



**Colonnade Insurance S.A. Bulgaria Branch**

**GENERAL CONDITIONS FOR  
INSURANCE OF MARINE LIABILITY**

**CARG ML 002-2020**

**Valid from 1<sup>st</sup> of February 2020**

## GENERAL CONDITIONS

### SECTION 1 - LIABILITY WORDING (LSW 1510a)

**This section is to be read in conjunction with the general policy provisions, the insurance schedule and the questionnaire, all of which form part of the policy.**

#### 1. Loss, if any, payable to Assured or Loss Payee as set out in the Insurance Schedule

#### 2. Insuring Clauses

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

2.1 Physical loss or physical damage to the real or personal property of any third party, including resultant loss of use or demurrage, provided that such loss or damage directly results from an Insured Operation performed by the Assured within the Confines of the Port, Terminal or Insured Location(s); and

2.2 Bodily Injury to any third party provided that such Bodily Injury directly results from an Insured Operation performed by the Assured within the Confines of the Port, Terminal or Insured Location; and

2.3 Any liability of the Assured in connection with any tenant of the Assured for Operations performed by any sub-contractor appointed by the Assured, but being subject to the terms, conditions and exclusions of this Policy. It is a condition of cover being given under this clause 2.3 that the Assured must ensure that any such tenant and/or sub-contractor purchases and maintains adequate liability insurance. Adequate insurance means terms no less favourable than the cover provided to the Assured under this Policy. Such policy must also stipulate that it will respond first to any liability loss prior to any other policy of insurance which may cover the same liability.

2.4 Costs and expenses incurred in the defence of any claim(s) arising from an Accident covered under Section 1, and the costs and expenses of litigation awarded to any claimant in any competent Court or arbitration proceedings against the Assured by way of interest on judgements, investigation, adjustment, appraisal, appeal and legal costs and expenses subject to the overall limit of this Section 1. Indemnifiable legal costs and expenses shall exclude all fees, salaries, or retainers for salaried employees and employed counsel and all office expenses of the Assured unless prior agreement has been obtained from Insurers. Such costs and expenses shall be subject to clause 2 of the General Policy Provisions.

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

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

#### 3. Exclusions

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

3.1 To employees of the Assured, except as insured under clause 4, or 6 of this Section;

3.2 Directly or indirectly under Workmen's Compensation or Employers Liability Acts or any other statutory or Common Law Liability to any employee of the Assured when such Bodily Injury arises out of or in the course of the employment of such employees;

3.3 Directly or indirectly caused by any continuous, intermittent or repeated exposure to or ingestion, inhalation or

absorption of the following substances or condition(s) in any form:

asbestos, tobacco, coal dust, polychlorinated biphenyls, silica, benzene, lead, talc, dioxin, pharmaceutical products or drugs of any type, pesticides or herbicides, mould, human immune virus or acquired immune deficiency syndrome or electro magnetic fields;

3.4 For any repetitive motion, repetitive stress, repetitive strain and/or cumulative trauma disorder, including, without limitation, (i) liability or alleged liability arising from alleged improper design of goods, equipment or machinery or operations, (ii) failure to warn or properly instruct as to the use of goods, equipment or machinery or conduct of operations, (iii) improper supervision of use of the goods, equipment or machinery or conduct of operations, or (iv) without limiting the foregoing, carpal tunnel syndrome;

3.5 For loss, damage or expense to any property or equipment owned, leased, hired, occupied or rented by the Assured;

3.6 For loss, damage or expense caused by wear, tear or gradual deterioration;

3.7 From the release of cargo without the original bill of lading, unless otherwise endorsed by Insurers;

3.8 For loss, damage or expense to ad valorem or valuable cargo (including but not limited to bullion, precious metals or precious object(s), jewellery, cash, securities, fine art or thoroughbred horses) unless the Assured was not informed and could not reasonably have known such cargo was being handled. Insurers may agree to insure such liability on a case by case basis subject to terms and conditions to be agreed in advance by Insurers;

3.9 As the owner, operator or user of any vehicle(s) or conveyance(s) of any description required to be licensed under any statutory provision(s) or regulation(s), or any Accident involving a vehicle, chassis, trailer, conveyance or the like on public roads or outside the Confines of the Port, Terminal or Insured Location;

3.10 In respect of any interest the Assured may have in any vessel, aircraft or helicopter whether owned, leased, rented, hired, chartered or operated by the Assured, including any management or operation of any airport, area or building upon which aircraft or helicopter(s) land or manoeuvre, or in which they are housed, maintained or repaired;

3.11 Directly or indirectly caused by, or arising out of seepage, pollution or contamination howsoever caused whenever or wherever happening unless the Assured establishes that all of the following conditions have been met:

- A. The seepage, pollution or contamination was caused by an Accident.
- B. The Accident occurred during the Policy period on an identified specific date.
- C. The Accident was first discovered by the Assured within 72 hours of the commencement of the Accident.
- D. Written notification of the accident was first received from the Assured by Insurers within 30 days of the Assured's first discovery of the Accident.
- E. The Accident did not result from the Assured's intentional or wilful violation of any statute, rule, ordinance or regulation.

