

MARINE HULL LIABILITY CERTIFICATE WORDING

MARINE HULL THIRD PARTY LIABILITY FOR SMALL SEA VESSELS

WHEREAS the party named in the Schedule hereto annexed (hereinafter referred to as 'the Participant') by the proposal and declaration which shall be the basis of this contract and deemed incorporated herein has applied to **Takaful Brunei Am Sdn Bhd** for the takaful cover hereinafter expressed and has paid or agreed to pay the takaful contribution specified in the Schedule hereto annexed (hereinafter referred to as 'the Schedule') as consideration for and on account of such takaful cover.

NOW THIS CERTIFICATE WITNESSETH that subject to the terms exceptions limits and conditions contained herein or endorsed in the Schedule Takaful Brunei Am Sdn Bhd will indemnify the Participant in respect of all sums which the Participant shall become legally liable to pay in respect of:

1. accidental death and bodily injury to any person carried on board the vessel named in the Schedule (hereinafter referred to as 'the Vessel') (including passengers travelling on embarking thereon or disembarking therefrom);
2. accidental loss of or damage to third party property;
occurring during the period of takaful within the territorial limits specified in the Schedule.

PROVIDED that the liability of Takaful Brunei Am Sdn Bhd under this Takaful Certificate for damages in respect of any one occurrence or number of occurrences arising directly or indirectly from one source or original cause shall not exceed the limit of indemnity specified in the Schedule.

Takaful Brunei Am Sdn Bhd will in addition pay:

- (a) the legal costs recovered by the claimant from the Participant;
- (b) any costs and expenses incurred with the written consent of Takaful Brunei Am Sdn Bhd.

DEFINITIONS

In this Takaful Certificate

1. 'Bodily injury' means identifiable physical injury which is caused by an Accident.
2. 'Accident' means a sudden, unexpected, unusual, specific event which occurs at an identifiable time and place, but shall also include embarking and disembarking from the Vessel.
3. Words in the masculine gender shall include the feminine.
4. Where any party comprises more than one person the obligation and liabilities of that party under this Takaful Certificate shall be joint and several obligations and liabilities of those persons.
5. The clause headings contained in this Takaful Certificate are for reference purposes only and shall not be incorporated into this Takaful Certificate and shall not be deemed to be any indication of the meaning of the clauses and sub-clauses to which they relate.

EXCEPTIONS

1. Takaful Brunei Am Sdn Bhd shall not be liable in respect of the following:-
 - 1.1 death of or bodily injury to all persons under the employ of the Participant including the navigator of the Vessel or other persons employed or engaged in any capacity on board the Vessel;

- 1.2 death of or bodily injury to all persons being members of the Participant's household unless they are fare-paying passengers;
 - 1.3 any claim(s) arising due to and whilst the Vessel is navigated and under the control of person(s) who has not been issued with a licence by the appropriate authorities or is/are not qualified in accordance with the requirements of the Merchant Shipping Order, 2002 and any other applicable legislation from time to time or of any relevant authorities;
 - 1.4 any claim(s) arising due to and whilst the Vessel is navigated and under the control of any person(s) who was/were at the material time under the influence of alcohol or drug to the extent of being unable to control the Vessel;
 - 1.5 any claims whilst the Vessel is being used otherwise than in accordance with the limitation of use as stated in the Schedule;
 - 1.6 any claims, if such claim shall be in any manner fraudulent or supported by any statement or device whether by the Participant or any person on behalf of the Participant and/or in the case where this takaful certificate is extended due to material mis-statement or the non-disclosure of any material information by or on behalf of the Participant.
2. In no case shall this Takaful Certificate cover loss damage or expense:
- 2.1 arising from unseaworthiness of the Vessel;
 - 2.2 attributable to wilful misconduct of the Participant, his agents or servants;
 - 2.3 from deliberate damage to or deliberate destruction of third party property or part(s) thereof by the wrongful act of any person or persons;
 - 2.4 caused by ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the subject matter covered;
 - 2.5 caused by insufficient or unsuitability of packing or preparation of third party property;
 - 2.6 arising from the use of any weapon or war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
 - 2.7 caused by war civil war revolution rebellion insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power;
 - 2.8 arising from capture seizure arrest restraint or detainment whether by the authorities, creditors or pirates and the consequences thereof or any attempt thereat;
 - 2.9 caused by derelict mines torpedoes bombs or other derelict weapons of war;
 - 2.10 arising from contact with any fixed or floating object (other than a mine or torpedo) (unless the contact is accidental);
 - 2.11 caused by strikers, locked-out workmen or persons taking part in labour disturbances, riots or civil commotions;
 - 2.12 caused by any terrorist or any person acting from a political motive.

