

## FREIGHT FORWARDER'S LIABILITY INSURANCE POLICY

Whereas the insured described in the schedule hereto, by a proposal and declaration, which shall be the basis of this contract and is deemed to be incorporated herein, has applied to the **ALLIANZ INSURANCE LANKA LIMITED** (hereinafter called "the Company") for the insurance hereinafter contained and has paid the premium stated in the said schedule as consideration thereof.

The Company hereby agrees, that subject to the terms, exceptions and conditions contained herein or endorsed hereon to indemnify the Insured in respect of;

### **INSURED ACTIVITIES AS FREIGHT FORWARDERS / SHIPPING AGENTS**

#### **TRADING CONDITIONS**

- (a) It is hereby understood and agreed that the Insured will not waive or amend Trading conditions, if any, declared without the agreement of insurers and
- (b) That the Insured shall take all reasonable steps to ensure that the said conditions, if any, are incorporated into contracts entered in to by the Insured in the course of the Insured's business.

**ALLIANZ INSURANCE LANKA LIMITED**

.....  
**DATE**

.....  
**AUTHORISED SIGNATORY**

**(THE INSURED IS REQUESTED TO READ THIS POLICY  
AND SEEK CLARIFICATION WHERE NECESSARY)**

## WHAT THIS POLICY COVERS

Subject to the terms, exceptions and conditions contained hereon the Company will indemnify the insured against.

### SECTION 1 : GOODS - LEGAL LIABILITY

- (A) The legal liability of the insured, for, or arising out of loss destruction of or damage to goods *in the care, custody or control of the Insured and for which he is responsible under a contract of carriage or forwarding* howsoever caused during the period of insurance stated in the schedule, under common law, contract National or International Convention, or by statute.
- (B) Additional cost and/ or expenses necessarily and reasonably incurred by the Insured in the consequence of or in order to prevent or minimize a loss or losses, which would be recoverable hereunder including legal costs incurred in the defense or settlement of claims against the insured, with the consent of the insurers.
- (C) Costs and expenses (including legal costs) necessary incurred by the Insured:  
With the consent of the Company or for which the insured has a legal liability, in removing the goods, or debris of goods, for the insured has a contract to move or store.  
  
Cover under this paragraph applies regardless of whether liability is admitted or not and irrespective of whether or not a claim is made against the insured for loss or damage to the goods provided such costs and expenses are a direct result of sudden and accidental occurrence
- (D) Legal liability for loss of or damage to trailers and / or containers in the care custody or control of the insured or for which they are responsible under a contract for carriage or forwarding but excluding trailers/containers owned by or hired / leased by the insured.
- (E) Cargo's contribution in general average or salvage for which the insured is liable and which the insured is unable to recover from the owners of cargo.

In the event of insured having to effect any payments under this provision all rights and remedies that the insured may have against the cargo owners and / or their Marine Insurance shall be subrogated to the Company hereon and the insured shall furnish all documents,

information and assistance to the Company in recovering such amount from cargo owners and/or their cargo owners

Subject to the cargo owners through their marine insurers for the relevant cargo furnishing suitable guarantees or bonds as the case may be, the insurers hereon shall at the request of the insured sign and issue general average guarantee or salvage bond for a group age cargo shipped by the insured.

However, the liability of the insured's furnishing such guarantees or bonds shall arise only in the event of the cargo owner and/or their marine insurers failing to furnish such guarantees or bonds purely due to reasons beyond their control.

### (F) QUARANTINE AND DISINFECTIONS COSTS

This policy includes the insured's liability for quarantine, fumigation or disinfections costs other than arising in the normal course of business.

### EXCLUSIONS APPLICABLE TO SECTION 1 ONLY

In addition to the general exclusions contained herein, the insurance shall not be liable for:

- (1)
  - (a) wear, tear, scratching, bruising, denting and claims for the cost of repainting, or
  - (b) Moth, mildew, vermin, mechanical or electrical breakdown, or derangement, or
  - (c) Damage to tyresunless consequent upon an accident.
- (2) Claim by third parties
- (3) Claims resulting from currency fluctuations
- (4) Mysterious disappearance

### SECTION 2 : PROFESSIONAL INDEMNITY

#### 1. ERRORS AND OMISSIONS

Liability in respect of any claim arising during the period of insurance by reason of any negligent act, error or omission in the performance of the insured's contractual obligations including but not

limited to misdirection of goods, failure to insure or comply with specific instructions, faulty arrangement or clerical errors committed or alleged to have been committed by the insured or any employee of the insured, in their professional capacity as defined "Insured Activities".

