

# Chubb Multimodal Freight Liability Clause

**PLEASE READ THE ENTIRE POLICY CAREFULLY ESPECIALLY THE HIGHLIGHTED PARTS WHICH MAY EXEMPT THE INSURER FROM LIABILITY UNDER THIS POLICY.**

In consideration of the payment of the premium and in reliance upon all statements and declarations made and information provided to the Insurer and subject to all the terms, conditions and limitations of this Policy, the Insurer agrees with the Policyholder as follows:

## SECTION A – FREIGHT LIABILITY

### 1. Insuring Agreement

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The Insurer will indemnify the Insured for all sums for which the Insured becomes legally liable to pay as Compensation for Freight Property Damage, occurring within the Policy Territory during the Period of Insurance as a result of an Occurrence in connection with the Insured Services.

### 2. Automatic Extensions for Section A

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Each of the following Extensions automatically applies unless otherwise stated in an endorsement. Each of the Extensions is subject to the Insuring Agreement and all other terms, exclusions, conditions and limits of this Policy unless otherwise stated. None of these extensions increases the Limit of Liability set out in Item 7(a) of the Schedule.

#### 2.1 Defence Costs

The Insurer will pay to or on behalf of the Insured, Defence Costs to defend a claim for Compensation for Freight Property Damage covered under Insuring Agreement 1 of this Policy.

#### 2.2 General Average and Salvage

The Insurer will pay to or on behalf of the Insured, the Insured's contribution to general average and/or salvage charges arising from an act of general average and/or salvage occurring during the Period of Insurance.

#### 2.3 Removal of Debris and Clean Up Costs

The Insurer will pay to or on behalf of the Insured, up to an amount set out in Item 8(a) any one Occurrence, all necessary and reasonable expenses incurred by the Insured to clean, decontaminate, remove and dispose of damaged, deteriorated or contaminated Freight.

#### 2.4 Restricted Freight

Notwithstanding Exclusion 6.26 (Restricted Freight), the Insurer will pay to or on behalf of the Insured, up to an amount set out in Item 8(b) any one Occurrence and in the aggregate, for any claim for Compensation for Freight Property Damage to Restricted Freight occurring within the Policy Territory during the Period of Insurance as a result of an Occurrence in connection with the Insured Services.

### 3. Optional Extensions for Section A

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Cover under Optional Extensions for Section A is only applicable if so designated in Item 15 of the Schedule. Extension 3.1 is subject to the Insuring Agreement and all other terms, exclusions, conditions and limits of this Policy unless otherwise stated. Extension 3.1 does not increase the Limit of Liability set out in Item 7(a) of the Schedule.

### 3.1 Terrorism

The **Insurer** will pay to or on behalf of the **Insured**, up to an amount set out in Item 8(c) any one **Occurrence**, for **Freight Property Damage** caused by an **Act of Terrorism**.

Exclusion 6.31(b) (War and Terrorism) shall not apply to cover provided under this Extension but Exclusion 6.31 (a) shall still apply.

## SECTION B – PROFESSIONAL INDEMNITY

### 4. Insuring Agreement

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The **Insurer** will pay to or on behalf of the **Insured** any **Loss** resulting from any **Claim** for civil liability arising out of any **Wrongful Act** committed during the conduct of the **Insured Services**, provided that such **Claim** is first made against the **Insured** during the **Period of Insurance** and reported to the **Insurer** no later than 30 days after the expiry of the **Period of Insurance**.

### 5. Automatic Extensions for Section B

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Each of the following Extensions automatically applies unless otherwise stated in an endorsement. Each of the Extensions is subject to the Insuring Agreement and all other terms, exclusions, conditions and limits of this **Policy** unless otherwise stated. None of these Extensions increases the **Limit of Liability** set out in Item 7(b) of the **Schedule**.

#### 5.1 Defence Costs

The **Insurer** will pay to and on behalf of the **Insured**, **Defence Costs** to defend a **Claim** for **Loss** covered under Insuring Agreement 4 of this **Policy**.

#### 5.2 Legal Representation at Investigations

The **Insurer** agrees to pay to or on behalf of any **Insured**, up to an amount set out in Item 8(d) any one **Investigation**, **Legal Representation Expenses** for any **Investigation** first commenced against the **Insured** during the **Period of Insurance**.

For the purpose of cover under this Extension a **Claim** is not required.

#### 5.3 Emergency Defence Costs and Emergency Legal Representation Expenses

Notwithstanding Claims Condition 9.3 (Conduct of Proceedings), if it is not possible for the **Insured** to obtain the **Insurer's** written consent prior to the incurring of **Emergency Defence Costs** or **Emergency Legal Representation Expenses**, the **Insurer** will waive the prior written consent provided that the **Insurers** consent is sought within 7 days of such **Emergency Defence Costs** or **Emergency Legal Representation Expenses** being incurred.

The **Insurer's** maximum liability under this Extension 5.3 in respect of **Emergency Defence Costs** is 10% of the **Limit of Liability** specified in Item 7(b) of the **Schedule** any one **Claim** and in the aggregate.

The **Insurer's** maximum liability under this Extension 5.3 in respect of **Emergency Legal Representation Expenses** is 10% of the **Limit of Liability** specified in Item 7(b) of the **Schedule** any one **Investigation** and in the aggregate.

For the purpose of cover under this Extension 5.3 in respect of **Emergency Legal Representation Expenses** a **Claim** is not required.

#### 5.4 Advancement of Defence Costs and Legal Representation Expenses

The **Insurer** shall advance any covered **Defence Costs** and covered **Legal Representation Expenses** within 30 days of receipt and approval of an invoice for such **Defence Costs** or **Legal Representation Expenses**.

