditions of insurance set out in clauses 5.1, 5.2 and 5.3 hereof unless and to the extent the Underwriters in their sole discretion determine otherwise.

6. DEDUCTIBLE

No claim arising from a peril insured against shall be payable under this insurance unless the claim for each separate occurrence exceeds the deductible as specified in the Certificate of Insurance, in which case the deductible shall be subtracted from the amount of the claim.

7. DEFERRED REPAIRS OF THE INSURED VESSEL

In the event that Underwriters agree to defer repairs to a mutually convenient time, these repairs to be undertaken within one year of the end of the policy period and limited to a total of 180 days (or as stated in the Certificate of Insurance) in respect of any one occurrence.

8. AUTOMATIC TERMINATION OF INSURANCE

8.1 An Assured shall cease to be insured and the Period of Cover shall be terminated forthwith in respect of all vessels insured by him with the Underwriters upon the happening of any of the following events or circumstances:

- (a) where an Assured is an individual, upon his death or if a receiving order shall be made against him or if he shall become bankrupt or make any composition or arrangement with his creditors generally or if he shall become incapable by reason of mental disorder of managing and administering his property and affairs or if under any system of law other than English Law there occurs an event in relation to that individual which has a similar effect to any of the aforesaid events or circumstances;
- (b) where an Assured is a corporation, upon the passing of any resolution for voluntary winding up (other than voluntary winding up for the purpose of company or group reorganisation) or upon an order being made for compulsory winding up or upon dissolution or upon a receiver or manager of all or part of the corporation's business or undertaking being appointed or upon possession being taken by or on behalf of the holders of any debentures secured by floating charge of any property comprised in or subject to the charge or if under any system of law other than English Law there occurs an event in relation to that corporation which has a similar effect to any of the aforesaid events or circumstances;
- (c) if having failed to pay when due and demanded by the Underwriters any sum which Underwriters consider to be due from him to Underwriters, he is served with a notice by or on behalf of the Underwriters requiring him to pay such sum on or before any date which may be specified in such notice and he fails to pay such sum in full on or before the date so specified;

- (d) in respect of war risks cover under clauses 1.1(b)(7)(ii) and 1.1(b)(9), if there is an outbreak of war (whether there be a declaration of war or not) between any of the following countries: United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China.

8.2 (a) When the insurance of the Insured Vessel or Vessels terminates under clause 8.1(a) and (b) hereof then Underwriters shall remain liable in respect of any Insured Vessels insured by such Assured for all claims under these Terms and Conditions arising by reason of any event which had occurred prior to the time of termination but shall be under no liability whatsoever by reason of anything occurring after the time of termination;

(b) When an Assured ceases to be insured by virtue of clause 8.1(c) hereof then the Underwriters shall thereupon cease to be liable for all and any claims under the Terms and Conditions in respect of all and any Insured Vessels and Transshipment Vessels insured with the Underwriters, irrespective of whether:

- (1) such claims have accrued or arisen or may arise by reason of any event which had occurred before the date of termination or before the commencement of the policy year in which the date of termination occurred; and/or
- (2) such claims may arise by reason of any event occurring after the date of termination; and/or
- (3) the Underwriters may have decided to support the Assured or admitted liability for such claims or appointed lawyers, surveyors or any other person to deal with such claims; and/or
- (4) at the date of termination the claims were likely to accrue or the event giving rise thereto was or was not known to the Underwriters;

but as from the date of termination any liability for such claims shall retrospectively terminate and the Underwriters shall be under no liability to such Assured for the said or any other claims or on any account whatsoever;

PROVIDED ALWAYS that:-

the Underwriters may, in their absolute discretion and upon such terms as to the payment of Premium or otherwise as they think fit, admit either wholly or partly any claim in respect of any Insured Vessel for which the Underwriters are under no liability under either paragraph (a) or paragraph (b) of this clause, whether arising before or after any date of termination as hereinbefore referred to.

9. **TERMINATION OF INSURANCE BY NOTICE**

- (a) The insurance of any Assured shall terminate upon the expiry of 45 days (or such longer period as may be specified in the notice) from the date of one party giving to the other a notice of termination in writing, which notice either party shall be entitled to give in its absolute discretion and without giving any reason, but subject always to the period of insurance specified in the Certificate of Insurance.
- (b) In respect of War risks, clauses 1.1(b)(6)(ii) and 1.1(b)(10) cover may be cancelled by written notice of cancellation by Underwriters, such cancellation to become effective after 7 days from midnight GMT at the end of the day on which notice of cancellation was issued by Underwriters.

10. **LIABILITIES OF AN ASSURED FOLLOWING TERMINATION**

Following the termination of an Assured's cover pursuant to any of the provisions of these Terms and Conditions the Assured shall remain liable to Underwriters in respect of all sums which Underwriters consider due or which become due including, but not limited to premiums then accrued or thereafter accruing due for the period prior to such termination, the premiums being calculated on a pro-rata basis if cover is terminated during the course of a Period of Cover.