For the purpose of this insurance, the expression "the insured" shall include any partner thereof, in the insured is a firm' any executive officer or director thereof if the insured is a corporation. It is noted and agreed that the indemnity provided herein shall not be restricted by the financial limits of liability incorporated into the insured's trading conditions, but shall not exceed the limit specified in the schedule.

#### **EXCLUSIONS APPLICABLE TO SECTION 2 ONLY**

In addition to the General Exclusions contained herein, the insurers shall not be liable for any claim, which would otherwise be recoverable under section 1.

#### **CONDITIONS APPLICABLE TO SECTION 2 ONLY**

In addition to the general condition contained herein if, during the period of insurance, the insured shall become aware of any circumstance which may subsequently give rise to any claim being made against the insured, by a reason of any matter in respect of which indemnity is afforded under this section 2, and shall, during the period of insurance, give notice in writing as soon as possible to the Company pursuant to general condition 2 hereof such circumstance, then any such claim which may subsequently be made against the insured, arising out of that circumstance, shall, for the purpose of this policy be deemed to have been made during the period of insurance.

#### **SECTION 3 : THIRD PARTY LIABILITY**

Insured's non – contractual liability for

- (A) Physical loss of or damage to third party property
- (B) Death, bodily injury or illness of any third party
- (C) Costs and expenses necessarily incurred by the insured with the consent of the Company in respect of any claim, against the insured for compensation to which indemnity under this section applies.

#### **EXCLUSIONS APPLICABLE TO SECTION 3 ONLY**

1. Liability consequent upon death or bodily injury of illness of any insured's workman and / or employees and those under contracts of apprenticeship and property

owned or managed by or under the control of the insured.

2. Liability assumed by contract.
3. Liability for accidents arising outside the jurisdiction of the courts of Sri Lanka
4. Liability caused by or in connection with or arising from use of vehicles licensed for general road use or by waterborne vessels or aircraft.
5. Liability for which losses falling within any other section of this insurance.
6. Liability to property owned or managed by or for which the insured or his employees are responsible.
7. Additional expenses incurred for the presentation or clean up of damage to the environment in particular to air, water or ground.

#### **SECTION 4 : FINES AND DUTY**

Indemnity in respect of legal liability to any claim arising from unintentional breach of any regulation, legal or statutory provision resulting in fines, customs duty, sales, excise tax, value added tax or similar fiscal charged or other penalty imposed by an Authority on the insured or any other person acting within their authority on Insured's behalf.

Provided that such breach directly relates to;

- I. Import or export of Cargo or Equipment of Insured's Customers; or
- II Immigration

#### **EXCLUSIONS APPLICABLE TO SECTION 4 ONLY**

This policy will not cover any claim, arising directly or indirectly;

1. That has not been properly established, proved or held by an Authority acting within its powers and duties;
2. For commercial fines or penalties in respect of freight tariffs, competition or the structure or operation of your business or that of any person acting on the insured's behalf.
3. For any breach of any regulation arising from the weight of cargo or carrying equipment on a public road if such breach appears us to have been caused recklessly or intentionally by the insured or insured's employees;
4. If any Authority determines that it is illegal for the insured to be insured for any cover given under this section, then the other parts of this section shall remain effective, although no indemnity will be given with respect to any claim arising from the coverage under this section which is held to be illegal;

5. For any amount that would have been payable by the insured notwithstanding any breach;
6. In the case of the United State-Enforced by the federal maritime commission, Department of Justice or Federal Trade commission of the United State of America of Drug Enforcement Agency of any such successors.

**GENERAL EXCLUSIONS  
APPLICABLE TO ALL SECTIONS**

The insurers shall not be liable for

1. Any claim or loss resulting from any inability of the insured to pay, or pay promptly, accounts or collect accounts.
2. Any claim resulting from the insolvency or financial default of the insured.
3. Any liability, costs or expenses brought about or contributed to by any dishonest, fraudulent or criminal act or omission or willful negligence of the partners or directors of the insured.
4. Any liability, costs or expenses for which the insured are entitled to any indemnity or recovery under any other contract of insurance.
5. Loss or damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities,(whether war be declared or not), civil war, rebellion revolution, insurrection, military or any activity calculated or directed towards the overthrow or influencing of the government de jure or de facto with force or by means of fear, terrorism or violence or confiscation or or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority.
6. Any consequential loss of whatsoever nature arising from loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising there from.
7. Any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from
  - (i) Ionizing radiations or contamination by radioactivity from nuclear fuel or from any nuclear waste from the combustion or nuclear fuel.
  - (ii) The radioactive, toxic, explosive or other hazardous properties of any explosive nuclear component thereof.
8. Loss, destruction or damage directly occasioned by pressure waves caused

by aircraft and other aerial devices traveling at sonic or supersonic speeds.

