

**SAMPLE DECLARATION:****RISK DETAILS**

**SPS REFERENCE:** To be advised.

**TYPE:** MARINE LIABILITY INSURANCE IN RESPECT OF THE PROVISION OF EVIDENCE OF WAR INSURANCE

**INSURED:** As may be declared and agreed.

**PRINCIPAL ADDRESS:** As may be declared.

**VESSEL(S):** As may be declared and agreed.

**PERIOD:** In respect of losses arising out of an event occurring during the period from Noon Greenwich Meantime 20th February 20X7 to Noon Greenwich Meantime 20th February 20X8 or shorter periods as declared.

**INTEREST:** Liability to passengers arising from war risks and incurred under Athens 2002 PLR as defined herein.

**LIMIT OF LIABILITY:** The maximum indemnity payable hereunder shall be the amount prescribed by Athens 2002 PLR as the limit of liability of the Insurers or other person providing evidence of insurance, namely the lower of:

- SDRs 250,000 in respect of each passenger on each distinct occasion; OR
- SDRs 340,000,000 overall per ship on each distinct occasion.

The Respective insurers hereon shall cover legal costs and expenses relating to any liability or expenditure covered under this insurance, but only to the extent that those costs and expenses have been incurred with the agreement of the insurers hereon.

**CONDITIONS:**

In consideration of the premium stated per individual declarations, Insurers hereon will (1) indemnify the Insured on the terms set out below against liability to passengers arising from war risks and incurred under Athens 2002 PLR, and (2) act as guarantors of the Insured's liabilities under Athens 2002 PLR by providing Evidence of War Insurance for the purpose of enabling the Insured to obtain certification of insurance as required by Article 4bis of Athens 2002 PLR.

For the avoidance of doubt, the scope and amount of the Insurer's liability on behalf of itself or any Insured shall in no circumstances be wider or greater respectively than the obligations imposed under Athens 2002 PLR.

Policy Terms and Conditions - Athens 2002 PLR attached.

Any endorsements and/or amendments to be agreed Slip Leader only.

Subject to Contracts (Rights of Third Parties) Act 1999 Exclusion Clause JH 2000/007 13 June 2000, as attached, but this clause not to apply in respect of passenger claims brought under Athens 2002 PLR nor with regard to claims under clause 5 of this policy.

Subject to Sanction Limitation and Exclusion Clause JW2010/004 2<sup>nd</sup> August 2010, as attached.

Subject to Special Termination Clause, as attached.

Claims and return premiums shall only be collected and taken down on production of a copy (including photocopy) and/or duplicate of the Contract that is presented either manually or electronically by staff of Marsh Ltd or their appointed agents. No other parties may collect or take down claims or returns of premium without the express permission of Marsh Ltd. Insurers further agree that this clause may only be amended or cancelled with the prior written approval of Marsh Ltd.

**CHOICE OF LAW AND JURISDICTION:**

This insurance shall be governed by and construed in accordance with the laws of England and Wales and the exclusive jurisdiction of the English and Welsh courts.

<b>PREMIUM/RATE:</b>	As agreed per declaration.
<b>BROKERAGE / COMMISSION:</b>	As agreed per declaration.
<b>PREMIUM PAYMENT TERMS:</b>	Premium Payment Clause LSW3001 (30/09/08) (30 days), as attached.
<b>TAXES PAYABLE BY THE (RE)INSURED AND ADMINISTERED BY (RE)INSURERS:</b>	Taxes to be determined in accordance with Underwriters fiscal and legal responsibilities within each individual territory as advised on the Lloyd's website <a href="http://crystal.lloyds.com">http://crystal.lloyds.com</a> .  However Underwriters agree that premium hereon to be initially debited and closed without application of any Greek Insurance Premium Tax.  It is further agreed that any applicable Greek Insurance Premium Tax will be debited and closed separately as an additional premium.  The absence of any said Greek Insurance Premium Tax will not prejudice the signing/closing of the premium hereon.
<b>TAXES PAYABLE BY INSURERS AND ADMINISTERED BY THE INSURED OR THEIR AGENT:</b>	Taxes to be determined in accordance with Underwriters fiscal and legal responsibilities within each individual territory as advised on the Lloyd's website <a href="http://crystal.lloyds.com">http://crystal.lloyds.com</a> .  However Underwriters agree that premium hereon to be initially debited and closed without application of any Greek Insurance Premium Tax.  It is further agreed that any applicable Greek Insurance Premium Tax will be debited and closed separately as an additional premium.  The absence of any said Greek Insurance Premium Tax will not prejudice the signing/closing of the premium hereon.
<b>RECORDING, TRANSMITTING AND STORING INFORMATION:</b>	Where the Broker maintains risk and claim data / information / documents the Broker will hold data / information / documents electronically.
<b>INSURER CONTRACT DOCUMENTATION:</b>	This document details the contract terms entered into by the insurer(s) and constitutes the contract document.