11. **ASSIGNMENT**

- (a) No insurance given by the Underwriters and no interest under these Terms and Conditions or under any contract between the Underwriters and any Assured may be assigned without the written consent of the Underwriters who shall have the right in their absolute discretion to give or refuse such consent without stating any reason or give such consent upon any such terms or conditions as they may think fit. Any purported assignment made without such consent or without there being due compliance with any such terms and conditions as the Underwriters may impose shall, unless the Underwriters in their absolute discretion otherwise determine, be void and of no effect.
- (b) Whether or not the Underwriters shall expressly so stipulate as a condition for giving their consent to any assignment, the Underwriters shall be entitled in setting any claim presented by the assignee to deduct or retain such amount as the Underwriters may then estimate to be sufficient to discharge any liabilities of the assignor to the Underwriters, whether existing at the time of the assignment or having accrued or being likely to accrue thereafter.

12. **SUBROGATION**

- (a) When a claim has been paid under these Terms and Conditions the Underwriters shall be subrogated to all rights and remedies in respect of that claim which the Assured may have against a third party.
- (b) The Underwriters shall be entitled to use the name of the Assured in bringing, defending, enforcing or settling any legal proceedings (including proceedings in any arbitration) and the Assured shall give all necessary information and assistance and produce and forward all documents to enable the Underwriters to substantiate, pursue, settle or resist any claim or legal proceedings (including proceedings in any arbitration).
- (c) The Underwriters shall, where it uses the name of the Assured indemnify him against all costs, charges, expenses and liabilities arising therefrom.

13. **SET-OFF**

- (a) The Assured shall have no right of set-off against the Underwriters. In determining for any purpose the amount due at any time from an Assured to the Underwriters no account shall be taken of any amount which either is, or is alleged to be, due from the Underwriters to an Assured, and in any proceedings brought by the Underwriters to recover outstanding premiums, no set-off of any kind (including one which might otherwise have arisen by reason of the bankruptcy or winding up of an Assured) shall be allowed against the amount due by an Assured to the Underwriters. The Underwriters may in their absolute discretion, when making a demand for payment of outstanding premiums, make allowance for any amount due from the Underwriters to an Assured, but no set-off permitted at any time in the past shall constitute a waiver by the Underwriters of the provisions of this clause.
- (b) The Underwriters shall have a general right of set-off against an Assured.

14. **LAW**

- 14.1 The construction of these Terms and Conditions and the respective rights and obligations of the Underwriters and the Assured hereunder shall be governed by and construed in accordance with English Law.
- 14.2 The particulars and information given in the proposal together with any supplementary information supplied on request shall be deemed to form part of the Contract of Insurance and the accuracy of all such particulars and information shall form the basis of the Contract.

15. **ARBITRATION**

- (a) Any dispute or difference between an Assured and the Underwriters shall, unless the Underwriters decide in their absolute discretion that any such dispute or difference shall be decided by the English High Court of Justice, be referred to arbitration in London by an Arbitrator to be appointed by agreement between the parties concerned.
- (b) In the absence of agreement within 14 (fourteen) days of a request by either party to agree to an Arbitrator, an Arbitrator who is a Member of the Institute of Arbitrators shall be appointed by the President for the time being of the Law Society of England and Wales at the request of either party.
- (c) The submission to arbitration and all proceedings therein shall be subject to the provisions of the Arbitration Acts 1950 to 1996 or any statutory re-enactment or modification thereto.
- (d) The Arbitrator shall have power to admit any evidence whether legally admissible or not.
- (e) Subject to the foregoing provisions of this clause, the obtaining of an arbitration award as hereinbefore provided shall be a condition precedent to the right of any Assured to bring or maintain the action, suit or other legal proceedings against Underwriters.

16. **CORRESPONDENCE**

Michael Else and Company Limited of 65 Leadenhall Street, London EC3A 2AD are hereby recognised as the Underwriting agents of the Underwriters in all matters connected with the insurance provided by this Policy and all communications relating thereto should be addressed to Michael Else and Company Limited.

17. **NOTICES**

17.1 **Notices to Underwriters**

All notices required to be given by the Assured under these Terms and Conditions shall be addressed to Michael Else and Company Limited in writing at the address specified in clause 16 or as subsequently advised.

17.2 **Notices to the Assured**

Any notice required to be given to an Assured in accordance with these Terms and Conditions may be sent by post to his address as furnished by him in writing to Michael Else and Company Limited, or, if such address is outside the United Kingdom, by telegram, cable, telex or fax, and, if no such address has been furnished, at the same address which is his last known address to the knowledge of Michael Else and Company Limited, and such notice shall be deemed to have been duly served on the day after the same is put into the post, or in the case of telegrams or cables when handed in to the telegram or cable office, and in the case of telex or fax on the day of transmission.

18. DEFINITIONS

In these Terms and Conditions the following expressions shall, unless the context or subject matter otherwise requires, have the following meanings:

Certificate of Insurance	Any document issued by the Underwriters evidencing the terms and conditions of insurance with the Underwriters, including any endorsement evidencing any change in or addition to such terms and conditions.
Day	A period of twenty-four hours from midnight to midnight Greenwich Mean Time.
Deductible	Deductible, Franchise or Excess as specified in the Certificate of Insurance.
Insured Disruption to Trade	Any disruption covered under the provisions of clause 1.1. hereof.
Insured Vessel	A vessel (other than a Transshipment Vessel) insured under these Terms and Conditions and identified as such in the Certificate of Insurance.
Midnight	Midnight Greenwich Mean Time.
Month	Calendar month.
Passenger	Those persons who have made a binding reservation, placed a deposit or purchased a ticket.
Period of Cover	The period for which an Assured or Insured Vessel is insured as set out in the Certificate of Insurance or any subsequent endorsements.
Policy Year	As stated in the Certificate of Insurance.
Terms and Conditions	The Terms and Conditions for the time being in force.
Transshipment Vessel	Any vessel, on which passengers are being transhipped to or from the Insured Vessel, for carriage to the destination at which the Assured has contracted to deliver such passengers.
Underwriters	Lloyd's Underwriters.
Vessel	Any description of vessel or craft used in navigation, trade or commerce, of any nationality, including vessels or craft under construction and hovercraft.