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

(i) To abate or investigate any threat of seepage onto or pollution or contamination of the property of a third party.

(ii) For seepage, pollution or contamination of property which is or was, at any time, owned, leased, rented or occupied by any Assured, or which is or was, at any time, in the care, custody or control of any Assured (including the soil, minerals, water or any substance on, in or under such owned, leased, rented or occupied property or property in such care, custody or control).

(iii) For loss of, damage to or loss of use of property directly or indirectly resulting from subsidence caused by sub-surface operations of the Assured.

(iv) For fines, penalties, punitive damages, exemplary damages, or any other damages resulting from the multiplication of compensatory damages.

3.12 From the disposal, handling, processing, treatment, storage or dumping of any waste materials, spoil or substances or during transportation, including the operation of any land fill, dump site and/or location used for such. In the event of a conflict between this exclusion and exclusion 3.11, this exclusion shall prevail;

- 3.13 Out of dredging operations, while such operations are being performed;
- 3.14 For fines, penalties, punitive or exemplary damages howsoever awarded or described, or any additional damages resulting from the multiplication of compensatory damages;
- 3.15 For failure or delay in performance of any contractual obligation or guarantee, including failure to supply or from fluctuations in supply of any substance, product or service whatsoever;
- 3.16 Under any contract or agreement to compensate another party unless:
- A. Such liability would have attached to the Assured in the absence of such contract or agreement or as specifically agreed by Insurers prior to such Accident, and
- B. Such liability was caused by or contributed to by the Assured's fault or negligence;
- 3.17 As a result of the Safe Working Load of any equipment being overloaded other than for the purpose of inspecting or testing;
- 3.18 From the transit, movement, erection or dismantling of an item of handling equipment other than during the course of inspection, maintenance, repair or removal to another working position within the Confines of the Port, Terminal or Insured Location;
- 3.19 Out of goods or products, manufactured, processed, graded, blended, or sold by the Assured or by others trading under the name of the Assured where loss or damage occurs away from the premises owned, leased, rented or controlled by the Assured and after physical possession of such goods or products has been relinquished to others. This exclusion shall also apply to reliance upon a representation or warranty made in connection with such goods or products at any time;
- 3.20 From any negligent act, error or omission of any Assured, or any other person for whose acts the Assured is legally liable, in the administration of any Assured's employee benefits programme or pension programme. Employee benefits programme includes but is not limited to group life insurance, group accident or health insurance, profit sharing plans, employee stock subscription plans and social benefits;
- 3.21 Under any statute, law, rule or regulation relating to:
- A. the purchase, sale or distribution, or offer of securities, or investment counselling;
- B. monopolies, activities in restraint of trade, unfair competition, or deceptive acts or practices;
- C. copyright, patent or trademark infringement;
- D. disclosure relating to sales or offers to sell real property;
- E. employee, officer or director dishonesty, or improper conduct or conflict of interest in the performance of the Assured's operations, or any action taken outside the scope of an employee, officer, or director's authority as granted by the Assured.

#### **4. Cross Liability**

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

#### **5. Contracts and Agreements**

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

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

5.2 if the contract(s) is entered into after inception of this Policy, the Assured must inform Insurers of such contract(s) if the terms are substantially different from the terms of the contract(s) advised to Insurers under 5.1 and if requested by

Insurers supply copies of the contract(s) for Insurer's approval.

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

### **Extensions**

#### **Advice and Information Extension (Liability) (LSW 1512a)**

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

Notwithstanding exclusions 3.15 and 3.16, this Policy shall be extended to indemnify the legal or contractual liability of the Assured:

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

### **Exclusions**

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

**This extension shall be subject to clause 2 of the General Policy Provisions and nothing contained herein shall operate to increase the overall Section limit as specified in the Insurance Schedule.**

**This extension is subject to a section sub-limit as specified in the Insurance Schedule.**

### **Fines and Duty Extension (Liability) (LSW 1513a)**

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

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

(a) Fines, customs duty, sales, excise tax, value added tax or similar fiscal charges or other penalty imposed by an Authority on the Assured or any other person acting within their authority on the Assured's behalf, or

(b) Confiscation by an Authority of any property, including the handling equipment of the Assured.