**INFORMATION**

Per Shoreline Passenger Solutions Application Form dated: January 1, 20X7

**SANCTION LIMITATION AND EXCLUSION CLAUSE**

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

**JW2010/004**

**2nd August 2010**

**SPECIAL TERMINATION CLAUSE**

The (Re)Insured may terminate this (Re)Insurance Agreement at any time by giving notice in writing to the (Re)Insurer in the event that any one of the following circumstances has occurred since the inception date of this (Re)Insurance Agreement (or, in the case of a continuous contract, the immediately preceding anniversary date):

- a) a State Insurance Department or similar regulatory authority outside the USA has ordered the (Re)Insurer to cease accepting business

or

- b) the (Re)Insurer has become insolvent or has been placed into liquidation or receivership (whether voluntary or involuntary), or there has been instituted against it proceedings for the appointment of a receiver, liquidator, rehabilitator, conservator, or trustee in bankruptcy, or other agent known by whatever name, to take possession of its assets or control its operations

or

- c) the (Re)Insurer's policyholders' surplus (or total stamp capacity by managing agent in respect of Lloyd's syndicates) has been reduced by 50% of the amount at which it stood at the inception of this (Re)Insurance Agreement (or, in the case of a continuous contract, the immediately preceding anniversary date)

or

- d) the (Re)Insurer has merged with, been acquired by, or relinquished control of itself to any other company, corporation or individual(s)

or

- e) the (Re)Insurer's AM Best rating has been assigned or downgraded below A-

or

- f) the (Re)Insurer's Standard and Poor's rating has been assigned or downgraded below A.

In the event of such termination the liability of the (Re)Insurer shall cease upon receipt of notice from the (Re)Insured (except in respect of losses which may have occurred prior to such date of termination but for which settlement remains outstanding) and the (Re)Insurer shall receive premium pro rata as to time of the Full Premium.

However, if losses have occurred between the inception date of this (Re)Insurance Agreement (or, in the case of a continuous contract, the anniversary date immediately preceding termination) and the date of termination which exceed pro rata as to time of the Full Premium, then the (Re)Insurer shall receive premium equal to the losses or the Full Premium, whichever the lesser.

For the purpose of this clause Full Premium shall mean the fully adjusted premium that would have been earned by the (Re)Insurer for the period of this (Re)Insurance Agreement had it not been terminated, taking into account any minimum premium condition and including any reinstatement premium in respect of losses occurring prior to the date of termination.

**CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999 EXCLUSION CLAUSE**

Neither this policy nor any document issued pursuant to this policy shall confer any benefits on any third parties. No third party may enforce any term of this policy or of any provision contained in any document issued under this policy. The contracts (Rights of Third Parties) Act 1999 is hereby expressly excluded from this policy, including the Schedule or any other document issued pursuant thereto. This clause shall not affect the rights of the Assured (as assignee or otherwise) or the rights of any loss payee.

JH 2000/007 13 June 2000

**PREMIUM PAYMENT CLAUSE**

Notwithstanding any provision to the contrary within this contract or any endorsement hereto, in respect of non payment of premium only the following clause will apply.