Words importing the masculine gender shall include the feminine gender.

Words importing persons shall include individuals, partnerships, corporations and associations.

Words importing the singular shall include the plural and vice versa.

CLASS IV- CARGO CONSEQUENTIAL LOSS INSURANCE

1. CARGO CONSEQUENTIAL LOSS INSURANCE

1.1 RISKS INSURED

An Assured shall be entitled to compensation for one or more of the following disruptions to trade, subject to the terms specified in his Certificate of Insurance:

- (a)
 - (1) delayed arrival or non-arrival of the Insured Cargo at a port or place of loading, transhipment or discharge (for the purpose of this sub-clause, "delayed" means occurring later than would otherwise have been the case, based on the reasonably calculated estimated time of arrival of the Insured Cargo at the relevant port or place);
 - (2) delayed loading, transhipment or discharge of the Insured Cargo (for the purpose of this sub-clause, "delayed" means occurring later than would otherwise have been the case, based on the reasonably calculated estimated time of loading, transhipment or discharge of the Insured Cargo at the relevant port or place);
 - (3) inability to load, tranship or discharge the Insured Cargo on or from a vessel;
 - (4) delayed delivery of the Insured Cargo from the port of discharge to final inland destination (for the purpose of this sub-clause, "delayed" means occurring later than would otherwise have been the case, based on the reasonably calculated estimated time of delivery of the Insured Cargo to its final inland destination);
 - (5) inability to deliver the Insured Cargo from the port of discharge to final inland destination;

provided that:

- (b) the disruption to trade is caused by one or more of the following insured perils:
 - (1) fire or explosion on land;
 - (2) storm, hurricane, tempest, flood, snow, ice, fog, lightning or any other extraordinary weather;
 - (3) earthquake, heave, landslip, subsidence or volcanic eruption;
 - (4) contact with aircraft, helicopters or similar objects, or objects falling therefrom;
 - (5) overturning, derailment, capsizing, sinking, or collision of, or contact with any external object by, any conveyance carrying the Insured Cargo prior to loading on or after discharge from a vessel;
 - (6) emergency total or partial closure of any port, road, airport or navigable waterway by or under the lawful order of any authority having jurisdiction to make such an order;
 - (7) physical loss or damage incurred by the Insured Cargo whilst on board any vessel or conveyance used or reasonably planned to be used in the transportation of the Insured Cargo or incurred by such vessel or conveyance and caused in either case by one or more of the following perils:
 - (1.1) fire or explosion;
 - (1.2) vessel being stranded, grounded, sunk or capsized;
 - (1.3) collision or contact of vessel with any external object other than water;

- (1.4) discharge of Insured Cargo at a port of refuge;
- (1.5) general average sacrifice;
- (1.6) jettison or washing overboard;
- (1.7) entry of sea, lake, or river water into vessel, craft hold conveyance, container, liftvan or place of storage;
- (1.8) total loss of any package constituting part or all of the Insured Cargo lost overboard or dropped whilst loading on to, or unloading from a vessel or conveyance;

physical loss or damage incurred by the Insured Cargo whilst on board any vessel used in the transportation of the Insured Cargo or incurred by such vessel and caused in either case by one or more of the following perils:

- (2.1) bursting of boilers breakage of shafts or any latent defect in the machinery or hull (subject, if applicable, to the exclusion contained in clause 2 "Electronic Date Recognition");
- (2.2) negligence of Master Officers Crew or Pilots;
- (2.3) negligence of repairers or charterers provided such repairers or charterers are not an Assured hereunder;
- (2.4) barratry of Master, Officers, Crew or Pilots;
- (2.5) breakdown of machinery, including electrical machinery, provided such breakdown has not resulted from wear and tear.

Provided that such loss or damage has not resulted from want of due diligence by the Assured, Owners, Charterers, Managers or Superintendents or any of their onshore management.

Masters, Officers, Crew or Pilots not to be considered Owners within the meaning of this clause should they hold shares in the vessel;

- (8) any abnormal physical obstruction of a berth at the port of loading, transshipment, discharge or of the approaches thereof which prevents the use of the berth by the vessel transporting the Insured Cargo provided that this peril shall not include:
 - (i) inaccessibility of a berth due to port congestion or routine operations of maintenance or dredging;
 - (ii) any obstruction which could reasonably have been foreseen by the Assured or his agent at the time of entering into the contract of affreightment;
 - (iii) use or occupation of the berth by another vessel provided that if the other vessel is incapable of vacating the berth solely as a result of physical damage or otherwise such circumstances will be regarded as an insured peril;
- (9) any reasonable refusal by the Master of the vessel transporting the Insured Cargo, to proceed through any areas through which she must pass in order to reach the port or place of loading, transshipment or discharge on the grounds that such area, port or place is dangerous;
- (10) the imposition, or official and public announcement, of import or export controls by the authorities of any country in which the Insured Cargo is to be loaded on or discharged from a vessel.