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

Provided that such breach directly relates to:

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

### **Exclusions**

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

(i) That has not been properly established, proved or held by a competent court or tribunal acting within its powers.

(ii) For any illegal or criminal acts of the Assured.

(iii) For commercial fines or penalties in respect of freight tariffs, competition or the structure or operation of the Assured's business or that of any person acting on the Assured's behalf.

(iv) For any breach of any regulation, at Insurers discretion, arising from the weight of cargo or carrying equipment on a public road if such breach appears to have been caused recklessly or intentionally by the Assured or the Assured's employees.

(v) If any court or tribunal determines that it is illegal for the Assured to be insured for any cover given under this extension, then the other parts of this extension shall remain effective, although no indemnity will be given with respect to any loss or claim arising from the coverage under this extension which is held to be illegal.

(vi) For any amount that would have been payable by the Assured notwithstanding any breach.

(vii) In the case of the United States - enforced by the Federal Maritime Commission, Department of Justice or Federal Trade Commission of the United States of America or the Drug Enforcement Agency or any successors.

(viii) For any fine or duty associated with the non-compliance of the ISPS Code.

**This extension shall be subject to clause 2 of the General Policy Provisions and nothing contained in this extension shall operate to increase the overall Section 1 limit as specified in the Insurance Schedule.**

**This extension is subject to a section sub-limit as specified in the Insurance Schedule.**

### **Wrongful Delivery of Cargo Extension (Liability) (LSW 1515)**

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

Notwithstanding exclusion 3.7, this Policy shall be extended to indemnify the Assured for wrongful delivery by the Assured of cargo (for which there is a contractual obligation for delivery on the part of the Assured or the Assured's sub-contractor(s)) contrary to instructions to withhold delivery or without taking in exchange payment or the relevant document of title.

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

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

**This extension shall be subject to clause 2 of the General Policy Provisions and nothing in this extension shall operate to increase the overall Section 1 limit as specified in the Insurance Schedule.**

**This extension is subject to a section sub-limit as specified in the Insurance Schedule.**

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## General Policy Provisions

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**These general policy provisions apply to and form part of the wavelength port and terminals consortium policy, insurance schedule, questionnaire and to all sections of the policy purchased by the assured.**

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

### **2. Section Limit(s) / Sub-Limit(s) / Sum Insured**

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

**2.2 Section Sub-Limit(s)** - In the case of section sub-limit(s) under this Policy, such section sub-limit(s) shall apply to any claim arising under that section, clause, extension or Operation in respect of any one Accident or series of Accidents arising out of any one event, and shall be inclusive and not in addition to the Overall Section Limit(s) as set out in the Insurance Schedule. Such section sub-limit(s) shall be inclusive of any costs and defence expenses arising from the claim(s) under that section, clause, extensions/or Operation. Where indicated in the Insurance Schedule all section sub-limit(s) apply in respect of any one Accident or series of Accidents arising out of any one event and in the aggregate for each 12 month period from the inception date of this Policy.

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

### **3. Joint Assureds and Co-Assureds**

**3.1** Insurers may accept an application from an Assured for another person or persons to become Joint Assureds in respect of that Assured's Policy. Each Joint Assured shall have an independent right of recovery from the Insurers in respect of any liabilities, costs or expenses arising out of a particular casualty or event.

**3.2** Unless otherwise agreed in writing with the Insurers, the Assured and all Joint Assureds shall be jointly and severally liable to pay all amounts due to the Insurers in respect of this Policy.

**3.3** The Insurers may accept an application from an Assured for another person or persons to become Co-assureds. The liability of Insurers to all Co-assureds shall only extend insofar as the Co-Assured may be found liable to pay in the first instance for liabilities which are properly the responsibility of the Assured and are insured under this Policy. Once Insurers have indemnified such Co-assureds, Insurers shall not be under any further liability and shall not make any further payment to any person or company whatsoever, including the Assured, in respect of that claim.

**3.4** Payment by Insurers to the Assured or any one Joint Assured, or Co-assured in respect of any claim under this Policy shall fully discharge Insurers of all liability arising out of that claim.