3. This Takaful Certificate shall in no case extend or be deemed to extend to include any claim in respect of any matter arising directly or indirectly from:
 - 3.1 pollution or contamination or by disease otherwise, of any real or personal property, any person or thing whatsoever;
 - 3.2 the expenses of any action, measures taken by any person (including measures taken by, or on behalf of, or on the direction of any government or authority) to avert or minimize such pollution or contamination arising from any discharge or escape (whether actual or apprehended).

WARRANTIES

1. The Participant warrants that:
 - 1.1 all applicable registration and licensing requirements under the Merchant Shipping Act, Cap 95, Merchant Shipping Order, 2002 and any other applicable legislation from time to time has been complied with;
 - 1.2 the designed speed of the Vessel does not exceed 17 (seventeen) knots (unless otherwise agreed).

CONDITIONS

1. This Takaful Certificate and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Takaful Certificate or of the Schedule shall bear such specific meaning wherever it may appear.
2. On the happening of an event or events giving rise to or likely to give rise to a claim hereunder the Participant shall immediately:
 - 2.1 report the same to the relevant police authorities; where this is not possible then no later than 14 (fourteen) days from the date of such happening.
 - 2.2 notify Takaful Brunei Am Sdn Bhd; where this is not possible then no later than 14 (fourteen) working days from the date of such happening:
 - a. how, when and where the occurrence took place;
 - b. the names and addresses of any injured persons and witnesses and;
 - c. the nature and location of any injury or damage arising out of the occurrence.
 - 2.3 The Participant shall (and it is a condition of this Certificate of Takaful) inform Takaful Brunei Am Sdn Bhd of:
 - a. any inquest;
 - b. any notice of prosecution;
 - c. any civil suit or claim brought against the Participant together with all letters, legal documents received by the Participant in connection therewith.

- 2.4 The Participant must not repair or in any way interfere with, alter the state of the Vessel, its equipment, machinery, plan or other things which has relevance to or in connection with claims made hereunder and shall render to Takaful Brunei Am Sdn Bhd, its servants agents full co-operation and assistance in its investigations.
- 2.5 The Participant shall not be entitled unless with the expressed written consent of Takaful Brunei Am Sdn Bhd to admit, promise or compromise any claims made hereunder.
- 2.6 The Participant shall after the happening of an event(s) giving rise to a claim hereunder:
- a. upon request of Takaful Brunei Am Sdn Bhd release to Takaful Brunei Am Sdn Bhd, its servants, agents and legal advisors all such information and records as they may require;
 - b. co-operate fully with Takaful Brunei Am Sdn Bhd, its servants, agents and legal advisors in their investigations, settlement or defence of the claim;
 - c. render such assistance to Takaful Brunei Am Sdn Bhd, its servants, agents and legal advisors in making any claims for contribution against persons who may be liable for the claims made hereunder.
- 2.7 Takaful Brunei Am Sdn Bhd will have the right, but in no case the obligation, to take over and conduct in the name of the Participant, the defence of any claim and will have full discretion in the conduct of any proceedings and in the settlement of any claim and having taken over the defence of any claim, may relinquish the same. All amounts expended by Takaful Brunei Am Sdn Bhd in the defence, settlement or payment of any claim will reduce the Limits of Indemnity agreed hereunder. In the event that Takaful Brunei Am Sdn Bhd in its sole discretion, opted to exercise its right pursuant to this condition, no action taken by Takaful Brunei Am Sdn Bhd in the exercise of such right will serve to modify or expand in any manner, Takaful Brunei Am Sdn Bhd's liability or obligations under this Takaful Certificate beyond what Takaful Brunei Am Sdn Bhd's liability or obligations would have been had it not exercised its rights hereunder.

CONDITIONS PRECEDENT

The due observance of the terms provisions conditions and endorsement of this Takaful Certificate in so far as they relate to anything done or complied with by the Participant and the truth of the statements and answers in the proposal shall be conditions precedent to any liability of Takaful Brunei Am SdnBhd to make any payment under this Takaful Certificate.