1.2 AMOUNT OF COMPENSATION

- (a) Subject to these terms and Conditions and subject also to any terms set out in the Certificate of Insurance, the Assured may recover one or more of the following amounts in respect of any Insured Disruption to Trade which begins within the Period of Cover:
- (1) the net loss of profit suffered by the Assured;
 - (2) additional costs and expenses in respect of storage, warehousing, handling, freight, labour, deadfreight, demurrage, detention, insurance, chartering or (subject to the Underwriters' prior approval) legal services, or other expenses of a similar nature, which are reasonably and necessarily incurred for the purpose of enabling the vessel transporting the Insured Cargo, to proceed to their intended destination or of avoiding or reducing loss by procuring one or more alternative vessels or alternative cargoes;
 - (3) contractual liability under an express term or terms for any Insured Disruption to Trade to the extent that such liability would not otherwise have arisen but for such term and could not be avoided or reduced by reasonable action on the part of the Assured, provided that such term or terms have been approved by the Underwriters in writing and specified as such in the Certificate of Insurance and cover for liability has been agreed between the Assured and the Underwriters on such terms as the Underwriters shall require.
- (b) All losses, additional costs and expenses and liability recovered under 1.2(a) above must be incurred by the Assured and will be indemnified on a proven loss basis only.
- (c) The daily amount recoverable under clause 1.2(a) shall be subject to the following limits:
- (1) the daily amount of any recovery in respect of net loss of earnings under clause 1.2(a)(1) shall be limited to the amount of the daily insured sum for each day (and pro rata for any part of a day) as stated in the Certificate of Insurance over the period of the Insured Disruption;
 - (2) Unless otherwise specified in the Certificate of Insurance the combined daily amount of any recovery for net loss of earnings under clause 1.2(a)(1) and additional costs and expenses under clause 1.2(a)(2) shall be limited to one and a half times the daily insured sum.
 - (3) Unless otherwise specified in the Certificate of Insurance compensation under clause 1.2(a) is limited to 180 days (after application of the excess period) after the relevant Insured Disruption begins or the Assured becomes aware of the Insured Disruption .

1.3 QUALIFICATIONS

The Assured shall not be entitled to any compensation from the Underwriters whatsoever, **unless:**

- (a) the relevant insured peril or perils occurred during the Period of Cover; and
- (b) save as set out in clause 1.1(b)(7) the relevant insured peril or perils occurred in circumstances outside the control of the Assured, his agents and/or his servants; and
- (c) the relevant insured peril or perils prevented or hindered:
 - (1) the transport of the Insured Cargo to or from the vessel by the route which the Assured or the Assured's customer has reasonably arranged or was reasonably intending to use, or in the absence of any specific arrangement or intention, the customary or reasonable route; or

- (2) the passage of the vessel transporting the Insured Cargo to a port of loading, transshipment or discharge by the route which the Assured (or operator of the vessel concerned) has arranged or was intending to use or, in the absence of any specific arrangement or intention, the customary or reasonable route; and
- (d) in relation to clause 1.1(a)(2) and (3), the cargo in question was the subject of a Contract of Affreightment with the Assured which was concluded before the occurrence of the relevant peril.

2. ELECTRONIC DATE RECOGNITION

The provisions of this clause shall prevail notwithstanding any provision whether written typed or printed in these Terms and Conditions inconsistent therewith.

- (a) This insurance does not cover any loss, damage, liability or expense directly or indirectly caused by or in any way in consequence of:
 - (1) the failure or anticipated failure or inability of any computer system, software, hardware, integrated circuit, microchip, operating system and/or any other electronic device or component, whether or not belonging to or in possession of the Assured or of any third party, correctly, unambiguously or completely to assign, exchange, interpret, manipulate, process, recognise, sequence or transfer any time, year, date or date-like code, data or information;
 - (2) any implemented or attempted change or modification or test of any computer system, software, hardware, integrated circuit, microchip, operating system and/or any other electronic device or component, whether or not belonging to or in possession of the Assured or of any third party, in anticipation of or in response to any change of year, date or time, or any advice given or services performed in connection with any such change or modification;
 - (3) any non-use or unavailability for use of any property or equipment of any kind whatsoever resulting from any act, failure to act or decision of the Assured or of any third party related to (1) and/or (2) above.
- (b) Subject to the Assured receiving written confirmation from the Underwriters, Paragraph (a) of this clause shall not apply to exclude a claim which the Assured can demonstrate.
 - (1) would be recoverable under this insurance in the absence of the exclusion in paragraph (a),
and
 - (2) has not resulted from want of due diligence by the Assured, Owners, Managers or Superintendents or any of their onshore management in respect of any of the matters referred to in paragraph (a) of this clause,
and
 - (3) is proximately caused by any of the following perils:
 - (i) perils of the seas rivers lakes or other navigable waters;
 - (ii) fire, explosion;
 - (iii) violent theft by persons from outside the Vessel;
 - (iv) jettison;
 - (v) piracy;
 - (vi) contact with land conveyance, dock or harbour equipment or installation;
 - (vii) earthquake, volcanic eruption or lightning;

- (viii) accidents in loading, discharging or shifting cargo or fuel;
 - (ix) bursting of boilers, breakage of shafts;
 - (x) negligence of repairers or charterers provided such repairers or charterers are not an Assured hereunder or Master Officers or Crew;
 - (xi) contact with aircraft, helicopters or similar objects, or objects falling therefrom.
- (c) Notwithstanding paragraph (b) above in no circumstances shall the cover provided herein extend to a claim for loss, damage, liability or expense:
- (1) in respect of any software, programming, operating system , code or data,
or
 - (2) arising from or in any way connected, whether directly or indirectly, with any measures taken with the intention of averting or minimising any of the matters referred to in paragraphs (a)(1) or (a)(2) above or any of their possible or anticipated consequences.
- (d) The cover provided in this clause is subject in all other respects to all other terms, conditions, exclusions and limits contained in these Terms and Conditions.