Any advanced **Defence Costs or Legal Representation Expenses** shall be repaid to the **Insurer** in the event it is established that the **Insured** is not entitled to such **Defence Costs or Legal Representation Expenses**.

## 5.5 Civil Fines, Penalties, Duties and Taxes

Notwithstanding Exclusion 6.21 (Penalties and Damages), the **Insurer** agrees to pay to or on behalf of the **Insured** any fines, penalties, customs duty, sales or excise tax or similar fiscal charges for breach of regulations directly relating to the transport of **Freight** except uninsurable under any applicable law, including the law of the jurisdiction in which such fines, penalties, customs duty, sales or excise tax or similar fiscal charges are imposed on the **Insured** and the governing law of this **Policy**.

The **Insurer's** maximum liability under this Extension 5.5 is the amount set out in Item 8(e) any one **Claim** and in the aggregate.

The **Insurer** will not be liable to make payment under this **Policy** where the **Insured** is not legally liable to the **Customer** or to any **Authority** or if the **Insured** is entitled to rely on an **Approved Contract** to avoid liability.

## 5.6 Multiple Causes of Loss

Where more than one cause contributes to **Loss** for which a **Claim** is made, the **Insurer** will indemnify the **Insured** for the liability the **Insured** incurs in respect of that part of the covered **Loss** which is covered irrespective of whether one or more of the other causes is excluded under the **Policy**.

The **Insurer** and the **Insured** will use their best efforts to agree upon what is attributable to covered and uncovered causes. In the event of a dispute as to such attribution, it shall be resolved according to General Conditions 10.8 (Governing Law and Dispute Resolution).

## 6. General Exclusions applicable to this Policy

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The **Insurer** will not be liable for any amounts payable under this **Policy** directly or indirectly caused by, arising out of or in any way connected with:

### 6.1 Accounting Errors or Unexplained Disappearances or Shortages

any property owned by the **Insured** or in the **Insured's** care, custody or control as a result of accounting error or unexplained disappearances and/or shortages revealed only after stock take/taking of inventory.

### 6.2 Aircraft

the ownership, operation or navigation of any **Aircraft** or hovercraft, other than in respect of **Freight Property Damage** sustained during the provision of **Insured Services**.

### 6.3 Asbestos

asbestos or materials containing asbestos.

### 6.4 Assumed or Increased Liabilities

(a) any actual or alleged liability assumed under any contract, agreement or understanding except to the extent that such liability would have attached to the **Insured** in the absence of such contract, agreement or understanding Exclusion 6.4(a) does not apply to any **Approved Contracts**.

(b) any increased liability arising from any declaration of any special instructions by the **Customer** beyond the limitations of liability according to the **Approved Contracts**.

### 6.5 Bodily Injury

bodily injury, death, illness, disability, shock, fright, mental anguish or mental injury.

### 6.6 Cyber Attack

any 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.

### 6.7 Dangerous goods

any dangerous goods except if the **Insured** ensures compliance with all relevant regulations issued by an **Authority**.

### 6.8 Dismantling, assembly, testing or fabrication

Any dismantling, assembly, testing or fabrication of **Freight**.

**6.9 Dredging operations or dumping of spoil**

any involvement in dredging operations or the dumping of spoil therefrom.

**6.10 Excluded Freight**

**Bullion and Precious Metals**, cash securities and/or other cash equivalents, counterfeit, illegal or pirated goods, goods which are excluded by law, regulations or statute of any jurisdiction to or through which the property is transported, precious jewelry, or precious stones.

**6.11 Excluded Territories**

Any **Excluded Territories**.

**6.12 Financial Failure, Trading Debts & Insolvency**

any:

- (a) trading debt of the **Insured**;
- (b) guarantee or other undertaking or obligation in respect of such debt, given by the **Insured**; or
- (c) insolvency, liquidation, administration or receivership of an **Insured**.

**6.13 Fraud, Dishonesty & Intentional Conduct**

any **Insured** committing or condoning or allegedly committing or condoning any:

- (a) dishonest, fraudulent, **reckless or wilful** act or omission; or
- (b) malicious, criminal or intentional breach of the law; or
- (c) cartel or other anti-competitive conduct, or gaining any profit or advantage to which the **Insured** is not legally entitled.

**6.14 Fuel or Power**

any absence, shortage or withholding of power or fuel.

**6.15 Insurance**

any liability arising directly from the failure to arrange insurance.

**6.16 Labour**

any absence, shortage or withholding of labour of any description resulting from strike, lockout, labour disturbance, riot or civil commotion.

**6.17 Landfill, operation and/or use of dump site or disposal of waste**

any operation or use of a dump site, land-fill operation or the disposing of waste.

**6.18 Leased or Hired Property**

any property which is not owned by the **Insured** which is loaned, leased, hired or chartered by the **Insured**.

**6.19 Motor Vehicles**

any motor vehicle that is being moved on its own wheels or under its own power by the **Insured** or any person acting on the **Insured's** behalf.

**6.20 Mould**

any mould, moths, insects, rats or vermin.

**6.21 Penalties and Damages**

any punitive, exemplary, liquidated or aggravated damages or multiplication of compensatory damages, and any fines, duty, taxes and penalties except as provided for under Extension 5.5 (Civil Fines, Penalties, Duties and Taxes).

**6.22 Pollution**

Any **Pollution** or **Pollutants** in whatever form or quantity except this Exclusion 6.22 shall not apply to **Freight Property Damage** which:

- (a) arises from a sudden, identifiable, unintended and unexpected event from the standpoint of the **Insured**; and
- (b) which takes place in its entirety at a specific time and place.