PAYMENT OF TAKAFUL CONTRIBUTION

It is fundamental and absolute special condition of this contract of takaful that the takaful contribution due must be paid and received by Takaful Brunei Am Sdn Bhd within ninety (90) days from the inception date of the certificate. If this condition is not complied with, then this contract of takaful is automatically cancelled and Takaful Brunei Am Sdn Bhd shall be entitled to the pro rata contribution on the period they have been on risk.

DUTY OF PARTICIPANT

1. The Participant shall at all times take reasonable precautions to prevent accidents.
2. It is the duty of the Participant, the Participant's servants and agents in respect of loss recoveryhereunder to take such measures as may be reasonable for the purpose of averting or minimising such loss.

TIME FRAME FOR MAKING CLAIM AFTER DISCLAIMER

1. Where Takaful Brunei Am Sdn Bhd has disclaimed liability to the Participant for any claim made hereunder and such claim shall not within twelve (12) months from the date of such disclaimer have been referred to arbitration under the provision of this Takaful Certificate;

1.1 made the subject matter of a suit in a court of law;
then the claim shall for all purposes be deemed to have been abandoned and shall not thereafter be recoverable under this Takaful Certificate.

LIABILITY WHERE THERE ARE OTHER TAKAFUL OR INSURANCE COVER

If at any time of the happening of any loss, destruction or damage covered by this Takaful Certificate there shall be any other takaful or insurance covering the same risk whether effected by the Participant or not, then Takaful Brunei Am Sdn Bhd shall not be liable to pay more than its rateable proportion of the loss, destruction or damage.

REINSTATEMENT, REPLACEMENT OR REPAIR

Takaful Brunei Am Sdn Bhd may reinstate, replace or repair the property or any part thereof, instead of paying the amount of the loss, destruction or damage, and may join with other companies in so doing. If Takaful Brunei Am Sdn Bhd elects to reinstate or replace, the Participant shall furnish to Takaful Brunei Am Sdn Bhd upon request all such information as maybe necessary or expedient for such purpose. Upon payment of any claim for loss under this Takaful Certificate, Takaful Brunei Am Sdn Bhd shall be legally entitled at its option to the Property in respect of which the payment is made.

EXCESS

In respect of each and every occurrence Takaful Brunei Am Sdn Bhd shall not be liable under this Certificate for the amount of Excess specified in the Schedule hereto. The sum specified shall be in addition to any other amount for which Takaful Brunei Am Sdn Bhd is not liable under this Certificate.

If the payments made by Takaful Brunei Am Sdn Bhd shall include an amount for which Takaful Brunei Am Sdn Bhd is not liable hereunder such amount shall be repaid by the Participant to Takaful Brunei Am Sdn Bhd forthwith.

PAYMENT OF LIMIT OF INDEMNITY

In connection with any claims against the Participant arising out of any one occurrence or all occurrences for a series consequent on or attributable to one source or original cause Takaful Brunei Am Sdn Bhd may at any time pay to the Participant the limit of indemnity (after deducting therefrom any or sums already paid) or any lesser sum for which such claims can be settled and Takaful Brunei Am Sdn Bhd shall thereafter be under no further liability in respect of such occurrence except for costs and expenses recoverable from the Participant or incurred with the written consent of Takaful Brunei Am Sdn Bhd in respect of matters prior to the date of such payment.

CANCELLATION OF TAKAFUL CERTIFICATE

1. Takaful Brunei Am Sdn Bhd shall be at liberty to determine and cancel this Takaful Certificate upon giving to the Participant seven (7) days notice in writing and posting the same by registered mail to the Participant's last known address.

2. In such event, Takaful Brunei Am Sdn Bhd shall retain on a pro-rata basis, the takaful contribution paid for the period the Takaful Certificate was in force. The balance of the Takaful Contribution will be refunded to the Participant after deduction of the wakalah fee and the service charge for the cancellation.
3. The Participant may terminate this Takaful Certificate by notice in writing to Takaful Brunei Am Sdn Bhd and provided there is no claim made under the Takaful Certificate, Takaful Brunei Am Sdn Bhd will refund to the Participant the contribution made on a pro-rata basis.
4. For the avoidance of doubt, Takaful Brunei Am Sdn Bhd is under no obligation to remind the Participant of delay or failure in making payment of the takaful contribution nor to send any renewal notice.

