

SHIPPING AND FORWARDING AGENTS
PROFESSIONAL INDEMNITY INSURANCE

NOTICE

THIS IS A CLAIMS MADE INSURANCE POLICY. Except to such extent as may be provided otherwise herein, this policy is limited to indemnity for only those CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD. Please review the policy carefully.

Words and phrases which are capitalised in this policy shall be deemed, where appropriate, to have those meanings as set forth in the Definitions which are a part of this policy.

In consideration of the payment of the premium, the undertaking of the INSURED to pay the deductible as described herein, in reliance upon the statements in the application attached hereto and made a part hereof, and subject to the limits of liability shown in the Declarations, and subject to all the terms of this insurance, Underwriters agree to indemnify the INSURED as follows:-

INSURING AGREEMENTS

1. **COVERAGE:**

CLAIMS MADE PROVISION:

The Underwriters will indemnify the INSURED SHIPPING AND FORWARDING AGENT for all sums which the INSURED shall become legally obligated to pay as DAMAGES as the result of CLAIMS first made against the INSURED during the POLICY PERIOD by reason of any CLERICAL ERROR committed or alleged to have been committed by the INSURED solely in the conduct of the INSURED's professional activities as a SHIPPING AND FORWARDING AGENT as hereinafter defined, provided always that:

- a. such CLAIM is not excluded by reason of any RETROACTIVE DATE specified in the Declarations, and
- b. the INSURED had no knowledge of any such CLERICAL ERROR on or prior to the effective date of this policy and there is no prior policy or policies under which the INSURED is entitled to indemnity for such CLAIM or suit.

2. **DISCOVERY CLAUSE:**

If during the POLICY PERIOD, the INSURED first becomes aware of a specific CLERICAL ERROR for which insurance is provided under this Policy and if the INSURED shall during the POLICY PERIOD give written notice to the Underwriters of

- a. the specific CLERICAL ERROR, and
- b. the injury or damage which has resulted or may result therefrom, and
- c. the circumstances by which the INSURED first became aware thereof.

then any claim subsequently made against the INSURED arising out of such CLERICAL ERROR shall be deemed for the purpose of this insurance to have been made during the POLICY PERIOD. The INSURED shall cooperate fully with Underwriters, and any investigation conducted by Underwriters or their representatives shall be subject to the terms set forth in this policy.

3. LIMITS OF LIABILITY:

The liability of Underwriters for each CLAIM first made against the INSURED during the POLICY PERIOD, including CLAIM EXPENSES, shall not exceed the amount stated in the Declaration for "each claim". Subject to that limit for each CLAIM, the total limit of Underwriters' liability for all CLAIMS, including CLAIM EXPENSES, first made against the INSURED during the POLICY PERIOD shall never exceed the amount stated in the Declarations as "aggregate". The inclusion herein of more than one INSURED or the making of CLAIMS or the bringing of suits by more than one person or organisation shall not operate to increase the limit of Underwriters' liability for each CLAIM and in the aggregate.

4. DEDUCTIBLE:

The deductible amount stated in Item 7 of the Declarations shall be paid by the NAMED INSURED, shall be applicable to each CLAIM and shall include CLAIM PAYMENTS and CLAIM EXPENSES, whether or not CLAIM PAYMENT is made.

5. DEFENSE AND SETTLEMENT:

- a. The INSURED shall not admit liability for or settle any CLAIM or incur any CLAIM EXPENSES in connection therewith without the written consent of the Underwriters, who shall be entitled at any time to take over and conduct in the name of the INSURED, the defense of any CLAIM, and the INSURED shall continue to cooperate fully with the Underwriters in such defense. ALL CLAIM EXPENSES shall be subject to the limits of liability available for such CLAIMS.
- b. The Underwriters shall not settle any CLAIM without the consent of the INSURED. If, however, the INSURED shall refuse to consent to any settlement recommended by the Underwriters and shall elect to contest or continue any legal proceedings in connection with such CLAIM, then the Underwriters' liability for the CLAIM shall not exceed the amount for which the CLAIM could have been settled plus the CLAIM EXPENSES incurred with their consent up to the date of such refusal.