**6.23 Port or Harbour Blockage**

any port or harbour blockage.

**6.24 Products Liability**

any goods manufactured, installed, treated, assembled or processed by or on behalf of the **Insured**.

## **6.25 Radioactive Contamination, Chemical Biological, Bio-Chemical and Electromagnetic Weapons**

### **Exclusion**

- (a) any ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; and
- (b) any radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof; and
- (c) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; and
- (d) any radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. This Exclusion 6.25(d) 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; and
- (e) any chemical, biological, bio-chemical, or electromagnetic weapon.

## **6.26 Restricted Freight**

Any **Restricted Freight**.

## **6.27 Retroactive Date**

Any **Freight Property Damage** occurring or allegedly occurring, or any **Wrongful Act** committed or allegedly committed, prior to the **Retroactive Date**.

## **6.28 Sanctions**

Any claim against the **Insured** to the extent that the provision of any cover, or the payment of any claim or benefit hereunder would expose the **Insurer**, or its parent to any sanction, prohibition or restriction implemented pursuant to resolutions of the United Nations or the trade and economic sanctions, laws or regulations of the People's Republic of China, the European Union, United Kingdom, or United States of America.

## **6.29 Temperature controlled goods**

any temperature controlled goods and loss or damage caused by any variation in temperature unless the **Insured** attends to the following:

- (a) instructs all **Employees** in the use of refrigeration equipment before entrusting them with such goods; and
- (b) obtains written confirmation from the **Customer** or principal before acceptance of the goods of the temperature at which the goods have to be held, and the consignee notes the variation in the required temperature upon delivery; and
- (c) services and maintains refrigeration equipment in accordance with the manufacturer's recommendations; and
- (d) ensures that the refrigeration equipment is operational prior to each transit; and
- (e) maintains written records of compliance with the above.

## **6.30 Vessel**

the ownership, operation, management, navigation or chartering of any vessel.

## **6.31 War and Terrorism**

- (a) war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, 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, public or local authority; or
- (b) any **Act of Terrorism** or any acts to suppress or control any **Act of Terrorism**, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

## **6.32 Wrongful Delivery**

any wrongful delivery of **Freight** contrary to instructions to withhold delivery without receipt by the **Insured** of: (a) an exchange payment; (b) the relevant bill of lading or other document of title; or (c) a letter of indemnity issued by the **Insured** or its agent which the consignee and trade financier have signed.

## **7. Specific Exclusions applicable to Section B**

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The **Insurer** will not be liable for any amounts payable under Section B of this **Policy** directly or indirectly caused by, arising out of or in any way connected with:

### **7.1 Intellectual Property**

any actual or alleged infringement of any intellectual property right, whether registered, registrable or otherwise, including but not limited to trade secret, copyright, trade mark, service mark, patent and petty patent.

#### 7.2 Licencing Investigations

any investigation, examination, inquiry or prosecution relating to the **Insured** failing to be properly licenced, registered or accredited to provide **Insured Services** as required by any law or regulation including industry codes or practice.

#### 7.3 Managerial Liability

any actual or alleged breach by an **Insured** of a duty owed in the capacity of a director, secretary, trustee or officer.

#### 7.4 Prior Matters

any:

- (a) **Claim** first made or **Investigation** first commenced before the **Period of Insurance** or which is a **Claim** first made or **Investigation** first commenced before the **Period of Insurance**; or
- (b) matter notified in whole or in part to the **Insurer** or any other insurer before the **Period of Insurance**; or
- (c) **Circumstance** which was known to or ought reasonably to have been known to the **Insured** prior to the commencement of the **Period of Insurance**.

#### 7.5 Related Persons & Entities

Any **Claim** brought by or maintained by or on behalf of:

- (a) any **Insured** or parent company of any **Insured**; or
- (b) any entity within the same group of companies as the **Insured**; or
- (c) any person or entity who at the time of the **Wrongful Act** giving rise to the **Claim** is a relative of any **Insured** or controlled by a relative of any **Insured**.

### 8. Definitions

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Wherever appearing in this **Policy**, the following definitions apply:

**8.1. The Insurer** means Chubb Insurance (China) Company Limited.

**8.2. Insurer's Affiliate** means each and any subsidiary or holding company of the **Insurer** and each and any subsidiary of a holding company of the **Insurer** or any business entity from time to time controlling, controlled by, or under common control with the **Insurer**.

**8.3. Act of Terrorism** means

Any act, including but not limited to the use of force or violence and/or threat thereof, of any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government which from its nature or context is done for, or in connection with, political, religious, ideological or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

**8.4. Actual Premium** means

**Premium** calculated at the end of the **Period of Insurance** by multiplying actual **Gross Freight Receipts** by the adjustment rate set out in Item 13 of the **Schedule**.

**8.5. Adjustment Premium** means

The difference between **Actual Premium** and **Minimum Deposit Premium**, which is payable by the **Policyholder** to the **Insurer** at the end of the **Period of Insurance** where **Actual Premium** exceeds **Minimum Deposit Premium**

**8.6. Aircraft** means

Any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space above ground.

**8.7. Approved Contract** means

Standard trading conditions as follows:

- (a) An applicable international transport convention;
- (b) National transport law which is compulsorily applicable to the **Insured**;
- (c) Any standard trading conditions approved by the national freight forwarding, road haulage or warehousing association of which the **Insured** is a member;
- (d) The terms of a FIATA or COMBICON bill of lading;

- (e) The **Insured's** house bill of lading or standard trading conditions provided such conditions and limitations of carriage or trade accept no greater liability or responsibility on the **Insured** than those in the FIATA standard bill of lading or national association standard conditions respectively or have been approved by the **Insurer**; or
- (f) A contract in a form that is noted as approved by the **Insurer** in the **Schedule**.