ASSIGNMENT

No assignment of or interest in this Takaful Certificate or in any moneys which may or be or become payable thereunder is to be binding or recognised by Takaful Brunei Am Sdn Bhd unless a dated notice of such assignment or interest signed by the Participant and in the case of a subsequent assignment by the Assignor, be endorsed on this Takaful Certificate and the Schedule; such endorsement of which must be produced before any claim is made or for distribution of contribution.

JURISDICTION

Takaful Brunei Am Sdn Bhd will not indemnify

- a. Any claim for damages or compensation for bodily injury or property damage unless the suit is initiated in or initial judgement obtained from a court of competent jurisdiction within Brunei Darussalam.
- b. Costs and expenses of litigation related to the claim unless these are incurred in and recoverable in terms of the judgement within Brunei Darussalam.

All claims under this Certificate shall be determined in accordance with the laws of the country where the accident occurred within the Territorial Limits specified in the Schedule.

ARBITRATION

All disputes which may occur between the parties in respect of this Takaful Certificate shall, if they cannot be resolved by direct negotiation(s) between the parties, be resolved by arbitration in accordance with the Emergency (Arbitration) Order, 1994.

All differences as to the amount of any loss or damage arising out of this Certificate shall, independently of all other questions be referred to the decision of an Arbitrator to be appointed in writing by the parties in difference, or if they cannot agree upon a single Arbitrator, to the decision of two disinterested persons as Arbitrators of whom one shall be appointed in writing by each of the parties within two (2) calendar months after having been required to do so in writing by the other party. If the other party shall refuse or fail to appoint an Arbitrator within two (2) calendar months after receipt of notice in writing requiring an appointment, the difference shall be referred to the decision of an Umpire who shall have been appointed by the Arbitrators in writing before entering on the reference and who shall sit with the Arbitrators and preside at their meetings. The death of any party shall not revoke or affect the authority or power of the Arbitrator. Arbitrators or Umpire, and in the event of the death of an Arbitrator or Umpire another shall in each case be appointed in his stead by the party or Arbitrator (as the case may be) by whom the deceased Arbitrator or Umpire was appointed. The cost of the reference and of the award shall be at the discretion of the Arbitrator, Arbitrators or Umpire making the award. And it is hereby expressly stipulated and declared that it shall be a condition precedent to any right of action or suit upon this Takaful Certificate that the award by such Arbitrator, Arbitrators or Umpire of the amount of loss or damage if disputed shall be first obtained. The cost of an Arbitrator shall be borne by the party by whom he was appointed, and the costs of the Umpire shall be borne in equal shares by the Participant and Takaful Brunei Am Sdn Bhd.

TAKAFUL PRINCIPLE AND DISTRIBUTION OF UNDERWRITING SURPLUS

Tabarru'

The Participant hereby entrusts to Takaful Brunei Am Sdn Bhd, of which 65% of the Takaful contribution will be donated as Tabarru' into the General Takaful Fund to help other eligible Participants under the takaful contract.

Wakalah

The Participant hereby appoints Takaful Brunei Am Sdn Bhd as Wakeel (agent) to administer, manage, invest and distribute the General Takaful Fund to other Participants in times of misfortune subject always to the terms and conditions stated in the Takaful Certificate and Schedule. To this end, the Participant agrees to give apportions 35% of the Takaful contribution to Takaful Brunei Am Sdn Bhd as a Wakalah Fee for the aforementioned services.

Distribution of Underwriting Surplus

The Participant hereby understands and agrees that the underwriting surplus arising from the said Fund, if any, shall be managed by Takaful Brunei Am Sdn Bhd in a manner deemed fit by Takaful Brunei Am Sdn Bhd and accordance to Shariah principles which shall give benefits to the Participant and the said Takaful Fund.

The Participant also understands that as agreed and approved by the Shariah Advisory Body of Takaful Brunei Am Sdn Bhd, the underwriting surplus will only be distributed to the Participant as hibah upon renewal of this Takaful Certificate PROVIDED THAT the Participant has not incurred any claim and received any benefit under this Takaful Certificate whilst it is in force. If there is no renewal on this Takaful Certificate, the Participant further agrees that there is no underwriting surplus shall be distributed to the Participant and it shall be made as Tabarru' in the General Takaful Fund for the benefits of the takaful participants and the General Takaful Fund itself.