The (Re)Insured undertakes that premium will be paid in full to (Re)Insurers within 30 (thirty) days of inception of this contract (or, in respect of instalment premiums, when due).

If the premium due under this contract has not been so paid to (Re)Insurers by the 30<sup>th</sup> (thirtieth) day from the inception of this contract (and, in respect of instalment premiums, by the date they are due) (Re) Insurers shall have the right to cancel this contract by notifying the (Re)Insured via the broker in writing. In the event of cancellation, premium is due to (Re)Insurers on a pro rata basis for the period that (Re) Insurers are on risk but the full contract premium shall be payable to (Re)Insurers in the event of a loss or occurrence prior to the date of termination which gives rise to a valid claim under this contract.

It is agreed that (Re)Insurers shall give not less than 15 days prior notice of cancellation to the (Re)Insured via the broker. If premium due is paid in full to (Re)Insurers before the notice period expires, notice of cancellation shall automatically be revoked. If not, the contract shall automatically terminate at the end of the notice period.

If any provision of this clause is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this clause which will remain in full force and effect.

30/09/08  
LSW3001

**SECURITY DETAILS****(RE)INSURER'S****LIABILITY:**

LMA3333

Dated 21 June 2007

**(Re)insurer's liability several not joint**

The liability of a (re)insurer under this contract is several and not joint with other (re)insurers party to this contract. A (re)insurer is liable only for the proportion of liability it has underwritten. A (re)insurer is not jointly liable for the proportion of liability underwritten by any other (re)insurer. Nor is a (re)insurer otherwise responsible for any liability of any other (re)insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by a (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp. This is subject always to the provision concerning "signing" below.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is a (re)insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other (re)insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

**Proportion of liability**

Unless there is "signing" (see below), the proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp and is referred to as its "written line".

Where this contract permits, written lines, or certain written lines, may be adjusted ("signed"). In that case a schedule is to be appended to this contract to show the definitive proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together). A definitive proportion (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of a Lloyd's syndicate taken together) is referred to as a "signed line". The signed lines shown in the schedule will prevail over the written lines unless a proven error in calculation has occurred.

Although reference is made at various points in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

**ORDER HEREON:** 100% of 100%

**BASIS OF WRITTEN LINES:** Percentage of Whole

This insurance has been arranged by Shoreline Ltd. as Coverholders on behalf of the following insurers under a Binding Authority with Unique Market Reference B0509MARLL1800001:

To be advised.

In the event of any Complaint regarding the service provided by the Coverholders, this should be addressed to:

The President  
Shoreline Ltd.  
PO Box HM 1354  
Hamilton HM FX  
Bermuda

**POLICY TERMS AND CONDITIONS – ATHENS 2002 PLR:**

**Provision of War Certificates of Insurance per Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002 (1974 Convention with Protocol of 2002 to the Convention and 2006 Reservation and, subject to modifications made by the associated IMO Guidelines for Implementation of the Athens Convention), and/or Regulation (EC) No. 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents (known as Passenger Liability Regulation) hereinafter collectively known as 'Athens 2002 PLR'**

**Policy Terms and Conditions****1. Insuring Clause**

1.1 Subject to all terms and conditions herein, and in consideration of the agreed premium, this policy of insurance will meet all liabilities incurred by the Insured pursuant to Athens 2002 PLR for an incident occurring during the policy duration but only in respect of claims arising out of those perils specified within the IMO Reservation and Guidelines for the Implementation of the Athens Convention adopted 19th October 2006, namely:

- war, civil war, revolution, rebellion, insurrection, or civil strife arising there from, or any hostile act by or against a belligerent power,
- capture, seizure, arrest, restraint or detainment, and the consequences thereof or any attempt thereof,
- derelict mines, torpedoes, bombs or other derelict weapons of war,
- act of any terrorist or any person acting maliciously or from a political motive and any action taken to prevent or counter any such risk,
- confiscation and expropriation

The indemnity provided for under this policy is payable if and to the extent that