**8.8. Authority means**

Any administrative, governmental, regulatory or trade/marine body/bodies or person/persons of competent jurisdiction.

**8.9. Bullion and Precious Metals means**

Gold, silver, platinum or other precious metals in bars or bulk form.

**8.10. Circumstance means**

Any fact, matter or circumstance which gives rise to a **Claim** or **Investigation** or has the potential to give rise to a **Claim** or **Investigation**.

**8.11. Claim means**

- (a) The receipt by the **Insured** of any written demand for **Loss** made against the **Insured**; or
- (b) Any originating legal or arbitral process, cross claim, counterclaim or third party notice served upon the **Insured** which contains a demand made against the **Insured** for **Loss** arising out of a **Wrongful Act** committed during the conduct of (including a failure to perform) the **Insured Services**.

All **Claims** against one or more **Insured** and arising out of the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be deemed to be one **Claim** and such **Claims** shall be deemed to be first made on the date the earliest of such **Claims** is first made.

**8.12. Compensation means**

Monies paid or payable by judgment, award or settlement together with any liability on the **Insured's** part to pay legal costs and expenses.

**Compensation** does not include:

- (a) aggravated, punitive or exemplary damages;
- (b) fines or penalties;
- (c) costs incurred by the **Insured** in complying with any order for, grant of, or agreement to provide injunctive or non-monetary relief;
- (d) any amount which constitutes reduction, set off or return of fees or expenses, in whole or in part, paid to or charged by an **Insured**;
- (e) any internal or overhead expenses of the **Insured** or the cost of any **Insured's** time;
- (f) taxes or sums payable in relation to taxes;
- (g) any matters which are uninsurable under any applicable law; or
- (h) **Defence Costs**

**8.13. Computer System means**

Electronic, wireless, web or similar system (including all hardware, firmware and software) used to process data or information in an analogue, digital, electronic or wireless format including computer programmes, electronic data processing media, electronic data, electronic data communications equipment, operating systems, computer network and networking equipment, servers, web sites, extranet, and all input, output, processing, storage and on-line or off-line media libraries, music, graphic, entertainment and other content (to the extent they hold electronic data).

**8.14. Computer Virus means**

Computer instructions placed on a **Computer System** without the owner or user's knowledge or consent that are designed to harm the **Computer System**. **Computer Virus** includes malicious codes, malware, Trojan horses, worms and time or logic bombs.

**8.15. Customer means**

Any person or group of persons, corporation, entity or collective entity for whom the **Insured** provides a service.

**8.16. Customs Broker means**



A company or entity that provides the technical requirements of importing, preparing and filing entry documents, obtaining the necessary bonds, depositing import duties, securing release of **Freight** and arranging delivery to the importer's facilities.

**8.17. Deductible means**

- (a) For cover under Section A, the amount stated in Item 10(a) of the **Schedule** which is borne and payable by the **Insured** arising from each and every **Occurrence**.
- (b) For cover under Section B, the amount stated in Item 10(b) of the **Schedule** which is borne and payable by the **Insured** arising from each and every **Claim**.

**8.18. Defence Costs means**

All reasonable and necessary legal costs and expenses incurred by the **Insurer** or by the **Insured** with the written agreement of the **Insurer**.

**8.19. Emergency Defence Costs means**

**Defence Costs** but only where prior written consent from the **Insurer** could not be obtained.

**8.20. Emergency Legal Representation Expenses means**

**Legal Representation Expenses** but only where prior written consent from the **Insurer** could not be obtained.

**8.21. Employee means**

- (a) each person who was, is or becomes employed by the **Insured** and who is paid by the **Insured** by way of salary or wages; or
- (b) a volunteer working without fee or reward provided that the performance of whose duties is subject to the direction and control of the **Insured**.

**8.22. Excluded Territories means**

Any country, territory, land, or region specified in Item 9 of the **Schedule**.

**8.23. Freight means**

Goods of every description belonging to a third party including shipping containers, flat racks and packaging and protection for which the **Insured** is responsible.

**8.24. Freight Forwarder means**

**Transport Operator** providing **Freight** movement services which may include the issuance of documentation as an agent or principal and sub-contracting the physical carriage and handling to one or more **Transport Operator**.

**8.25. Freight Property Damage means**

- (a) Physical damage to, destruction of or loss of **Freight** including the loss of use thereof; and
- (b) Financial loss incurred by the owner of the **Freight** caused solely by the physical damage to, destruction of, or loss of or loss of use of **Freight**.

**Freight Property Damage** does not include:

- (a) Aggravated, punitive or exemplary damages;
- (b) Fines or penalties;
- (c) Costs incurred by the **Insured** in complying with any order for, grant of, or agreement to provide injunctive or non-monetary relief;
- (d) Any amount which constitutes reduction, set off or return of fees or expenses, in whole or in part, paid to or charged by an **Insured**;
- (e) Any internal or overhead expenses of the **Insured** or the cost of any **Insured's** time;
- (f) Taxes or sums payable in relation to taxes;
- (g) Any matters which are uninsurable under any applicable law; or
- (h) **Defence Costs**.

**8.26. Gross Freight Receipts means**

Gross revenue for the **Period of Insurance** including payments to agents and sub-contractors in respect of **Insured Services** made during the **Period of Insurance** but excluding customs duty, sales tax or similar fiscal charges paid on behalf of the **Customer**.