**3.5** Any provision of this Policy by which an Assured or Joint Assured or Co-assured ceases to be insured or ceases to be entitled to recover from Insurers in respect of any liability, loss or damage shall be deemed to apply to all Assureds, Joint Assureds and Co-assureds. Failure by the Assureds or any Joint Assured or Co-assureds to comply with any of the obligations under this Policy is deemed to be the failure of the Assured and all Joint Assureds and all Co-assureds. Conduct of an Assured or any Joint Assured or Co-assured which would have entitled the Insurers to decline to indemnify it shall be deemed to be the conduct of all Assureds, Joint Assureds, and Co-assureds.

**3.6** The contents of any communication between the Assured or any Joint Assured or Co-assured and the Insurers, their servants or agents, shall be deemed to be within the knowledge of the Assured and all Joint Assureds or Co-assureds.

**3.7** The Assured, Joint Assureds and Co-assureds agree that (subject to any express coverage in this Policy) no disputes arising amongst them shall be the subject of any insurance or recovery from the Insurers and Joint Assured and Co-assureds shall only be insured on this basis.

**3.8** Where there are Joint Assureds or Co-assureds, any reference to the Assured in this Policy will be deemed to include any Joint Assured or Co-assured, so far as applicable.



#### 4. Underlying Amount(s) / Deductible(s)

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

#### 5. Radioactive Contamination \ Chemical \ Biological \ Bio Chemical \ Electromagnetic Weapons and Cyber Attack Exclusion Clause (CL370 and CL380)

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

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

5.1.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;

5.1.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;

5.1.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;

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

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

5.2 Subject only to clause 5.3 below, in no case shall this insurance cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.

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

#### 6. War, Strikes and Terrorism Exclusion

6.1 This Policy excludes:

A. loss, damage, cost or expense directly or indirectly caused by, contributed to or arising from or in consequence of any of the following, regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

B. strike, lock-out, labour disturbance, riot, civil commotion, war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil strife, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority;

C. any act of terrorism, which means an act, including but not limited to the use of force or violence or the threat of violence, of any person or group of persons whether acting alone or on behalf of or in connection with any organisation or government, committed for political, religious, ideological or similar purposes including the intention to influence any government and/ or to put the public or any section of the public in fear;

D. this Policy also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way related to 6.1.

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

Assured;

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

## **7. Dangerous Cargoes**

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

## **8. Due Diligence/ Precautionary Measures (Assured's Duty to Minimise Loss)**

8.1 It is a condition of this Policy that the Assured shall act as if a prudent uninsured at all times and at their own expense take such measures as may be reasonable for the purpose of averting or minimising a loss. The Assured shall not admit liability or assume any obligation without prior agreement by Insurers. In the event of a breach of this condition, Insurers shall be entitled to cancel this Policy from inception, and shall not be liable for any claims arising under the Policy.

8.2 The Assured shall maintain all precautionary measures given as information to Insurers with regard to loss prevention and risk management. The Assured shall, in addition, implement any measures required by Insurers and notify Insurers of any material change in or affecting the Assured's Operation(s). In the event of any material change, Insurers will be entitled to amend the terms and conditions of this Policy, or cancel this Policy with effect from the date of the material change.

## **9. Survey / ISPS**

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

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

## **10. Electronic Exclusion Clause**

10.1 Notwithstanding anything to the contrary contained within this Policy, it shall not provide cover in respect of claims, losses, expenses or costs arising by reason of any defect in the operation of any Computer Equipment, the operation or any function of such Computer Equipment, or the sending, receipt, processing or manipulation of data (including e-mails and data accessible via the internet). For this purpose, "Computer Equipment" includes any combination of software and hardware.

10.2 This clause applies regardless of any other cause and/or event that contributes concurrently or in any sequence to any loss, damage, cost, claim, and/or expense.

## **11. Notice of Potential Claims**

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

## **12. Assistance of the Assured**

12.1 The Assured shall assist Insurers in all matters relating to claim(s) and provide Insurers with all information Insurers or their agents may reasonably request in respect of a claim. The Assured will also allow Insurers or their agents to interview witnesses and access to evidence supporting the claim(s).

12.2 The Assured is obliged under the due diligence obligation in clause 8.1 to take all reasonable steps to defend claim(s) made against the Assured which could become a claim under this Policy. Insurers shall have the right, but not the duty, to participate with the Assured in the defence, settlement or litigation of any claim(s) made against the Assured, or to appeal against any judgement or award. Insurers agree, provided prior written consent is obtained from Insurers, subject to any terms imposed by Insurers such as selection of lawyers, and subject to any deductible/underlying amount, to indemnify the legal costs and expenses in relation to any claim(s) against the Assured arising out of an insured Accident. However, Underwriter's liability including such legal costs and expenses shall in no event exceed the relevant Overall Section Limit(s) and/or Section Sub-Limit(s) as identified in the Insurance Schedule.