3. GENERAL EXCLUSIONS

- (a) Save as set out in clause 1.1(b)(7) there is no cover for any loss or expense directly or indirectly caused or contributed to by or consequent upon:
- (1) war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power;
 - (2) capture, seizure, arrest, restraint or detainment of the vessel, and the consequences thereof or any attempt thereat;
 - (3) derelict mines, torpedoes, bombs or other derelict weapons of war;
 - (4) any terrorist or any person acting maliciously or from a political motive including, but not limited to, acts carried out by environmental activists;
 - (5) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
 - (6) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof or any material therefrom;
 - (7) any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter including the use of chemical and/or biological weapons;
 - (8) the outbreak of war (whether there be a declaration of war or not) between any of the following countries: United Kingdom, United States of America, France, Russia, the People's Republic of China;
 - (9) any delay in dry-docking or repairs or redelivery from dry-docking or repairs of the vessel transporting the Insured Cargo, unless specifically agreed by Underwriters;
 - (10) any delay in delivery of a new building or delays incurred as a result of construction, conversion or upgrade of the vessel transporting the Insured Cargo, unless specifically agreed by Underwriters;

- (11) arrest, restraint, detainment, confiscation or expropriation by reason of infringement of any customs or trading regulations;
 - (12) the operation of ordinary judicial process, failure to provide security or to pay any fine or penalty or any financial cause;
 - (13) the unseaworthiness of the vessel or craft carrying the Insured Cargo, where the Assured or their servants are privy to such unseaworthiness at the time the Insured Cargo is loaded therein. The Underwriters waive any breach of the implied warranties of seaworthiness of the vessel carrying the Insured Cargo, unless the Assured or their servants are privy to such unseaworthiness;
 - (14) the unfitness of the vessel, craft, conveyance, container or liftvan for the safe carriage of the Insured Cargo, where the Assured or their servants are privy to such unfitness at the time the Insured Cargo is loaded therein. The Underwriters waive any breach of the implied warranties of fitness of the vessel carrying the Insured Cargo, unless the Assured or their servants are privy to such unfitness.
- (b) The Assured shall **not** be entitled to compensation from the Underwriters:
- (1) for physical loss of or damage to the vessel, any other conveyance or the Insured Cargo;
 - (2) for loss arising from any debt, insolvency, failure to provide any bond or security, whether under court order or otherwise, or any other financial cause;
 - (3) for loss arising from any failure of the Assured or of his agent to comply with the laws of any jurisdiction in which such Assured or agent is incorporated or has a place of business or in which the Insured Cargo or the vessel transporting the Insured Cargo are at any time located;
 - (4) for loss arising from any failure of the Assured or his agent to obtain all necessary permits and authorisations, unless prevented from doing so by the occurrence of a peril referred to in clause 1.1(b); or
 - (5) for loss arising out of or in any way contributed to by the wrongful act, negligence or wilful misconduct of the Assured or his agent (other than negligence referred to in clause 1.1(b) (7));
 - (6) if the circumstances giving rise to the claim existed before or at the time the Insurance Cover attached;
 - (7) if the vessel or any other conveyance transporting the Insured Cargo was carrying contraband or was involved in blockade-running;
 - (8) if the vessel or any other conveyance transporting the Insured Cargo was employed in any unlawful trade or used in any unlawful manner;
 - (9) for any delay caused by disputes arising out of any contract;
 - (10) for cancellation, abandonment or curtailment of consecutive voyages due to insufficient financial resource, financial default or insolvency of the Assured, the owners, managers, charterers or operators of the vessel or any other conveyance transporting the Insured Cargo;
 - (11) for any ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the Insured Cargo or any disruption caused thereby;

- (12) for loss, damage or expense caused by insufficiency or unsuitability of packing or preparation of the Insured Cargo (for the purpose of this clause "packing" shall be deemed to include stowage in a container or liftvan but only when such stowage is carried out prior to attachment of this insurance or by the Assured or their servants) or any disruption caused thereby;
 - (13) for loss, damage or expense caused by inherent vice or nature of the Insured Cargo or any disruption caused thereby.
- (c) In no case shall this insurance cover loss arising out of or consequent upon:
- (1) the trade, voyage or operation upon which the Insured Vessel was engaged being unduly hazardous or otherwise imprudent; and /or
 - (2) the Assured and/or his agents failing to take such steps, including but not limited to the making of and acting upon all reasonable inquiries, as could reasonably be expected to be taken by a competent and prudent uninsured operator in the same or similar circumstances; and/or
 - (3) the Assured failing in any material respect to comply with his obligations under this insurance.