**8.27. Insured means**

- (a) The **Insured** named in Item 3 of the **Schedule**; or
- (b) Any subsidiary company (including subsidiaries thereof) of the **Insured** named in Item 3 of the **Schedule** and any other organisation under the control of the **Insured** named in Item 3 of the **Schedule** and over which it is exercising active management.

**8.28. Insured Services means**

Only those specific services set out in Item 5 of the **Schedule**.

**8.29. Interrelated Wrongful Acts means all Wrongful Acts which are the same or are attributable to one source or originating or underlying cause.**

**8.30. Investigation means**

A formal or official investigation, examination or inquiry before any duly constituted court or tribunal or other body having the power to compel the attendances of witnesses (including any hearing before any disciplinary body of any professional institution or association) into the conduct of **Insured Services** by the **Insured** other than any industry-wide investigation and/or routine supervision, inspection, compliance or similar review. All **Investigations** against one or more **Insured** and arising out of the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be deemed to be one **Investigation** and such **Investigations** shall be deemed to be first commenced on the date the earliest of such **Investigation** is first commenced.

**8.31. Legal Representation Expenses means**

The reasonable and necessary legal costs or related professional fees incurred by or on behalf of an **Insured** (but not including any remuneration of any **Employee**) with the prior written consent of the **Insurer** directly in connection with an **Insured** co-operating with or being represented at an **Investigation**.

**8.32. Limit of Liability means**

- (a) For cover under Section A, the amount stated in Item 7(a) of the **Schedule**, which is the maximum amount the **Insurer** shall indemnify the **Insured** for in respect of all **Compensation for Freight Property Damage** and all other amounts payable by the **Insurer** under Section A of this **Policy** arising out of any one **Occurrence** and in the aggregate.
- (b) For cover under Section B, the amount stated in Item 7(b) of the **Schedule**, which is the maximum amount the **Insurer** shall indemnify the **Insured** for in respect of all **Loss** and all other amounts payable by the **Insurer** under Section B of this **Policy** arising out of any one **Claim** and in the aggregate. For the purposes of this Definition 8.32(b), where there are both **Claims** and **Investigations** arising from the same **Wrongful Act** or **Interrelated Wrongful Acts**, these **Claims** and **Investigations** shall be regarded as one **Claim**.

**8.33. Loss means**

All amounts which an **Insured** becomes legally liable to pay in respect of a **Claim** (including but not limited to any damages, judgments entered or settlements reached).

**Loss** does not include:

- (a) aggravated, punitive or exemplary damages;
- (b) fines or penalties;
- (c) costs incurred by the **Insured** in complying with any order for, grant of, or agreement to provide injunctive or non-monetary relief;
- (d) any amount which constitutes reduction, set off or return of fees or expenses, in whole or in part, paid to or charged by an **Insured**;
- (e) any internal or overhead expenses of the **Insured** or the cost of any **Insured's** time;
- (f) taxes or sums payable in relation to taxes;
- (g) any matters which are uninsurable under any applicable law;
- (h) **Legal Representation Expenses**; or
- (i) **Defence Costs**.

**8.34. Marine Insurance Agent means**

A business unit within a **Transport Operator** that sells marine insurance using a pre-defined framework that outlines the types of **Freight**, worldwide trading zones, premiums and conditions of cover.

**8.35. Minimum Deposit Premium means**

Annual premium payable by the **Policyholder** to the **Insurer** at the beginning of the **Period of Insurance**, as notified by the **Insurer** based on estimated **Gross Freight Receipts**.

**8.36. Multi-modal Transport Operator means**

A company or entity undertaking the transport of **Freight**, either directly with its own equipment or through a sub-contractor via multiple modes of transport.

**8.37. NVOCC means**

A cargo consolidator who does not own any vessel, but acts as a carrier by accepting required responsibilities of a carrier who issues his own bill of lading (or airway bill).

**8.38. Occurrence means**

An event including continuous or repeated exposure to substantially the same general conditions which results in **Freight Property Damage** neither expected nor intended from the standpoint of the **Insured**. All events of a series consequent on or attributable to one source or originating or underlying cause are deemed one **Occurrence**.

**8.39. Period of Insurance means**

The period stated in Item 6 of the **Schedule** or such further period for which this **Policy** has been extended as agreed by the **Insurer** in writing and endorsed on to this **Policy**.

**8.40. Policy means**

The contract of insurance between the **Insurer** and the **Policyholder** which comprises this policy wording, the **Proposal**, the **Schedule** and any endorsement issued by the **Insurer** varying the policy cover.

**8.41. Policyholder means**

The party who enters into this **Policy** with the **Insurer** and pays the premiums in accordance with this **Policy**.

**8.42. Policy Territory means**

Anywhere in the world (subject to the requirements under local applicable laws and regulations) other than **Excluded Territories**.

**8.43. Pollutant means**

Any contaminant, irritant or other matter or substance including but not limited to oil, smoke, vapour, soot, asbestos, asbestos-containing materials, fumes, fungi, acids, alkalis, nuclear or radioactive material, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**8.44. Pollution means**

The actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of any **Pollutant** whether in solid, liquid, gas, odour, noise, vibration, electromagnetic radiation, ionising radiation, thermal or other form at any time.

**8.45. Proposal means**

The written proposal and any supplementary proposal including any statements and information contained therein and any material relied upon by the **Insurer** in issuing cover under this **Policy**, or any policy issued by the **Insurer** of which this **Policy** is a renewal.