12.3 Insurers shall have the right to elect at any time to take over the conduct of the defence, settlement or litigation of any claim(s) from the Assured upon giving notice to the Assured or the Assured's Broker by mail, facsimile or e-mail. Should Insurers make such an election, the Assured agrees to continue to provide Insurers with all reasonable assistance in handling the claim(s).

12.4 Insurers shall be entitled at any time to elect not to continue to support the defence, settlement or litigation of any proceedings and any liability for legal costs and expenses shall cease at the time of their election.

### **13. Subrogation**

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

### **14. Audit**

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

### **15. Prior Knowledge / Other Insurances**

15.1 Insurers will have no liability under this Policy arising from any Accident, of which the Assured had knowledge, prior to the inception date of this Policy.

15.2 Where the Assured has given notice to insurers under any other insurance or is, irrespective of this Policy, entitled to be indemnified in whole or in part by any other insurance in respect of any damages or loss which would otherwise be indemnifiable in whole or in part by the Insurers of this Policy, there shall be no contribution or participation by the Insurers of this Policy on the basis of any deficiency, concurrent or double insurance for such loss or damage for which the Assured is entitled to be indemnified by such other insurance. This condition will apply whether or not the Assured is actually indemnified by such other insurance.

### **16. Insolvency or Bankruptcy**

16.1 The insolvency, liquidation, bankruptcy, receivership, administration or the like, or any refusal or inability to pay of the Assured or any Underwriter shall not operate to:

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

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

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

## 17. Cancellation

The Insurer giving 30 days notice of cancellation may cancel this Policy by recorded delivery to the last known address of the Insured, stated in the Policy or other address which the Insured has given to the Insurer. Where no indemnity whatsoever has been paid or is due, the Insured shall be entitled to a pro rata proportion of the premium - returned by the Insurer. If the Insurance is being cancelled by the Insured under the same conditions, the Insurer may keep 10% of the sum due, for covering all administrative expenses. Cancellation may only be exercised by the Insurer in accordance with Article 354 of the Insurance Code.

## 18. Premium Payment Clause

The insurance premium is defined in accordance with the Insurer's tariff. The insurance premium, or the first installment of the premium, must be paid by the Policyholder to the Insurer within 30 days as of the effective date of the insurance contract, unless agreed otherwise. If the insurance premium, or the first installment of the premium, is not paid within 30 days as of the effective date of the insurance contract or as agreed, it shall be deemed that as of the date of its conclusion, the insurance contract has not created any legal consequences for the parties. Exclusive of the hypothesis of delayed payment of the insurance premium, or the first installment of the premium, in case of non-payment of any due consecutive installment within the agreed deadline, the insurance contract may be terminated unilaterally by the Insurer after 15 days from premium due date or the installment due date. Termination of the insurance contract becomes effective after the expiration of 15 days from the date of receipt of the Insurer's notification of termination for non-payment by the due date. In this case, the Policyholder shall be obliged to pay the insurance premium up to the date of termination of the insurance contract by the Insurer. The amount of the due insurance premium, as per the previous sentence, shall be determined pro rata for the period between the effective date of the insurance contract and the date of termination.

## 19. Assignment

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

## 20. Several Liability Notice

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

## 21. Governing Law

This Policy shall be subject to and governed by Bulgarian Law.

## 22. Arbitration

All matters in difference between the parties arising under, out of or in connection with this Policy, including formation and validity, and whether arising during or after the period of this Policy, shall be referred to an arbitration tribunal as set out below.

22.1 Unless the parties appoint a sole arbitrator within 14 days of one receiving a written request from the other for arbitration, the party requesting arbitration (the Claimant) shall appoint an arbitrator and give written notice to the other party (the Respondent). Within 30 days of receiving such notice the Respondent shall appoint his arbitrator and give written notice to the Claimant, failing which the arbitrator appointed by the Claimant shall act as sole arbitrator, in which case paragraph 22.2 shall not apply.

22.2 Before they enter upon a reference the two arbitrators shall appoint a third arbitrator. Should they fail to appoint such a third arbitrator within 30 days of the appointment of the Respondent's arbitrator then either of them or either of the parties may apply to the appointor for the appointment of the third arbitrator. The three arbitrators shall decide by majority. If no majority can be reached the verdict of the third arbitrator shall prevail. He shall also act as chairman of the tribunal. The appointor shall be the Chairman of the London Court of International Arbitration.