- Limits of Underlying War Covers arranged for the Carrier or the Performing Carrier for vessels declared hereon are exceeded by other claims having been settled and having fully absorbed cover otherwise disposable for Liabilities qualifying for settlement under Athens 2002 PLR

or

- any claims by the Insured under Underlying War Covers are denied as a result of the assertion by the underwriters thereon of a policy defence or the breach of policy terms and/or conditions

or

- the Insured is unable to recover claims from Underlying War Covers for any reason including cancellation thereof

and/or

- the Insured is required to make advance payments to passengers within the time constraints imposed by Article 6 of the Passenger Liability Regulation

1.2 The maximum indemnity payable hereunder each ship each distinct occasion shall be the amount prescribed by Athens 2002 PLR as the limit of liability of the Insurers or other person providing evidence of insurance.

1.3 The Insurers hereon shall not be obligated to indemnify the Insured, or pay any claims at the request of the Insured, until the proper legal assessment of liability under Athens 2002 PLR and/or Insurers hereon at their discretion decide to make payments, interim or otherwise, in order to mitigate any potential liability hereon having taken into consideration professional legal advice.

It is understood, within the IMO Guidelines for Implementation of Athens 2002, that Insurers may be obligated to withhold from settlements to passenger claimants certain amounts when, in the consensual opinion of the Carrier or the Performing Carrier and Insurers hereon, claims might be presented which in the aggregate exceed the relevant ship's overall limitation as defined in Athens 2002 PLR and ahead of a proportionate distribution of all claims against the Carrier or the Performing Carrier.

1.4 If and to the extent that the Insurers hereon pay any Athens 2002 PLR claim either direct to passengers or by way of indemnity to the Insured, they shall be entitled, on the terms set out in Clause 5 below, to exercise by subrogation such rights of recovery from the Underlying War Covers as are available to the Insured.

#### **1A. Financial security**

1A.1 The Insurers hereon agree to act as guarantors of the Insured's liabilities under Athens 2002 PLR and, to that end, to provide evidence of war insurance (in the form annexed hereto) attesting that this cover is in force, for the purpose of enabling the Insured to obtain certification of insurance as required by Art. 4 bis of Athens 2002 PLR.

1A.2 The Insurers will accordingly meet all liabilities incurred by them to passengers under Athens 2002 PLR in their capacity as guarantors arising from the provision of such evidence of war insurance.

Contained within the provisions of Athens 2002 PLR are exemptions from liability, amongst which the following are stated:-

- a) Institute Notice of Cancellation, Automatic Termination of Cover and war and Nuclear Exclusion Clause – Hulls, Etc. CL. 359 1/1/95;
- b) Institute Radioactive Contamination, Chemical, Biological, Biochemical and Electromagnetic Weapons Exclusion Clause CL370 10/11/03
- c) Institute Cyber Attack Exclusion Clause CL.380 10/11/03.

The full wordings of such exemptions are to be found within Appendix A of the Guidelines for the implementation of Athens 2002 PLR.

1.A.3 In accordance with Athens 2002 PLR:-

- a) Insurers' liability shall be applicable only to passenger claims brought under Article 3, paragraphs 1 or 2 of Athens 2002 PLR, paragraph 1.2 of the Reservation, and paragraph 2.2 of the associated Guidelines
- b) In accordance with Article 4bis, paragraph 11 of Athens 2002 PLR, any sums provided by insurance maintained in accordance with paragraph 1 of the same article, shall be exclusively for the satisfaction of claims from passengers for death or for personal injury under Athens 2002 PLR and any payments made of such sums shall discharge any liability arising under Athens 2002 PLR to the extent of the amounts paid.
- c) The Insurer's obligations on each distinct occasion each ship shall be reduced by any payments effected by the Carrier or the Performing Carrier and/or their Underlying War Cover insurers in their name or on their behalf and/or other parties defined in the Evidence of War Insurance in respect of liabilities incurred and settled under the terms of Athens 2002 PLR.
- d) subject to any reduction in their obligations permitted under clause 1.A.3 c) above, the Guarantor's obligations on each distinct occasion each ship shall be satisfied in full once the total amounts paid to all claimants equals the Limit applicable to each ship declared hereon.