**8.46. Restricted Freight means**

Blood products; computers, and handheld electronic products and mobile telephones, including electronic components of these; live animals or plants; pharmaceuticals; tobacco or tobacco products; or artwork, antiques and collectables with a value greater than US\$10,000.

**8.47. Retroactive Date means**

The date set out in Item 16 of the **Schedule**.

**8.48. Road Transport Operator means**

A company or entity providing -road transport of **Freight** between their **Customer's** facilities and ports of entry or exit or from, to or between other third party locations.

**8.49. Schedule means**

The **Schedule** the **Insurer** issues to the **Insured** with this **Policy** or any subsequent version of that schedule, as amended by the **Insurer**.

**8.50. Transport Operator means**

A company or entity undertaking the transport of **Freight**, either directly or through a sub-contractor or with its own equipment, including but not limited to **Freight Forwarder, Road Transport Operator, Multi-modal Transport Operator, NVOCC, Warehouse Operator** or **Customs Broker**.

**8.51. Warehouse Operator means**

A company or entity providing premises for the receipt, storage and distribution of goods.

**8.52. Wrongful Act means**

- (a) Unintentional breach of regulations relating to the transport of **Freight**;
- (b) Delay in performing contractual obligations regarding delivery of **Freight** as a result of the **Insured's** own negligence;
- (c) An unintentionally made incorrect statement in, or omission from, any bill of lading, waybill, air waybill or other document for the transport of **Freight**; or
- (d) An unintentional failure to follow written instructions for the transport of **Freight**.

**9. Claims Conditions applicable to the Policy**

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**9.1 Notification of an Occurrence, Claims and Investigations**

- (a) The **Insured** must give written notice of:
  - (i) any **Freight Property Damage** or any **Occurrence** as soon as practicable; and
  - (ii) any **Claim or Investigation** as soon as practicable, but always no later than 30 days after the expiry of the **Period of Insurance** to the **Insurer**.
- (b) All notifications under this **Policy** must include the following information:
  - (i) a specific description of the **Freight Property Damage, Occurrence, Claim or Investigation**, including the date when and manner in which the **Insured** first became aware of the matter; and
  - (ii) the details of any parties involved; and
  - (iii) a copy of any written demand and any document relating to any commencement of proceedings against the **Insured** once available.

**9.2 Claim Handling**

The **Insurer** will make a determination as to its coverage position on any claim in a timely manner after the **Insurer** receives the claim request and full supporting documents. If the **Insurer** determines that the supporting documents are incomplete according to this **Policy**, the **Insurer** will, in a timely manner and at one time, notify the **Insured** to supplement such documents. Should the circumstances of the claim be complicated to the extent that the **Insurer** is unable to determine its coverage position within 30 days of receiving full information, then the **Insurer** shall advise the **Insured** of a reasonable longer period required, and notify the **Insured** in a timely manner once the determination is made within that period. For any claim covered by this **Policy**, the **Insurer** shall make the payment within 10 days after the settlement agreement is reached or the period stated in the settlement agreement. If it is determined that such claim is not covered by this **Policy**, a notice with explanation shall be sent to the **Insured** within 3 days after our coverage determination is made.

If the final amount of loss cannot be determined within 60 days after the **Insurer** receives the claim request and full supporting information and materials, the **Insurer** will advance the payment for the part of loss that may be determined at that time. When the final settlement of loss is determined, the **Insurer** shall make the payment for any outstanding amount.

**9.3 Conduct of Proceedings**

The **Insurer** has the right, if it so elects, to defend any claim for **Compensation** or **Claim** made against an **Insured**, arrange representation at an **Investigation** involving an **Insured**, or to bring any cross claim in the name of the **Insured** even if the allegations of the claim are groundless, false or fraudulent, and may make such investigations and settlement of any claim for **Compensation, Claim** or **Investigation** as it deems expedient, but the **Insurer** is not obliged to pay any claim or judgment or defend any claim for **Compensation, Claim, Investigation** after the **Insurer's** liability under this **Policy** has been exhausted.

If the amounts payable under this **Policy** are not likely to exceed the **Deductible**, the **Insurer** may elect not to defend the claim for **Compensation, Claim** or **Investigation**. In these circumstances, and subject to the provisions of the **Policy**, the **Insured** is responsible for defending the claim for **Compensation, Claim** or **Investigation** and for the payment of the amounts payable under this **Policy** up to the amount of the **Deductible**.

An **Insured** must not incur any **Defence Costs** or **Legal Representation Expenses** without the prior written consent of the **Insurer**, which will not be unreasonably withheld. Save as provided for in Extension 5.3 (**Emergency Defence Costs and Legal Representation Expenses**) of this **Policy**, the **Insurer** is not liable to indemnify any **Insured** for any **Defence Costs** or **Legal Representation Expenses** unless the **Insurer** provides its prior written consent to the incurring of such **Defence Costs** or **Legal Representation Expenses**.

An **Insured** must not settle or make any admission, offer, payment or otherwise assume any contractual or other obligation in relation to any claim for **Compensation, Claim** or **Investigation** in respect of which the **Insurer** is, or may be, liable to indemnify any **Insured**, without the prior written consent of the **Insurer**. The **Insurer** is not liable to indemnify any **Insured** for any settlement, admission, offer, payment or assumed obligation unless the **Insurer** provides its prior written consent.

#### 9.4 General Mitigation and Co-operation

The **Insured** must at its own expense (unless otherwise provided by applicable laws) take all reasonable steps and precautions in doing all things reasonably practicable to preserve and avoid or minimise any actual or potential **Freight Property Damage** or **Loss** and to avoid or minimise any actual or potential **Defence Costs** and **Legal Representation Expenses** under this **Policy**.