22.3 Unless the parties otherwise agree the arbitration tribunal shall consist of persons (including those who have retired) with not less than ten years' experience of insurance or reinsurance as persons engaged in the industry itself or as lawyers or other professional advisors.

22.4 The arbitration tribunal shall have power to fix all procedural rules for the holding of the arbitration.

22.5 The place of arbitration shall be London unless an alternative place is agreed between the parties.

### **23. Third Party Rights**

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

### **24. Embargo and Sanction Exclusion**

The Insurers are not liable to make any payment for liability under any coverage section of this Policy or make any payment under any Extension for any loss or claim arising in, or where the Assured or any beneficiary under the Policy is a citizen or instrumentality of the government or, any country(ies) against which any laws and/or regulations governing this Policy and/or the Insurer, its parent company or its ultimate controlling entity have established any embargo or other form of economic sanction which have the effect of prohibiting the Insurer to provide insurance coverage, transacting business with or otherwise offering economic benefits to the Assured or any other beneficiary under the Policy.

It is further understood and agreed that no benefits or payments will be made to any beneficiary(ies) who is/are declared unable to receive economic benefits under the laws and/or regulations governing this Policy and/or the Insurer, its parent company or its ultimate controlling entity.

All other terms clauses and conditions remain unaltered.

### **25. OFAC clause**

The coverage provided by this policy shall be null and void if it violates any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union.

Insurance coverage provided by a binder, certification of insurance or other evidence of insurance that violates any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, as defined above, shall be null and void. Similarly, any claims arising under any policy, binder, certificate of insurance or other evidence of insurance issued to any party, entity or beneficiary that violates any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union shall be barred pursuant to the requirements of the sanction, prohibition or restriction.

This exclusion applies *pari passu* to coverage directly affected by any sanctions issued by any other country.

### **26. Notifications**

1. Each of Insured's/Policyholder's notifications relating to the insurance must be sent to Insurer's address and/or e-mail indicated in the policy. Each of Insurer's notifications to the Insured/Policyholder will be sent to the Insured's/Policyholder's address indicated in the policy.

2. At conclusion of the insurance policy, the Insured/Policyholder declares an e-mail address to which the latter will receive notifications, including notifications for amendments of the terms and conditions of the policy, concerning the amount of insurance premium and other matters. The Insured/Policyholder shall be obliged to promptly inform the Insurer in writing in case of a change in address and/or e-mail address indicated in the policy and provide the Insurer with his new address/e-mail. Until receipt of notice of change of Insured's/Policyholder's address/e-mail from the Insurer, relevant notifications will be sent to the address/e-mail indicated in the policy and those shall be considered delivered and received by the Insured/Policyholder with all legal consequences stipulated by law or the policy.

### **27. Personal data**

1. In consideration of the data subjects' right to information, the Insurer shall notify the users of the insurance services that:

1.1. The Insurer is a Personal Data Controller in accordance with the Regulation (EC) 2016/679 of the European Parliament and of the Council dated 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and the repeal of Directive 95/46 / EC, as data for the identification

of the Insurer and its representative can be found on the website of the Commercial Register ([www.brra.bg](http://www.brra.bg)) and in the "Privacy Policy" of the Insurer published at <http://www.colonnade.bg>;

Personal data controller is also Colonnade Insurance S.A., which carries out operations in Bulgaria through its local branch (hereinafter referred to for the sake of brevity as Colonnade/Controller/Insurer).

1.2. The personal data provided by the Insured or the Policyholder shall be used by the Insurer for the purposes of: the conclusion and performance of insurance contracts and the fulfilment of legal rights and interests in relation to the contracts, and for marketing purposes also;

The legal basis and purpose of the processing of personal data is to take actions before the conclusion of the insurance contract, including the implementation of the legal obligation of the Insurer to assess the insurance risk and assess the customer needs (adequacy of the offered product).

Personal data can also be processed for the abidance by the legal obligations of the Controller, and the need for their processing always derives from legal basis (in relation to the insurance business, complaint handling, tax and accounting matters, statistical and actuarial duties and the protection of users), as well as for purposes arising from the legally based interests of the Controller (i.e., reduction of insurance risk through reinsurance, prevention of damage to the Controller through counterreaction to an insurance crime, assurance of the observance of international sanctions through analysis or protection against claims arising out of the Controller's activities, including all necessary actions for their provision).