1.A.4 If and to the extent that the Insurers hereon, in their capacity as guarantors, incur liability to passengers pursuant to Athens 2002 PLR, they shall be entitled, on the terms set out in Clause 5 below, to exercise by subrogation such rights of recovery from the Underlying War Covers as are available to the Insured.

## **2. Duration**

This Insurance is arranged in respect of losses arising out of an event occurring during the period from Noon Greenwich Meantime 20th February 20X7 to Noon Greenwich Meantime 20th February 20X8 or shorter periods as declared.

### 3. Limit

The maximum indemnity payable hereunder shall be the amount prescribed by Athens 2002 PLR as the limit of liability of the Insurers or other person providing evidence of insurance, namely the lower of:

**SDRs 250,000 per passenger registered as being on board the ship at the time of the occasion of the incident, the subject of the claim hereon**  
or  
**SDRs 340,000,000**

as required each distinct occasion, each ship.

The Insurers hereon shall cover legal costs and expenses relating to any liability or expenditure covered under this insurance, but only to the extent that those costs and expenses have been incurred with the agreement of the insurers hereon.

### 4. Definitions (for the purposes of this Insurance)

- 4.1 'Athens 2002 PLR' means the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002 (being the 1974 Athens Convention as amended by the Protocol of 2002 to the Convention and the 2006 Reservation, and subject to modifications made by the associated IMO Guidelines for Implementation of the Athens Convention), and/or Regulation (EC) No. 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents (also known as Passenger Liability Regulation)
- 4.2 'Carrier' means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by that person or by a Performing Carrier
- 4.3 'Performing Carrier' means a person other than the Carrier, being the owner, charterer or operator of a ship, who actually performs the whole or part of the carriage
- 4.4 'Underlying War Covers' means the combination of War Risks insurances as summarised:
  - 4.4.1 P & I War Risks Insurances provided as a separate limit to the Carrier's or the Performing Carrier's Hull and Disbursements War Risks policies to at least the aggregate of the insured value of the Hull and insured amounts in respect of Disbursements of the Carrier's or the Performing Carrier's ship or a minimum of USD 100,000,000, whichever is the lower and on terms providing cover as per the Institute Protection and Indemnity War Strikes Clauses - Hulls Time CL.345 (20/7/87) and/or the Institute War and Strikes Clauses - Hulls Time CL.281 (1/11/95) and/or other equivalent War P & I clauses (to be approved by Slip Leader).  
and
  - 4.4.2 P & I War Risks (International Group P & I Clubs) as endorsed as an extension to the entry of the Carrier's or the Performing Carrier's ship into an International Group P & I Club.

Such entry means an unrestricted entry into a Protection and Indemnity Association which is a member of the International Group of P&I Clubs or other Insurer of P & I risks as approved by Slip Leader endorsed to include cover against the risk of War (per the Template attached) for an amount not less than USD 500,000,000 and/or as may be specifically agreed by Slip Leader hereon.

- 4.5 'Evidence of War Insurance' means the documentary proof in the attached form ('Certificates furnished as evidence of (War) insurance pursuant to Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002') attesting that insurance is in force in compliance with the stipulations of Athens 2002 PLR.
- 4.6 'Athens Certificates' means the Certificate of Insurance or Other Financial Security in respect of Liability for the Death or Personal Injury to Passengers ' issued in accordance with the Provisions of Athens 2002 PLR
- 4.7 'Insurers' means the panel of insurers offering security behind the Guarantee in compliance with the requirements of Athens 2002 PLR.

The definition extends to include any agency they might appoint to provide underwriting or administrative services on their behalf.

- 4.8 'Total Claims' means the aggregation of Athens 2002 PLR Claims, non- Athens 2002 PLR passenger claims and other claims including, but not limited to claims in respect of crew, wreck removal and pollution each ship each distinct occasion.