9. Punitive, exemplary or multiple damages awarded against the insured or any person or persons for whom the insured may be held legally responsible.
10. Cover in respect of delay in performing the Insured's contractual obligations shall be confined to delay resulting from the negligence of the Insured or not.

**GENERAL CONDITIONS  
APPLICABLE TO ALL SECTIONS**

**(1) ADMISSION OF LIABILITY**

The insured shall not admit liability for, or settle any claim or agree the loss or incur any costs or expenses in connection therewith, for which the insured is seeking indemnity costs or expenses in connection there under, without the written consent of the Company, who shall be entitled to takeover and conduct in the name of insured the defense or settlement of any claims.

Nevertheless, the insured shall not be required to contest any legal proceedings unless a president's counsel (to be mutually agreed upon by the insured and the insurers) shall advise that there are reasonable prospects of a successful defense being maintained by the insured.

**(2) NOTIFICATION OF CLAIMS**

In the event of a happening likely to give rise to claim under this insurance the insured shall, as soon as possible.

Take all necessary steps to minimize or prevent a loss.

Give prompt notice to any third party who is responsible for, or may be responsible for the loss

Give notice to the Company specified in the schedule hereon, and shall furnish full particulars thereof. Every letter, notice, writ, summons and process relating thereto shall be notified to and forwarded to the Company immediately upon receipt and insured shall co-operate with the Company at all times.

**(3) LIMITS**

The Company's liability shall be limited:-

- (a) In respect of:-
  - (i) Any one loss or claim or
  - (ii) Any number of losses or claims arising out of one accident or event

in aggregate to the figure stated in the schedule or elsewhere in the policy s the limit of indemnity,

- (b) in respect of losses or claims arising in the year of this policy (whether arising out of one or more accidents or occurrences) to the figure stated in the schedule as the limit of indemnity in the aggregate.

#### **(4) CANCELLATION**

This Insurance may be cancelled at any time by the Company giving thirty days notice, but seven days in respect of the risks strikes, riots, civil commotion, in writing by pre-paid letter post properly addressed to the last known address of the Insured. The Company giving notice shall receive and retain pro-rata premium.

#### **(5) EXCESS**

The Excess(es) referred to in the schedule shall be deducted from any loss or claim or series of losses or claims arising out of one occurrence.

The Company shall have no liability for loses or claims below the specified excess stated in the schedule hereto

#### **(6) FALSE OR FRAUDULENT CLAIMS**

If the Insured shall make any claim knowing the same to be false or fraudulent, as regards the amount or otherwise, this insurance shall become void.

#### **(7) SUBROGATION**

The Insured shall, at the request and at the expense of the Company do and concur in doing and permit to be done all such acts and things as may be necessary or required by Company for the purposes of enforcing any rights and remedies or of obtaining relief or indemnity from other parties to which the Company shall be or would become entitled or subrogated upon paying any claim arising under this Insurance, whether such acts and things shall be or become necessary or required before or after indemnification of the Insured or such other Claimant by the Insurers.

#### **(8) ADJUSTMENT**

The Insured undertakes to furnish to the Company within three months of the expiry of each period of insurance such particulars and information as the Company may require, relating to carriage or other charges or values in respect of such period. The premium for such period shall thereupon be adjusted in the manner agreed between the Company and the Insured and any

difference in premium to be met by a further payment to the Company or a refund by the Company as the case may be.

#### **(9) JURISDICTION**

It is hereby understood and agreed that this Insurance shall be governed by Laws of Sri Lanka and that the Sri Lanka Court alone shall have jurisdiction in any dispute arising hereunder.

#### **(10) ARBITRATION**

i In the event of any dispute or difference arising in respect of any claim on this policy such dispute or difference shall be referred to arbitration by a notice in writing as provided for herein

ii The party who seeks to refer such dispute or difference to arbitration ("the First Party") shall name the arbitrator appointed by him (the first arbitrator") in the notice in writing and send to the other party ("the Other Party") making such reference and request the Other Party to appoint another arbitrator.

iii In the event such dispute or difference arising in respect of any claim as aforesaid has not been referred to Arbitration within twelve (12) calendar months from the date of arising of such dispute or difference, such dispute or difference shall for all purposes be deemed to have been abandoned and shall not thereafter be contested thereafter at any forum

iv In the event of the Other Party failing to appoint another arbitrator ("the second arbitrator") within thirty (30) days from the date of dispatch of the said notice, the first arbitrator shall act as the sole arbitrator and make a final award as if the parties hereto have jointly appointed him to act as such sole arbitrator

If the Other Party appoints the second arbitrator, the two arbitrators shall within twenty (20) days of appointment of the second arbitrator, appoint a Chairman as provided for in section 6 (3) of the Arbitration Act. No. 11 of 1995 of Sri Lanka (the Act) who shall sit with the first and second arbitrators and preside at the their meetings.