4. **CLAIMS**

- (a) Any occurrence or circumstance which is likely to give rise to a claim shall be immediately notified in writing to the Underwriters.
- (b) Every claim shall be submitted to the Underwriters, on the claim form in current use, within six months from the date on which the relevant trade disruption begins.
- (c) The claim form shall be duly signed by, or on behalf of, the Assured and shall be accompanied by all relevant documents available to the Assured.
- (d) The Assured shall supply such further documents, information or evidence (including evidence on oath) as the Underwriters may require.
- (e) If an Assured makes any claim which he knew or should have known was false or fraudulent as regards amount or in any other way whatsoever his insurance for all Insured Cargoes shall become void from inception and all claims shall be forfeited absolutely.
- (f) Acceptance of liability by Underwriters in respect of a claim shall be notified to the Assured by formal letter from Underwriters, and no admission of liability on behalf of Underwriters shall be constituted by, or inferred from, anything done or omitted to be done prior to the dispatch of such formal notification by letter.
- (g) If at the time of any loss there shall be any other subsisting insurance covering such loss, or any part thereof, the Underwriters shall not be liable to pay more than their rateable proportion of the loss.
- (h) In no circumstances shall an Assured be entitled to interest on his claim whether before or after any judgement and/or arbitration award is made.
- (i) The Underwriters shall have an absolute discretion to disallow any claim or reduce the amount paid in respect thereof if any of the provisions of clause 4(a-e) are not in the Underwriters opinion observed.

- (j) The Underwriters shall have an absolute discretion to disallow any claim or reduce the amount paid in respect thereof where an Assured fails to notify the Underwriters of any change in the particulars or information supplied by an Assured in the proposal form.
- (k) The Underwriters shall be entitled in the exercise of their absolute discretion:
 - (1) to authorise reimbursement of an Assured in respect of expenses reasonably incurred by him in order to prevent loss which would otherwise have resulted in a claim on the Underwriters;
 - (2) to allow in whole or in part any claim which they consider to be within the spirit of these terms and conditions.
- (l) Following the occurrence of an event which is likely to give rise to a claim under this cover the Assured must take all appropriate steps to avoid or minimise any additional costs or loss of earnings including (without limitation) by having repairs carried out in good time, making alternative arrangements or obtaining replacements, and in doing so must, wherever possible and reasonable, obtain and follow instructions from the Underwriters. This also applies if additional costs or loss of earnings have already been incurred.

The Assured must notify the Underwriters without delay of any measures he has taken which, given the circumstances, he considered to be advisable but for which he was unable to obtain the Underwriter's prior approval.

In particular the Assured shall also be obliged to safeguard any claims for compensation against third parties.
- (m) An Assured shall not in any circumstances make any admission, enter into any discussions or negotiations or conclude any settlement in relation to any claim by any third party for which he may be insured by the Underwriters unless or until he has obtained prior approval in writing from the Underwriters (which they may grant or refuse in their absolute discretion and on such terms as they may think fit).

5. CLASSIFICATION AND STATUTORY

- 5.1 In the event the Assured is the Owner or the Bareboat, Time, or Voyage Charterer of the vessel transporting the Insured Cargo then it is a condition of this insurance that at all times whatsoever throughout the Period of Cover:
 - (a) the vessel is fully classed with a Classification Society which is a member of the International Association of Classification Societies (IACS), approved by the Underwriters; and
 - (b) the Vessel and "the Company" (as defined by Chapter IX of the International Convention for the Safety of Life at Sea (as amended), hereinafter referred as 'SOLAS 1974', and, as defined in the International Safety Management Code, hereinafter referred as 'the ISM Code') comply with all applicable provisions and requirements of SOLAS 1974 and the ISM Code.
- 5.2 In the event the Assured is the Owner or Bareboat Charterer of the vessel transporting the Insured Cargo then it is a condition of this insurance that at all times whatsoever throughout the Period of Cover:
 - (a) the Assured will promptly report, as soon as is reasonably practicable, to the Classification Society any incident, condition or damage in respect of which the Assured believes, or which a reasonable and competent operator would have believed, the Classification Society might impose any recommendations, conditions or restrictions (or make any directions or instructions); and

- (b) the Assured will comply with any recommendations, conditions or restrictions imposed (or any directions or instructions made) by the Classification Society and generally comply with its rules in respect of the vessel without delay and in any event within any time limits laid down by the Classification Society; and
- (c) the Assured complies with all laws promulgated, and regulations maintained, by the government of the vessel's flag State and of any State through whose waters the vessel passes in the course of being traded or operated whether for the Assured's own account or not; and
- (d) all the vessel's statutory certificates as prescribed by the vessel's flag State and by any State through whose waters the vessel passes are valid and kept maintained up to date and in good order and, in the event of an occurrence giving rise to a claim under the Policy, the Assured, in addition to any other documents with the Assured is required to provide to the Underwriters, shall also and on request by the Underwriters, provide the following:
 - (1) a copy of the current Safety Management Certificate (SMC) as referred to in the ISM Code;
 - (2) a copy of the current Document of Compliance (DOC) as referred to in the ISM Code;
 - (3) a statement from the "Designated Person" (as referred to in the ISM Code) confirming that all relevant aspects of the ISM Code for which he has specific responsibility have been carried out in accordance with the provisions stated therein.