## 5. Underlying War Cover and Rights of Subrogation

- 5.1 Insurers' liability to the Insured under this contract shall be determined by the policy terms and conditions. Subject to those terms and conditions, Insurers are entitled to seek to recover from the Underlying War Covers any and all payments made pursuant to liabilities incurred by the Insured under Athens 2002 PLR
- 5.2 No Evidence of War Insurance will be issued by Insurers hereon unless the Insured as Carrier or Performing Carrier arranges the insurances that comprise the Underlying War Covers, with War Risks Insurers approved by the Slip Leader as described at 4.4.1 and 4.4.2 respectively.

The Insured is to provide corresponding confirmation of such cover prior to the annual inception of each policy and/or entry year, stating the schedule of insurers with whom they arrange such policies or entries and that these policies or entries will be maintained in force without intentional breach of cover for the duration of any Evidence of War Insurance on behalf of all ships for which Insurers provide such Evidence.

Insurers hereon agree that the conditions above shall be deemed to be satisfied in respect of ships previously insured under this scheme pending re-confirmation of Carriers' renewal of war policies or entries with International Group P & I Clubs, including if required, ships transferring between war insurers or International Group P & I Clubs subject always that the Insured has in good faith relied

upon the Carrier's or the Performing Carrier's representation of renewal and/or transfer of the P&I War Risks Insurance and/or International Group P&I Club Entry.

All Insureds as Carriers and/or Performing Carriers are obliged to take all reasonable steps to preserve such coverage including, but not limited to, the maintenance of cover in accordance with approved market practices in the event that any ship insured hereunder navigates in waters that are subject to the current JWC Hull War, Strikes, Terrorism and Related Perils Listed Areas (3 March 2011) (JWLA017) and any updated version thereof.

- 5.3 Any and all payments made by Insurers in their capacity as guarantors under the provisions of Athens 2002 PLR shall be deemed to be made as agent of, and for the account of, the relevant Carrier or Performing Carrier whether or not they as Insurers are obligated or liable to the Carrier or Performing Carrier under the insuring conditions of this contract.
- 5.4 Upon the payment of any sums hereunder whether by way of indemnity or pursuant to Athens 2002 PLR, Insurers hereon shall be subrogated to all the rights and remedies of the Insured, who is under a duty to assist, and co-operate with Insurers in their efforts to effect recovery of any such payment.
  - 5.4.1 In event that the Insurers hereon, having paid any such sums, prove unable to effect a recovery under the Underlying War Cover by reason of a policy defence or the breach of policy terms and/or conditions involving the actual fault or privity of the Insured, Insurers hereon reserve the right to seek recovery of such sums from the Insured
- 5.5 If it appears that estimated Total Claims are reasonably likely to exceed the cover available under the Underlying War Covers, the Insurers hereon will, upon request of the Insured and/or their P & I Club agree to refrain from exercising rights of recovery pursuant to the preceding clause 5.4 from the Underlying War Cover insurers, unless and until and to the extent that the estimated Total Claims are found not to exceed the available cover provided by the Underlying War Covers.
- 5.6 If the insurers of the Underlying War Covers have paid Athens 2002 PLR claims (whether directly to claimants or by way of reimbursement of the Insured or Insurers hereon) and Total Claims are subsequently found to exceed the limit of the Insured's Underlying War Covers, the Insurers hereon will reimburse the insurers of the Underlying War Covers in respect of such Athens 2002 PLR payments if and to the extent that Total Claims exceed the limit of the Underlying War Covers (subject always to the Limit of this cover as defined at Para 3 herein).
- 5.7 Insurers are entitled to call for and to have received on their own behalf and on behalf of the Insured, confirmations of cover and undertakings:
  - 5.7.1 from the insurers of the Carrier's or the Performing Carrier's P & I War Risks Insurances (Hull) (as described at 4.4.1 above) that they will issue at least 30 days notice of their intention to cancel the insurance by reason of the failure to pay, when due and demanded, any premium sums due
  - 5.7.2 from the P & I Club of the Carrier's or the Performing Carrier's Excess War cover as described at 4.4.2 that it will issue at least 30 days notice of the managers' intention to cancel the entry by reason of the failure to pay, when due and demanded, any premium sums due