In the event of a vacancy of an arbitrator due to resignation or death or otherwise, the party which appointed the arbitrator whose position became vacant shall appoint another arbitrator within 21 days from the date of such position becoming vacant or within 21 days from a written notice by the other party requesting to

appoint an arbitrator for the position of vacant arbitrator whichever is later. In the event of the failure of such party to appoint an arbitrator after the said notice by the other party to fill the vacancy, the remaining arbitrator and the chairman shall terminate the arbitration proceedings and the party who failed to appoint an arbitrator in the place of the vacant arbitrator shall not thereafter contest the matter in dispute and or difference which was originally referred to the arbitration. In the event of the position of Chairman becoming vacant, the two arbitrators shall appoint a new Chairman within 21 days from the date on which the position of Chairman becomes vacant.

The date of dispatch shall mean the date on which such notice is dispatched by registered post and the postal frank or postal receipt shall be the conclusive evidence of proof thereof.

- v The Arbitration proceedings shall be held in the city of Colombo, the language of the proceedings shall be in English and unless otherwise agreed between the parties the procedure for the arbitration shall be the procedure stipulated in the Act as far as such procedure is not conflicting with this arbitration agreement. If there is a conflict between the Act and this arbitration agreement, provisions in this arbitration agreement shall prevail over the provisions of the Act.
- vi The award made at an arbitration held as provided herein shall be final, conclusive and binding on the parties hereto.
- vii The cost of arbitrator appointed by each party shall be borne by the party who appointed the respective arbitrator and the cost of the Chairman and any other administrative costs shall be borne by the parties in equal shares. In the event of a sole arbitrator, the cost of the sole arbitrator shall be borne by the parties in equal shares.
- viii It is hereby mutually agreed that the making of an award upon a reference to arbitration shall be condition precedent to any right of action of either party against the other party in respect of such difference or dispute.

#### **(11) OBSERVANCE OF POLICY TERMS & CONDITIONS**

The due observance and fulfillment of the terms conditions and endorsements of this Policy in so far as they relate to anything to be done or not to be done by the insured

and the truth of the statements and answers in the proposal shall be a condition precedent to any liability of the Company to make any payment under this Policy.

### **WARRANTY**

#### **PREMIUM PAYMENT**

- i. Notwithstanding anything herein contained but subject to ii. and iii. hereof, it is hereby agreed and declared that the full premium due and payable in respect of this insurance is required to be settled to the Insurer (The Company) on or before the premium due date agreed with the Company (which shall be a date not exceeding 60 days from the date of inception of the policy) and in the absence of any such premium due date, the full settlement of the premium is required to be made or effected on or before the expiry of the 60<sup>th</sup> day from the date of inception of this Policy, Renewal certificate, Endorsement or Cover Note (hereinafter referred to as the "due date").

For the purpose of this warranty the "due date" shall be recognized from the date of inception or commencement of the coverage.

- ii. It is also declared and agreed that the settlement of the full premium on or before the due date shall operate as a condition precedent to the Insurer's (The Company's) liability or an obligation to settle a claim under this Policy, Renewal Certificate, Endorsement or Cover Note.

In the event any claim arises between date of commencement of this Insurance and the "due date" for the settlement of premium, the Insurer (The Company) may defer any decision on liability or postpone the settlement of any such claim until full settlement of the premium is effected on or before the "due date".

- iii. It is also declared and agreed that where the full premium payable hereunder remains outstanding as at the closure of business of the Insurer on the "due date", then the cover under this insurance and any obligations assumed or imputed under this Insurance shall stand to be cancelled, ceased and revoked immediately. However such cancellation will not prejudice the rights of the Insurer (The Company) to invoke any legal defences or to recover the full or any part of the defaulted premium attributable to the expired period of the Insurance.

**Data Privacy & Protection**

The Insurer is strongly committed to conducting its business in full compliance, and in accordance with applicable Data Privacy protection laws and regulations. All privacy related matters are governed by Allianz Privacy Notice which is available on the Insurer's official website <https://www.allianz.lk/data-privacy-notice.html> . The said privacy notice explains how and what type of personal data will be collected, why it is collected and to whom it is shared or disclosed. Further, the Insurer is committed to keep your Personal Data only so long as necessary to fulfill the purposes for which the data was collected for or to fulfill legal obligations.

Definition:

**Personal Data** - means any information relating to an individual