The **Insured** must maintain all premises and equipment including protective devices, in a sound and working condition. The **Insured** must comply with all statutory obligations and regulations imposed by any authority for the safety of property, vehicles and third parties.

Each **Insured** must, at its own expense and on an ongoing basis, give the **Insurer** and any investigators or legal representatives appointed by the **Insurer** all information they reasonably require, and full co-operation and assistance in the conduct of any investigation (including investigations for the purpose of enabling the **Insurer** to determine its liability to provide an indemnity under this **Policy**), defence, settlement, avoidance or reduction of any actual or possible claim, **Claim, Investigation** or any suit or proceedings.

#### 9.5 Disclosure of Information

Legal representatives appointed by the **Insurer** to act on an **Insured's** behalf will be entitled to disclose to the **Insurer** any information obtained while so acting and each **Insured** agrees to waive any claim for legal professional privilege to the extent that the privilege would otherwise prevent such legal representatives from disclosing information to the **Insurer**.

#### 9.6 Disputes as to Defence & Settlement of Claims

If a dispute arises between the **Insurer** and an **Insured** as to whether a claim for **Compensation** or a **Claim** under this **Policy** should be contested, it shall be resolved according to General Conditions 10.8 (Governing Law and Dispute Resolution).

If a settlement recommended by the **Insurer** is acceptable to the claimant, but the **Insured** refuses to consent to such settlement, the **Insurer's** liability will be limited to the amount for which such claim for **Compensation** or **Claim** could have been settled, plus the **Defence Costs** or **Legal Representation Expenses** incurred up to the date the refusal to consent was made.

#### 9.7 Subrogation

If any payment is made by the **Insurer** in respect of **Freight Property Damage** or **Loss** under this **Policy**, the **Insurer** will be subrogated to all rights of indemnity, contribution or recovery of the **Insured** in relation to that

payment. No **Insured** may surrender any right, or settle any claim for indemnity, contribution or recovery, without prior written consent of the **Insurer**.

If the **Insured** has been compensated for the **Freight Property Damage** or **Loss** by any third party liable for the same, the **Insurer** may deduct the corresponding amount from the payment. Where the **Insured** waives such rights after an **Occurrence** occurs, the **Insurer** shall not be liable to make any payment for the **Freight Property Damage** or **Loss** in connection with such **Occurrence**. Any such waiver made without the **Insurer's** prior consent after the **Insurer** makes such payment is void. If the **Insurer** is not able to exercise its rights of recovery as a result of any **Insured's** intentional act or gross negligence, the **Insurer** may reduce the payment or request a refund of any such payment made.

The **Insurer** will not exercise its rights of recovery under this Claims Condition 9.7 against another natural person insured, except where that **Insured** has committed, participated in or condoned a dishonest, fraudulent, malicious or criminal act or omission or where such natural person **Insured** is entitled to indemnity under any other insurance effected by him or on his behalf, but only to the extent of the indemnity granted by such other insurance policy.

## 10. General Conditions applicable to the Policy

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### 10.1 Assignment

This **Policy** cannot be assigned and/or transferred without the prior written consent of the **Insurer**.

### 10.2 Cancellation

- (a) Only the **Policyholder** set out in Item 3 of the **Schedule** may cancel this **Policy** by giving 30 days written notice to the **Insurer**. If there are no matters notified to the **Insurer** under this **Policy**, the **Insurer** will allow a refund of unearned premium calculated in accordance with its customary short-term rates.
- (b) The **Insurer** may cancel this **Policy** by giving 30 days written notice to the **Insured**. If there are no claims made under this **Policy**, and no **Claims** or **Circumstances** were notified to the **Insurer** under this **Policy**, the **Insurer** will allow a refund of unearned premium calculated in proportion to the unexpired time on risk but such refund will never be greater than 75% of the premium.

### 10.3 Changes

- (a) Every change materially affecting the facts or **Circumstances** existing at the commencement of this **Policy**, or at any subsequent renewal date, must be notified to the **Insurer** in writing immediately after the **Insured** becomes aware of such change.
- (b) The **Insured** must advise the **Insurer** in writing of any apparent increase in exposure of the subject matter of insurance during the **Policy Period** of this **Policy**. Upon receipt of such advice, the **Insurer** may, at its sole discretion, increase the insurance premium applicable to this **Policy** or terminate this **Policy** immediately. If the **Insurer** decides to terminate this **Policy**, the **Policyholder** will receive a pro rata refund of premium from the **Insurer** for the unexpired **Policy Period**.
- (c) The **Insurer** shall not be liable for any loss resulting from the apparent increase in exposure if the **Insured** has failed to give the **Insurer** notice of such apparent increase in exposure as described above.

### 10.4 Confidentiality

The **Insured** must not disclose the terms, the nature or the **Limit of Liability** or the premium payable under this **Policy**, to any third party, except where:

- (a) the **Insurer** provides written consent; or
- (b) disclosure is required by law.

### 10.5 Cross Liability

Each of the parties comprising the **Insured** is considered a separate legal entity and the word "**Insured**" applies to each party as if a separate policy had been issued to each of the said parties but nothing contained in this General Condition 10.5 will operate to increase the **Insurer's** liability under this **Policy**.

### 10.6 Deductible

The **Deductible** is payable by the **Insured** at such time required by the **Insurer**. The **Deductible** applies to all amounts payable under this **Policy**. The **Insurer's** liability to indemnify the **Insured** under this **Policy** applies only in respect of the amount in excess of the **Deductible**.