5.8 Insurers are entitled to call for and to have received on their own behalf and on behalf of the Insured, confirmations of cover and undertakings from the insurers of each Carrier's or Performing Carrier's Underlying War Covers that:

- 5.8.1 neither the provision by Insurers of Evidence of War Insurance nor this insurance shall be construed as double insurance or as conflicting with the terms and conditions of the Underlying War Covers; and
- 5.8.2 payments made by Insurers hereunder or pursuant to Athens 2002 PLR are made on behalf of the Carrier or the Performing Carrier and that such payments will be considered to be payments by the Carrier or Performing Carrier in satisfaction of any 'pay as paid' rules.

5.9 Insurers are entitled to maintain on file all information submitted in the Application Forms for Evidence of Insurance.

5.10 It is understood and agreed by the parties that the provisions of Clause 5.6 above confer a benefit on the insurers of the Underlying War Covers which is intended to be enforceable by those insurers under the Contracts (Rights of Third Parties) Act 1999.

## **6. Provision of Evidence of War Insurance**

6.1 Insurers are under no obligation to provide security on behalf of any Insured, but where the same is provided it shall be on such terms as the Insurers may consider appropriate in the context of Athens 2002 PLR and shall not constitute any admission of liability by Insurers for the claim in respect of which the bail or other security is given. In no case shall cash deposits be made by Insurers.

Having either provided security or paid claims in compliance with the terms of Athens 2002 PLR, Insurers shall be entitled to seek to be indemnified for any costs associated with the provision of such security and for any liability Insurers may incur to third parties to the extent that such payments are not recoverable from Underlying War Cover Insurers as described in Para 5.4.1 above.

6.2 Where Insurers hereon and/or Underlying War Cover Insurers might be under no liability to pay claims by reason of the operation of a so-called Cesser or Cancellation Clauses (United Kingdom Mutual Steam Ship Assurance Association (Europe) Ltd Rules 29 or 31 (or equivalent at other clubs) or provisions in Hull War policies for cancellation for non-payment of premium), Insurers' payment of any claims in their capacity as guarantors per Section 1.A, is effected as agent of the Insured, and the Insured shall re-imburse Insurers in full for such claim.

## **7. Notification of Claim**

The Insured shall report in writing to the Insurers and his P & I Club any circumstances which may give rise to a claim under this insurance within 14 days of their becoming aware of the occurrence of an event that could give rise to a claim to Underlying War Covers and shall thereafter keep Shoreline Passenger Solutions fully informed of all developments.

**8. Claims Procedures****8.1 The Insurers and the Insured agree**

- 8.1.1 that the P&I Club in which the vessel is entered will be appointed to adjust Athens 2002 PLR claims on behalf of the Insurers, and
- 8.1.2 to encourage the primary war risk underwriters to instruct the P&I Club to adjust claims on their behalf as well as on its own behalf to the extent that it may be involved in its capacity as a provider of the excess Underlying War Cover as described in paragraph 4.4.2 above.
- 8.1.3 that in adjusting Athens 2002 PLR claims the Insured and its representatives shall seek to minimize the need for adjustment or reallocation of claims payments by way of subrogation under clause 5.4 above, reimbursement under 5.6 above or otherwise between Insurers hereon and insurers on the Underlying War Covers.

It is noted and agreed that the Insurers shall have the right at any time to withdraw the P&I Club's authority to adjust claims on their behalf

**8.2 The Insured's P&I Club agrees to**

- 8.2.1 provide the Insurers with regular reports as required and answer all requests for information about any claims for which the Insurers are or may be liable,
- 8.2.2 record all claims in order of date of settlement, and register all claims settled to passengers under Athens 2002 PLR as eroding the relevant limit of liability as described in Section 3 and
- 8.2.3 notify the Insurers immediately if it becomes aware that Total Claims are reasonably likely to exceed available cover and will invite the Insurers hereon and on the Underlying War Covers to jointly establish agreed procedures for the monitoring and funding of claims.