Personal data may be disclosed to other subjects only in connection with the fulfillment of the aforementioned purposes and on the basis of a written agreement (including IT service providers, insurance intermediaries, experts, collectors of receivables) and other subjects in connection with a reasoned purpose of the Controller (including insurance companies, reinsurers, payment operators, companies providing direct services to the claimants).

For the purposes of execution of the concluded insurance contracts, the personal data shall be stored on a server owned by the Insurer in Bulgaria (the city of Sofia) and in Slovakia (the city of Košice) (as well as in others countries within the EU).

1.3. Subject to the legal ground, their personal data may be disclosed to the following categories of recipients: persons having the quality of "Processor of personal data" within the meaning of § 1, item 3 of the Personal Data Protection Act; persons and institutions legally storing data regarding their solvency and payment readiness; to third parties, institutions or organizations in cases where the disclosure is based on an express legal provision; to third parties for statistical purposes; to third parties, as agreed between the parties. Subject to a legal ground, their personal data may also be used for direct marketing purposes and made available to third parties in this regard.

1.4. The provision of their personal data is entirely free and voluntary. The refusal to provide them is grounds for the Insurer to refuse to enter into a contract or to take any other action if the lack of such data does not enable it to make the expected actions and to make an objective assessment of the risk of the transaction or otherwise endangers the fulfilment of its legitimate interests;

1.5. Each person who has provided his / her personal data has the right of access to them, as well as the right to request their correction, deletion or limitation of the processing according to the terms and conditions of the applicable Bulgarian legislation. The data subject has the right to request access to his or her personal data, request correction of the data, their deletion, to restrict their processing or to oppose to their processing and against the right to transfer the data, and to submit a complaint to the relevant data protection authorities (both in Bulgaria – the Commission for Personal Data Protection, with address: 2, Prof. Tsvetan Lazarov Blvd, Sofia, and in Luxembourg - National Commission of Data Protection, 1 avenue du Rock'n'Roll, L-4361, Esch-sur-Alzette) and has the right to withdraw its consent to the processing of personal data.

The rights of individuals are described in the "Privacy Policy" published at <http://www.colonnade.bg>

1.6. With the conclusion of this insurance, the Policyholder / the Insured person explicitly agrees that the personal data provided at the conclusion of the insurance (the insurance contract) will be processed in the manner and for the purposes stated in the "Privacy Policy", which is published at <http://www.colonnade.bg>, by performing of any operation or set of operations with the provided personal data or with the set of personal data including the data provided by the Policyholder

/ the Insured during the process of concluding the insurance contract by automatic or other means, which operations, at the discretion of the Insurer, consist of collecting, recording, organizing, structuring, storing, adapting or modifying, retrieving, consulting, using, disclosing by transmission, dissemination or other means by which the data become available, arrangement or combination, limitation, erasing or destroying. The processing of personal data may also include the provision of personal data by the Insurer to third parties (including an entity established in a country which is not a Member State of the European Union and a Member State of the European Economic Area) for the purposes of the insurance, for the purposes of direct marketing and for statistical purposes, as specified in the previous point.

2. Depending on the purpose, personal data will always be processed no longer than the provided by the law prescriptions for claims. Personal data may only be transferred to data controllers in third countries (outside the European Economic Area) in statutory prescribed situations, in particular if conditions ensuring an adequate level of personal data security are met. In order to comply with established international sanctions, the Controller can transfer personal data on Insured/Policyholder to DXC Technology, a United States-based company that has joined the Privacy Shield Program, which means that DXC Technology ensures the appropriate protection measures and protection of personal data required by EU legislation.

3. The provision of personal data is necessary for the conclusion of an insurance contract and for the fulfillment of the legal obligations of the Insurer. It is not possible to conclude an insurance contract without providing personal data.

4. You can contact the Controller by writing to Colonnade Insurance S.A. - Branch Bulgaria, by calling +359 2 930 93 30 or by sending an email to [info@colonnade.bg](mailto:info@colonnade.bg). For any matter relating to the processing of personal data, in particular the exercise of your rights in relation to data processing, opposition or data transfers outside the European Economic Community, you may contact the Data Protection Officer at Colonnade Insurance S.A. - Bulgaria Branch ([dpo@colonnade.bg](mailto:dpo@colonnade.bg)) or send a letter to Colonnade Insurance S.A.- Branch Bulgaria at the specified address.