### 10.7 Duty of Disclosure

- (a) Where the **Insurer** makes inquiries about the subject matter or the circumstances of the **Insured** when concluding this **Policy**, the **Policyholder** shall make a truth disclosure.
- (b) If the **Policyholder** deliberately, or due to gross negligence, fails to fulfil the obligation as aforementioned duty of disclosure, which may adversely affect the underwriting decisions or premium rate assessment of the **Insurer**, the **Insurer** is entitled to terminate this **Policy**. The said right of termination shall be extinguished if it is not exercised within 30 days from the date which the **Insurer** is aware of a reason for termination or two years from the conclusion of this **Policy**, whichever is earlier, or the **Insurer** will be liable to pay any loss in connection with a claim to which this **Policy** applies.
- (c) If the **Policyholder** deliberately fails to perform the duty of disclosure, the **Insurer** shall not be liable to pay the indemnity for any **Freight Property Damage** occurring or **Claim** first made before the termination of this **Policy** and the **Insurer** will not refund the premium. If the **Policyholder** fails to perform the duty of disclosure due to gross negligence and such failure had a material impact on the **Occurrence**, the **Insurer** shall not be liable to pay the indemnity for any loss of an **Occurrence** which occurred before the termination of this **Policy** but the **Insurer** will refund the premium. The **Insurer** is not entitled to cancel this **Policy** if the **Insurer** was aware at the time when entering into this **Policy** that the **Policyholder** had made any misrepresentations or non-disclosures, and shall be liable to pay loss in connection with a claim to which this **Policy** applies.

### 10.8 Governing Law and Dispute Resolution

This **Policy** is governed by, and interpreted in accordance with the laws of the People's Republic of China. Any dispute arising out of the performance of or in connection with this **Policy** shall be resolved through consultations in good faith; failing which, the dispute shall be submitted to the arbitration body stated in the **Schedule** for arbitration. If no arbitration body is specified in the **Schedule** or no arbitration agreement can be reached for the dispute, such dispute shall be submitted to the exclusive jurisdiction of any competent court in the People's Republic of China.

### 10.9 Limit of Liability

- (a) The amount stated in Item 7(a) of the **Schedule** is the maximum amount the **Insurer** will indemnify the **Insured** for in respect of all **Compensation for Freight Property Damage** and all other amounts payable by the **Insurer** under Section A of this **Policy** arising out of any one **Occurrence** and in the aggregate.
- (b) The amount stated in Item 7(b) of the **Schedule** is the maximum amount the **Insurer** will indemnify the **Insured** for in respect of all **Loss** and all other amounts payable by the **Insurer** under Section B of this **Policy** arising out of any one **Claim** and in the aggregate. For the purposes of this General Condition 10.9(b), where there are both **Claims** and **Investigations** arising from the same **Wrongful Act** or **Interrelated Wrongful Acts**, these **Claims** and **Investigations** shall be regarded as one **Claim**.

### 10.10 Other Insurance

- (a) If any **Freight Property Damage** or **Loss** or all other amounts payable by the **Insurer** under this **Policy** is insured under any other policy (whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise) entered into by or effected on behalf of the **Insured**, or under which the **Insured** is a beneficiary, whether prior or current, then this **Policy**, subject to its terms, exclusions and conditions, will only cover **Freight Property Damage** or **Loss** or other amounts payable by the **Insurer** under this **Policy** to the extent that the amount is in excess of the amount of such other insurance.
- (b) General Condition 10.10(a) above does not apply to such other insurance that is written specifically as excess insurance over the **Limits of Liability** provided in this **Policy**.
- (c) If the other insurance is insured or reinsured by the **Insurer** or an **Insurer's Affiliate**, and it covers **Compensation for Freight Property Damage** or **Loss** or all other amounts payable by the **Insurer** under this **Policy**, the **Limits of Liability** under this **Policy** in respect of that **Freight Property Damage** or **Loss** or other amounts shall be reduced by any amount paid by the **Insurer** or the **Insurer's Affiliate** under such other insurance in respect of the same **Freight Property Damage** or **Loss** or other amounts.

### 10.11 Premium Adjustment

If the actual **Gross Freight Receipts** is higher than the estimated **Gross Freight Receipts** set out in Item 12 of the **Schedule**, the **Policyholder** shall report the difference to the **Insurer** at the end of the **Period of Insurance** or as soon as practicable thereafter, and shall, within 30 days after providing such report to the **Insurer**, pay an **Adjustment Premium**.



## 10.12 Policy Construction and Interpretation

In this **Policy**, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa; and
- (b) headings are merely descriptive and not to aid interpretation; and
- (c) if a word or expression is given a definite meaning, any part of speech or other grammatical form of that word or phrase has a corresponding meaning; and
- (d) references to an amount of money are references to that amount in US dollars unless otherwise provided; and
- (e) bolded words used in this **Policy** have the meanings set out in Definitions 8 (Definitions).

## 10.13 Value Added Tax

If the **Insured** is registered for **Value Added Tax** and would be entitled to a credit to **Input Tax** if it were to incur the cost to which a claim under this **Policy** relates, the amount of the payment will be reduced by the amount of any input tax credit to which the **Insured** is or may, in the opinion of the **Insurer**, be entitled to claim.

**Value Added Tax** and **Input Tax** shall have the same meaning as defined under the laws of China as from time to time amended.

The amount of the applicable **Deductible** is calculated after deduction of the amount of any **Input Tax** credit that the **Insured** is or may, in the opinion of the **Insurer**, be entitled to claim.