**9 Insurance Act 2015**

The following provisions of the Insurance Act 2015 ("the Act") are excluded from the Terms and Conditions of this contract as follows:

- 9.1. Section 8 of the Act is excluded.  
As a result any breach of the continuing duty of fair presentation shall entitle Insurers to avoid the policy, regardless of whether the breach of the duty of fair presentation is innocent, deliberate or reckless.
- 9.2. Section 10 of the Act is excluded.  
As a result all warranties contained within these Terms and Conditions must be strictly complied with and if the Owner fails to comply with any warranty Insurers shall be

discharged from liability from the date of the breach, regardless of whether the breach is subsequently remedied.

9.3 Section 11 of the Act is excluded.

As a result the Terms and Conditions of this contract of insurance, including terms which tend to reduce the risk of loss of a particular kind, loss at a particular location and/or loss at a particular time, must be strictly complied with and if the Insured fails to comply with any such term, the Association's liability may be excluded, limited or discharged in accordance with these Terms and Conditions notwithstanding that the breach could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

9.4 Section 13 of the Act is excluded.

As a result Insurers shall be entitled to exercise their right to terminate this contract of insurance in the event that a fraudulent claim is submitted by or on behalf of the Insured and/or any Affiliate.

9.5 Section 13A of the Act is excluded.

As a result the Terms and Conditions of this contract of insurance shall not be subject to, nor shall Insurers be in breach of, any implied term that it will pay any sums due in respect of a claim within a reasonable time save where the breach is deliberate or reckless and Section 13A of the Act is excluded to this extent.

9.6 Section 14 of the Act is excluded.

As a result, this contract of insurance shall be deemed to be a contract of the utmost good faith, and any breach of the duty of the utmost good faith shall entitle Insurers to avoid this contract of insurance.

## **10 Termination**

In accordance with the conditions set out above under which they issue Evidence of War Insurance:

- 10.1 Insurers shall be entitled to request that the terms under which Evidence of War Insurance is provided be re-negotiated immediately and/or Notice will be tendered to the Authority to whom the Athens 2002 PLR Certificate is addressed within seven (7) days of the receipt of any Notices of Cancellation or advices of withdrawal of Carrier's or Performing Carrier's Underlying War Covers to cancel any associated Evidence of War Insurance
- 10.2 Insurers shall be entitled to request that the terms under which Evidence of War Insurance is provided be re-negotiated immediately and/or tender Notice to the Authority to whom the Athens 2002 PLR Certificate is addressed within seven (7) days of learning of any cessation or breach of conditions of any Carrier's or Performing Carrier's Underlying War Covers to cancel any associated Evidence of War Insurance
- 10.3 Insurers shall be entitled to request that the terms under which Evidence of War Insurance is provided be re-negotiated immediately and/or the Coverholder shall be entitled to tender Notice to the Authority to whom the Athens 2002 PLR Certificate is addressed within seven (7) days of the

discovery that any one of the following circumstances has occurred since the inception date of this Policy:

- 10.3.1 a State Insurance Department or similar regulatory authority has ordered an Insurer involved as part or all of security of the 'Underlying War Covers' to cease accepting business, or
- 10.3.2 an Insurer involved as part or all of security of the 'Underlying War Covers' to cease accepting business has become insolvent or has been placed into liquidation or receivership (whether voluntary or involuntary), or there has been instituted against it proceedings for the appointment of a receiver, liquidator, rehabilitator, conservator, or trustee in bankruptcy, or other agent known by whatever name, to take possession of its assets or control its operations, or
- 10.3.3 the AM Best rating of an Insurer involved as part or all of security of the 'Underlying War Covers' has been assigned or downgraded below A -, or
- 10.3.4 the Standard and Poor's rating of an Insurer involved as part or all of security of the 'Underlying War Covers' has been assigned or downgraded below BBB.

## **11. Law Applicable**

This Insurance shall be governed by and construed in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.