To learn more about how the Insurer processes and protects the confidentiality of personal data, please visit <http://www.colonnade.bg>

## 28. Making a complaint

1. The Insurer will do anything possible to ensure the Insured/Policyholder receives service at the highest level. If, however, the Insured/Policyholder still has any comments or complaints regarding the Insurer's service, the Insured/Policyholder may contact the Insurer at the address indicated in the policy.

2. In order to satisfy the Insured's/Policyholder's request as soon as possible, the latter should specify the number of the policy or claim (or both). The Insurer will try to resolve any problem or difficulty that may arise. If, however, the Insured/Policyholder is not completely satisfied, they may contact the Financial Supervision Commission of the Republic of Bulgaria, responsible for the supervision of insurance business, at the following address: Sofia 1000, 16 Budapeshta Str. Filing complaints under this procedure does not preclude the Insured's right to file a claim in the competent court.

## 29. Definitions

29.1 ACCIDENT - wherever used means a sudden event which was neither expected nor intended by the Assured and which first occurred or commenced on an identifiable specific date during the Policy period.

29.2 ASSURED - wherever used shall mean the Assured (as identified in the Insurance Schedule) and any, executive officer, managing employee, director or trustee thereof while acting within the scope of the duties bestowed on that person by the Assured.

29.3 BODILY INJURY - wherever used shall mean all physical injury to a third party including death, sickness, disease, mental injury, anguish or shock resulting from such physical injury.

29.4 CO-ASSURED – wherever used shall mean any party defined in the Insurance Schedule as a Co-assured.

29.5 COMPUTER EQUIPMENT - wherever used shall mean computer hardware and/or software.

29.6 CONFINES OF THE PORT AND/OR CONFINES OF THE TERMINAL AND/OR CONFINES OF THE INSURED LOCATION wherever used shall mean those areas within the limits of the Port as set out in the Insured Operations Clause of the Insurance Schedule, and in the case of local collection and delivery within a 10 kilometre radius of the Confines of the Port or Terminal or Insured Location.

A Port includes ports, marine terminals, warehouses, container freight stations, container or trailer repair or storage depots, inland clearance depots and rail freight intermodal transfer depots.

29.7 INSURANCE SCHEDULE - wherever used shall mean the schedule to the Insurance Policy.

29.8 INSURED HANDLING EQUIPMENT - wherever used shall mean the handling equipment specified in the Handling Equipment Schedule of the Insurance Schedule.

29.9 INSURED LOCATION - shall mean those locations specified in the Insurance Schedule.

29.10 INSURED PROPERTY - shall mean the insured property set out in the Property Schedule of the Insurance Schedule.

29.11 JOINT ASSURED - wherever used shall mean any party defined in the Insurance Schedule as a Joint Assured

29.12 INSURED OPERATIONS - wherever used shall mean the insured operations which the Assured has requested to be insured for and has been granted coverage for by Insurers as identified in the Insurance Schedule.

29.13 OVERLOADED - wherever used shall mean when the safe working load specified for the equipment by the manufacturer or by any other similarly qualified party is exceeded.

29.14 POLICY - wherever used shall mean all Sections, including extensions to those Sections, General Policy Provisions, Insurance Schedule, and Questionnaire.

29.15 PORT AUTHORITY - wherever used shall mean the party stipulated in the Port Authority Questionnaire and the operator or owner of the port specified in the Insurance Schedule.

29.16 TERMINAL OPERATOR - wherever used shall mean the party(s) stipulated in the Terminal Operator Questionnaire and the operator of any terminal operations specified in the Insurance Schedule.

### **30. COMMUNICABLE DISEASE EXCLUSION**

30.1. Notwithstanding any provision to the contrary within this Insurance Contract, upon categorization as a public health emergency of national or international concern, epidemic, or pandemic by the World Health Organization, or other governmental or quasi-governmental public health agency, entity or service that may provide such categorization, this Insurance Contract excludes any loss proximately caused by or significantly caused by Communicable Disease regardless of any other cause or event contributing concurrently or in any other sequence thereto.

The above exclusion shall however not apply to charges that would otherwise be recoverable under this insurance, properly and reasonably incurred solely to complete a marine transit insured hereunder.

30.2. Notwithstanding the foregoing, losses resulting from any otherwise covered peril under the original Policy and not otherwise excluded under this Insurance Contract shall be covered.

30.3. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

30.3.1. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and

30.3.2. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and



30.3.3. the disease, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of property.

The present General Conditions have been accepted by the Insurer as of 01.02.2020.

The Parties hereby explicitly confirm that they sign all statements contained in this file.

**Signature of the Assured/Policyholder:**

**Signature of the Insurer:**