DEFINITIONS

1. THE INSURED:

The unqualified word "INSURED" whenever used in this policy means:

- a. The NAMED INSURED herein defined as the individual, partnership, or corporation named in Item 2 of the Declarations;

- b. any partner, executive officer, director or salaried employee of the NAMED INSURED while acting within the scope of his official duties as such;
- c. any former partner, executive, officer, director or salaried employee of the NAMED INSURED while formerly acting within the scope of his duties as such.

2. POLICY PERIOD:

The term "POLICY PERIOD" whenever used in this policy shall mean the period from the inception date of this policy to the expiration date as set forth in Item 5 of the Declarations or its earlier termination date, if any.

3. RETROACTIVE DATE:

The term "RETROACTIVE DATE" whenever used in this policy shall mean the date, if any, stated in Item 8 of the Declarations, and any CLAIM based upon or arising out of any act, error or omission committed or alleged to have been committed prior to such date is not insured hereunder whether or not such CLAIM is first made against the INSURED during the POLICY PERIOD.

4. CLAIM:

The unqualified word "CLAIM" whenever used in this policy shall mean a written demand received by the INSURED for money or services, including the service of suit upon the INSURED or institution of arbitration proceedings against the INSURED.

5. CLAIM EXPENSES:

"CLAIM EXPENSES" means:

- a. fees charged by any attorney designated by Underwriters;
- b. all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a CLAIM, incurred by Underwriters, and
- c. the reasonable fees charged by any attorney designated by the INSURED with the written consent of Underwriters.

6. CLAIM PAYMENTS:

The terms "CLAIM PAYMENTS" whenever used in this policy shall mean the payment of DAMAGES for any settlement or judgment in any CLAIM covered under this policy.

7. SHIPPING AND FORWARDING AGENTS:

The term "SHIPPING AND FORWARDING AGENT" shall include only the profession of arranging the physical transit, transfer or transmittal of cargo, goods or materials which are owned by others, and which cargo, goods or materials are specifically identified by others as being located at a point of origin from which the INSURED is to arrange the physical transit, transfer

or transmittal to a point of destination specified by others. The term "SHIPPING AND FORWARDING AGENT" shall not include for purposes of this policy, the arranging of physical transit, transfer or transmittal of any cargo, goods or materials which are wholly or partly owned by the INSURED, or by any firm or entity wholly or partly owned, operated or managed by the INSURED.

8. DAMAGES:

The word "DAMAGES" whenever used in this policy means compensatory damages only and does not include punitive, exemplary, multiplied or trebled damages, taxes, fines or penalties, matters uninsurable under the law pursuant to which the policy is construed, or the return or withdrawal of fees.

9. CLERICAL ERROR:

The term "CLERICAL ERROR" whenever used in this policy shall mean negligent acts, errors, or omissions, committed or alleged to have been committed by the INSURED in performing the clerical and ministerial acts of formulating and issuing instructions or arrangements for the physical transfer or transmittal of goods or materials on behalf of others.

EXCLUSIONS

The Insuring Agreements and all other provisions of this Policy shall not apply to, and no coverage shall be afforded under this Policy for, any CLAIMS, CLAIM PAYMENTS and/or CLAIM EXPENSES for, based upon, relating to, or arising out of:

- a. any intentional, dishonest, fraudulent, criminal or malicious act or any act of infidelity, conversion or misappropriation of funds, committed or alleged to have been committed by, or at the direction of the INSURED, his agents, servants and/or employees;
- b. punitive, exemplary, multiplied or trebled damages, taxes, fines or penalties, except that if a suit is brought against the INSURED on a CLAIM falling within the coverage hereof, seeking both compensatory and punitive, exemplary multiplied or trebled damages, taxes, fines, or penalties then the Underwriters will, subject to all other provisions of this policy, indemnify for CLAIM EXPENSES incurred in such action, without liability, however, for such punitive, exemplary, multiplied or trebled damages, taxes, fines or penalties;
- c. bodily injury to, or sickness, emotional distress, disease or death of any person;
- d. all physical loss or damage to property under the care, custody or control of the INSURED, except to the extent that such loss or damages directly arises out of negligent acts, errors, omissions, incorrect instructions, incorrect arrangements committed or alleged to have been committed by the INSURED solely in the conduct of the INSURED's professional capacity as a SHIPPING AND FORWARDING AGENT;