5.3 In all cases, it is a condition of this insurance that the Assured, in addition to any other documents which the Assured is required to provide to the Underwriters, shall also and on request by the Underwriters provide copies of any documents relating to compliance of any vessel transporting the Insured Cargo with SOLAS 1974 and/or the ISM Code to which they are entitled under the charterparty, contract of affreightment or any other contract.

5.4 There shall be no recovery whatsoever from the Underwriters in the event of any breach or breaches of any or all of the conditions of insurance set out in clauses 5.1, 5.2 and 5.3 hereof unless and to the extent the Underwriters in their sole discretion determine otherwise.

6. DEDUCTIBLE

No claim arising from a peril insured against shall be payable under this insurance unless the claim for each separate occurrence exceeds the deductible as specified in the Certificate of Insurance, in which case the deductible shall be subtracted from the claim before any payment is made.

7. AUTOMATIC TERMINATION OF INSURANCE

7.1 An Assured shall cease to be insured and the Period of Cover shall be terminated forthwith in respect of all cargoes insured by him with the Underwriters upon the happening of any of the following events or circumstances:

- (a) where an Assured is an individual, upon his death or if a receiving order shall be made against him or if he shall become bankrupt or make any composition or arrangement with his creditors generally or if he shall become incapable by reason of mental disorder of managing and administering his property and affairs or if under any system of law other than English Law there occurs an event in relation to that individual which has a similar effect to any of the aforesaid events or circumstances;
- (b) where an Assured is a corporation, upon the passing of any resolution for voluntary winding up (other than voluntary winding up for the purpose of company or group reorganisation) or upon an order being made for compulsory winding up or upon dissolution or upon a receiver or

manager of all or part of the corporation's business or undertaking being appointed or upon possession being taken by or on behalf of the holders of any debentures secured by floating charge of any property comprised in or subject to the charge or if under any system of law other than English Law there occurs an event in relation to that corporation which has a similar effect to any of the aforesaid events or circumstances;

(c) if having failed to pay when due and demanded by the Underwriters any sum which Underwriters consider to be due from him to Underwriters, he is served with a notice by or on behalf of the Underwriters requiring him to pay such sum on or before any date which may be specified in such notice and he fails to pay such sum in full on or before the date so specified.

7.2 (a) When the insurance of the Insured Cargo or Cargoes terminates under clause 7.1(a) and (b) hereof then Underwriters shall remain liable in respect of any Insured Cargoes insured by such Assured for all claims under these Terms and Conditions arising by reason of any event which had occurred prior to the time of termination but shall be under no liability whatsoever by reason of anything occurring after the time of termination;

(b) When an Assured ceases to be insured by virtue of clause 7.1(c) hereof then the Underwriters shall thereupon cease to be liable for all and any claims under the Terms and Conditions in respect of all and any Insured Cargoes insured with the Underwriters, irrespective of whether:

(1) such claims have accrued or arisen or may arise by reason of any event which had occurred before the date of termination or before the commencement of the policy year in which the date of termination occurred; and/or

(2) such claims may arise by reason of any event occurring after the date of termination; and/or

(3) the Underwriters may have decided to support the Assured or admitted liability for such claims or appointed lawyers, surveyors or any other person to deal with such claims; and/or

(4) at the date of termination the claims were likely to accrue or the event giving rise thereto was or was not known to the Underwriters;

but as from the date of termination any liability for such claims shall retrospectively terminate and the Underwriters shall be under no liability to such Assured for the said or any other claims or on any account whatsoever;

PROVIDED ALWAYS that:-

The Underwriters may, in their absolute discretion and upon such terms as to the payment of Premium or otherwise as they think fit, admit either wholly or partly any claim in respect of any Insured Cargo for which the Underwriters are under no liability under either paragraph (a) or paragraph (b) of this clause, whether arising before or after any date of termination as hereinbefore referred to.

8. **TERMINATION OF INSURANCE BY NOTICE**

The insurance of any Assured shall terminate upon the expiry of 45 days (or such longer period as may be specified in the notice) from the date of one party giving to the other a notice of termination in writing, which notice either party shall be entitled to give in its absolute discretion and without giving any reason, but subject always to the period of insurance specified in the Certificate of Insurance.

9. **LIABILITIES OF AN ASSURED FOLLOWING TERMINATION**

Following the termination of an Assured's cover pursuant to any of the provisions of these Terms and Conditions the Assured shall remain liable to Underwriters in respect of all sums which Underwriters consider due or which become due including, but not limited to premiums then accrued or thereafter accruing due for the period prior to such termination, the premiums being calculated on a pro-rata basis if cover is terminated during the course of a Period of Cover.

10. **ASSIGNMENT**

- (a) No insurance given by the Underwriters and no interest under these Terms and Conditions or under any contract between the Underwriters and any Assured may be assigned without the written consent of the Underwriters who shall have the right in their absolute discretion to give or refuse such consent without stating any reason or give such consent upon any such terms or conditions as they may think fit. Any purported assignment made without such consent or without there being due compliance with any such terms and conditions as the Underwriters may impose shall, unless the Underwriters in their absolute discretion otherwise determine, be void and of no effect.
- (b) Whether or not the Underwriters shall expressly so stipulate as a condition for giving their consent to any assignment, the Underwriters shall be entitled in setting any claim presented by the assignee to deduct or retain such amount as the Underwriters may then estimate to be sufficient to discharge any liabilities of the assignor to the Underwriters, whether existing at the time of the assignment or having accrued or being likely to accrue thereafter.