- e. for personal injury, including but not limited to:
 - 1. libel and slander;
 - 2. invasion of privacy, discrimination, assault or battery;
 - 3. malicious prosecution;
 - 4. false arrest, false imprisonment or detention;
- f. any liability as a contracting carrier;
- g. insolvency of the INSURED or any inability to pay or collect accounts;
- h. the liability of others imposed upon or assumed by the INSURED under or by virtue of any contract or agreement, unless the INSURED would have incurred such liability in the absence of such contract or agreement;
- i. the INSURED's purchasing or obtaining of or failure to purchase or obtain cargo, goods and/or materials on behalf of others, or the substitution of cargo, goods, and/or materials from those originally specified, or the INSURED's locating or searching for sources of supply of cargo, goods or materials for others, whether or not the insured purchases or obtains such cargo, goods or materials or arranges for the physical transit, transfer or transmittal of such cargo, goods or materials;
- j. the ownership, maintenance, operation or use, including loading or unloading, by or in the interest or at the direction of the INSURED, of watercraft, automobiles, motor vehicles, aircraft or mobile vehicles of any kind;
- k. any liability of the INSURED 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, terrorism, insurrection, political action whether aggravated or not or military or usurped power;
- l. any actual or alleged violations of the Racketeer Influenced and Corrupt Organisations Act, 18 U.S.C. Sections 1961 et seq., and any amendments thereto, or rules or regulations promulgated thereunder;
- m. any transactions in which the INSURED, or any firm or entity wholly or partially owned, operated, or managed by the INSURED, wholly or partially owns any of the goods or materials with respect to which the INSURED performs any professional services as a SHIPPING AND FORWARDING AGENT;
- n. any claim or claims made against the INSURED by any business enterprise, or any successor, subrogee or assignee of such a business enterprise, that is, or has been, wholly or partially owned, operated, or managed by the INSURED, or in which the INSURED is, or has been an officer or director, or which business enterprise wholly or partially owns, operates or manages, or has wholly or partly owned, operated or managed, the INSURED;
- o. the consolidation of cargo or any claims arising out of in any way connected with the insured's providing services as a consolidator;

- p. the packing of any cargo;
- q. the obtaining of, of failure to obtain, licenses for the import or export of cargo, goods or materials; the clearing or failure to clear goods through customs; or the providing of any custom house brokerage services, unless specifically endorsed hereon;

CONDITIONS

1. INSURED'S Duties in the Event of Claim of Suit:

The INSURED shall as a condition precedent to his right to be indemnified under this insurance give to Underwriters immediate notice in writing of any CLAIM first made against him, cooperate with Underwriters and upon Underwriters' request, submit to examination and interrogation by a representative, under oath if required, and shall attend hearings, depositions and trials, and shall assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses and assisting in the conduct of suits, as well as in the giving of a written statement or statements to Underwriters' representatives and meeting with such representatives for the purposes of investigation and/or defense, and all without charge to Underwriters.

2. Subrogation:

In the event of any payment under this policy, Underwriters shall be subrogated to all the INSURED's rights of recovery therefor against any person or organisation and the INSURED shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The INSURED shall do nothing after the CLAIM to prejudice such rights. Underwriters shall not exercise any such rights against any persons or corporations included in the definition of INSURED. Notwithstanding the foregoing, however, Underwriters reserve the right to exercise any rights of subrogation against an INSURED in respect of any CLAIM brought about or contributed to by the intentional, dishonest, fraudulent, criminal or malicious act or omission of such INSURED.

3. Action Against Underwriters:

No action shall lie against Underwriters unless, as a condition precedent thereto, the INSURED shall have fully complied with all the terms of this policy, nor until the amount of the INSURED's obligation to pay shall have been fully and finally determined, either by judgment against the INSURED after actual trial, or by written agreement of the INSURED, the claimant and Underwriters.

Any person or organisation or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by the policy, and the coverage available thereunder.

Nothing contained in this policy shall give any person or organisation any right to join Underwriters as co-defendant in any action against the INSURED to determine the INSURED's liability. Bankruptcy or insolvency of the

INSURED or of the INSURED's estate shall not relieve Underwriters of any of their obligations hereunder.