11. **SUBROGATION**

- (a) When a claim has been paid under these Terms and Conditions the Underwriters shall be subrogated to all rights and remedies in respect of that claim which the Assured may have against any third party.
- (b) The Underwriters shall be entitled to use the name of the Assured in bringing, defending, enforcing or settling any legal proceedings (including proceedings in any arbitration) and the Assured shall give all necessary information and assistance and produce and forward all documents to enable the Underwriters to substantiate, pursue, settle or resist any claim or legal proceedings (including proceedings in any arbitration).
- (c) The Underwriters shall, where they use the name of the Assured, indemnify him against all costs, charges, expenses and liabilities arising therefrom.

12. SET-OFF

- (a) The Assured shall have no right of set-off against the Underwriters. In determining for any purpose the amount due at any time from an Assured to the Underwriters no account shall be taken of any amount which either is, or is alleged to be, due from the Underwriters to an Assured, and in any proceedings brought by the Underwriters to recover outstanding premiums, no set-off of any kind (including one which might otherwise have arisen by reason of the bankruptcy or winding up of an Assured) shall be allowed against the amount due by an Assured to the Underwriters. The Underwriters may in their absolute discretion, when making a demand for payment of outstanding premiums, make allowance for any amount due from the Underwriters to an Assured, but no set-off permitted at any time in the past shall constitute a waiver by the Underwriters of the provisions of this clause.
- (b) The Underwriters shall have a general right of set-off against an Assured.

13. LAW

- 13.1 The construction of these Terms and conditions and the respective rights and obligations of the Underwriters and the Assured hereunder shall be governed by and construed in accordance with English Law.
- 13.2 The particulars and information given in the proposal together with any supplementary information supplied on request shall be deemed to form part of the Contract of Insurance and the accuracy of all such particulars and information shall form the basis of the Contract.

14. ARBITRATION

- (a) Any dispute or difference between an Assured and the Underwriters shall, unless the Underwriters decide in their absolute discretion that any such dispute or difference shall be decided by the English High Court of Justice, be referred to arbitration in London by an Arbitrator to be appointed by agreement between the parties concerned.
- (b) In the absence of agreement within 14 (fourteen) days of a request by either party to agree to an Arbitrator, an Arbitrator who is a Member of the Institute of Arbitrators shall be appointed by the President for the time being of the Law Society of England and Wales at the request of either party.
- (c) The submission to arbitration and all proceedings therein shall be subject to the provisions of the Arbitration Acts 1950 to 1996 or any statutory re-enactment or modification thereto.
- (d) The Arbitrator shall have power to admit any evidence whether legally admissible or not.
- (e) Subject to the foregoing provisions of this clause, the obtaining of an arbitration award as hereinbefore provided shall be a condition precedent to the right of any Assured to bring or maintain any action, suit or other legal proceedings against Underwriters.

15. CORRESPONDENCE

Michael Else and Company Limited of 65 Leadenhall Street, London EC3A 2AD are hereby recognised as the Underwriting agents of the Underwriters in all matters connected with the insurance provided by this Policy and all communications relating thereto should be addressed to Michael Else and Company Limited.

16. NOTICES

16.1 Notices to Underwriters

All notices required to be given by the Assured under these Terms and Conditions shall be addressed to Michael Else and Company Limited in writing at the address specified in clause 15 or as subsequently advised.

16.2 Notices to the Assured

Any notice required to be given to an Assured in accordance with these Terms and Conditions may be sent by post to his address as furnished by him in writing to Michael Else and Company Limited, or, if such address is outside the United Kingdom, by telegram, cable, telex or fax, and, if no such address has been furnished, at the same address which is his last known address to the knowledge of Michael Else and Company Limited, and such notice shall be deemed to have been duly served on the day after the same is put into the post, or in the case of telegrams or cables when handed in to the telegram or cable office, and in the case of telex or fax on the day of transmission.

17. DEFINITIONS

In these Terms and Conditions the following expressions shall, unless the context or subject matter otherwise requires, have the following meanings:

Certificate of Insurance	Any document issued by the Underwriters evidencing the terms and conditions of insurance with the Underwriters, including any endorsement evidencing any change in or addition to such terms and conditions.
Day	A period of twenty-four hours from midnight to midnight Greenwich Mean Time.
Deductible	Deductible, Franchise or Excess as specified in the Certificate of Insurance.
Insured Cargo	Cargo which has been declared to Underwriters and noted as such on the Certificate of Insurance and/or any subsequent endorsement thereto and which is insured under these Terms and Conditions.
Insured Disruption to Trade	Any disruption covered under the provisions of clause 1.1. hereof.
Midnight	Midnight Greenwich Mean Time.
Month	Calendar month.
Period of Cover	The period for which an Assured or Insured Cargo is insured as set out in the Certificate of Insurance or any subsequent endorsements.
Policy Year	As stated in the Certificate of Insurance.
Terms and Conditions	The Terms and Conditions for the time being in force.
Underwriters	Lloyd's Underwriters.
Vessel	Any description of vessel, transshipment vessel or craft named in the Certificate of Insurance used in navigation on which the Insured Cargo is transported, for carriage to the destination at which the Assured has contracted to deliver such Insured Cargo.

Words importing the masculine gender shall include the feminine gender.

Words importing persons shall include individuals, partnerships, corporations and associations.

Words importing the singular shall include the plural and vice versa.