4. False or Fraudulent Claims:

If the INSURED shall proffer any Claim knowing same to be false or fraudulent, as regards amount or otherwise, this insurance shall become null and void and all CLAIMS hereunder shall be forfeited.

5. Application:

By acceptance of this policy the INSURED agrees that the statements in the attached application are his representations, that this policy is issued in reliance upon the truth of such representations that they shall be deemed material, and that this policy embodies all agreements existing between the INSURED and Underwriters, or any of their agents, relating to this insurance.

6. Other Insurance:

Subject to the limitation of coverage as set forth in Insuring Agreement 1.(b) regarding the application of a prior policy or policies, this insurance is in excess of the amount of the applicable deductible of this policy and any other valid and collectible insurance available to the INSURED whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise.

7. Changes:

Notice to any agent or knowledge possessed by any agent or by any other persons acting on behalf of Underwriters shall not effect a waiver or a change in any part of this policy or estop Underwriters from asserting any rights under this policy, nor shall the terms of this contract be altered, waived or changed, except by endorsement issued to form a part of this policy and signed by Underwriters.

8. Assignment:

Assignment of interest under this policy shall not bind Underwriters unless and until their consent is endorsed hereon. In the event of the death or incompetency of the INSURED, this policy shall cover the INSURED's legal representatives as an INSURED as respects any liability previously incurred and covered by this policy.

9. Cancellation:

This policy may be cancelled by the NAMED INSURED by a written notice stating when thereafter such cancellation shall be effective. If cancelled by the NAMED INSURED, Underwriters shall retain the short rate proportion of the premium hereon in Item 9 of the Declaration.

This policy may be cancelled by Underwriters by mailing to the NAMED INSURED written notice stating when, not less than thirty (30) days thereafter, such cancellation shall be effective, but this policy may be cancelled as aforesaid by not less than ten days notice when the cancellation is being effected by reason of the INSURED's non-payment of premium. The mailing of notice as aforementioned shall be sufficient notice and the effective

date of cancellation stated in the notice shall become the end of the POLICY PERIOD. Delivery of such written notice by the NAMED INSURED or Underwriters shall be equivalent to mailing. If cancelled by Underwriters, earned premium shall be computed pro rata.

Premium adjustment may be made at any time cancellation is effected or as soon as practicable thereafter. The check of Underwriters or any of their representatives, mailed or delivered, shall be sufficient tender of any refund due to the NAMED INSURED.

10. Service of Suit:

As attached NMA 1970

11. Conformity to Statute:

Terms of this policy which are in conflict with the statutes of the state wherein this policy is issued are hereby amended to conform to such statutes.

CUSTOM HOUSE BROKER'S ENDORSEMENT

"It is hereby expressly understood and agreed that, in consideration of the premium charged, coverage shall be afforded, subject to all other terms, conditions, exclusions, provisions and additions to the Policy, for claims first made against the INSURED during the term of the policy for, based upon, provided, however, that no such coverage shall be afforded unless:

1. the custom house brokerage services performed by the INSURED are provided on behalf of others and are not for the account of the INSURED;
2. the INSURED is licensed at the time of the CLERICAL ERROR giving rise to the claim as a custom house broker by the appropriate governmental agencies or authorities regulating such custom house brokerage services.

Notwithstanding the foregoing, no coverage shall be provided under this Policy to any claim or claims, including, but not limited to, any claims payments and/or claims expenses, for, based upon, relating to, or arising out of any activities by the INSURED in representing clients or any persons in or before United States Treasury Department or other federal, state, or local hearings or proceedings.

Nothing contained in this Endorsement shall be held to vary, alter, waive or extend any of the declarations, insuring agreements, exclusions, conditions or provisions of this Policy other than as stated in this Endorsement.

Notwithstanding any of the foregoing, the limits of liability of Underwriters under this Policy shall not be increased and shall not exceed the limit for each claim nor for all claims in the aggregate as set forth in the Policy or Declarations".

DECLARATION

1. Policy No:

2. Insured:

3. Address(es) of Insured:

4. Occupation(s) of Insured covered by this Insurance:

5. Policy Period:

6. Limits of Liability
 Each Claim:
 Aggregate:

7. Deductible:

8. Retroactive Date:

9. Premium:

10. Designee for receipt of service of process of Underwriters: