

# International Transport Intermediaries Club Ltd

90 Fenchurch Street  
London EC3M 4ST  
Tel: 020-7338-0150 Fax: 020-7338-0151  
Email: ITIC@thomasmiller.com  
Website: www.ITIC-insure.com



## Directors' & officers' liability insurance endorsement indication to the current terms and conditions of ITIC certificate of entry

All words in *italics* shall have the meaning given to them in the definitions section below.

**Senior Member:** Sample Policy Wording

### Endorsement risk insured:

ITIC will pay

### *Individuals*

a) to or on behalf of an *insured person* any loss incurred in their capacity as director or officer or equivalent of a *nominated company* or *associated company*;

### *Company reimbursement*

b) a *nominated company* solely to the extent that it has lawfully indemnified an *insured person* for a loss incurred in their capacity as director or officer or equivalent of a *nominated company* or *associated company*;

as a result of:

### *Wrongful acts*

i) any allegation of a *wrongful act* communicated to an *insured person*;

### *Proceedings*

ii) any criminal, civil or arbitration proceedings against an *insured person* in relation to the business activities of a *nominated company* or *associated company*;

### *Regulatory enquiry*

iii) any regulatory or administrative proceedings before a *tribunal* or any other official investigation against an *insured person* in relation to the business activities of a *nominated company* or *associated company*;

### *Settlements*

iv) settlements comprising any actual or anticipated proceedings or regulatory or administrative investigations made with the prior written consent of ITIC;

### *Costs*

v) *defence costs* incurred with ITIC's written consent in relation to i) to iv) above.

### Endorsement exclusions :

No insurance is provided under this insurance policy in respect of any *claim*:

### *Conduct*

(a) arising out of the gaining of profit or advantage to which the *insured person* was not legally entitled or the committing of any act or omission done with the knowledge that it was in breach of any statute, contract, duty or other obligation including any criminal, dishonest or fraudulent act. This exclusion shall only apply if the act, omission or profit is established by admission or final adjudication of a *tribunal*. Upon such admission or final adjudication, any *loss* and all *defence costs* are to be repaid in full to ITIC by the *insured person* or *nominated company* on whose behalf they have been paid or reimbursed;

### *Injury*

(b) for actual or alleged bodily or psychological injury, sickness, disease or death of any person. This exclusion shall not apply to emotional distress arising out of any *employment practices claim*;

### *Property*

(c) for damage to property, including real property and chattels, or loss of use of property;

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- Insured vs. insured** (d) made by or on behalf of: (i) a *nominated company* or *associated company* against an *insured person* except any derivative action of a nominated company's shareholders or at the direction of any liquidator, administrator or receiver of a *nominated company*; (ii) any *insured person* against any other *insured person* except any *employment practices claim*;
- Trustees** (e) for any act or omission by an *insured person* as a trustee, fiduciary or administrator of a company's pension, profit-sharing or employee benefits programme or similar scheme.

The general exclusions and qualifications under Rule 13 are included as exclusions and qualifications to this endorsement.

## Endorsement

**limit of liability:** USDxxx any one occurrence and in total each account year.  
Subject to Rule 1.7

## Endorsement special limit of liability:

All *claims* as a result of any regulatory or administrative proceedings as stated in risks insured iii) above:  
USDxxx any one occurrence and in total each account year

## Endorsement deductibles:

- (a) For a *nominated company* USDxxx any one occurrence  
(b) For an *insured person* no deductible is applicable.  
Subject to Rule 1.6

## Endorsement period:

To be agreed

## Endorsement qualifications:

The following qualifications also apply to this insurance:

## Sunrise clause

- (a) Notwithstanding the provisions of Rules 3.2 and 8.2, the Club shall not be liable for any claim notified during the period of insurance if the act, omission, or circumstances giving rise to the claim occurred prior to the period of insurance.

## PI insurance

- (b) No insurance is provided for any *claim* which would fall to be insured under your professional indemnity insurance with ITIC.

## United States of America

- (c) No insurance is provided if the *nominated company* or *associated company* is registered or domiciled in the U.S.A. (United States of America).

## Warranty

- (d) It is warranted that there are no known or reported claims or circumstances likely to give rise to any claim on this insurance as declared in the Directors' and Officers' proposal form.

## Shareholding

- (e) This insurance does not apply to any claim brought by a party which owns more than 20% of the share capital of any *nominated company* or *associated company*.

## Company

- (f) Other than as shown in Endorsement risk insured b) above, no insurance is provided for any *nominated company* or *associated company* in its own right under this insurance policy.

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- Other insurance** (g) All insurance provided by this policy applies excess over other liability insurance and indemnification available from any other source.
- Acquisition** (h) If a *nominated company* creates or acquires a subsidiary which provides the insured services listed in 2.0 of the certificate of entry during the period of insurance then *wrongful acts* after the date of acquisition will be insured unless that other company causes the overall total assets to increase by more than 20%.
- Severability** (i) The application for this insurance shall be construed as a separate application by each *insured person*. No statement or declaration in the proposal form shall be imputed to any other *insured person*. For the purposes of determining the applicability of the exclusions and qualifications of this insurance, the wrongful act of any *insured person* shall not be imputed to any other *insured person*.
- Allocation** (j) If an *insured person* incurs a *loss* together with any other liability which is not insured under this policy or a *claim* made against both an *insured person* and others who are not insured, ITIC will use its best efforts to agree upon a fair and proper allocation of the proportion of *loss* covered under this insurance. The Directors of ITIC will have final authority to adjudicate upon any such allocation.
- Master & crew** (k) No insurance is provided in respect of the actions, wrongful or otherwise, of any master, officer, crew member, rating or other seafaring personnel.

**Nominated companies:**

Any senior or joint member company, corporation or organisation listed on the certificate of entry performing the insured services at paragraph 2.0 of the certificate of entry and the following:

**Associated companies:**

The following are noted as an *associated company*:  
None.

**Endorsement price:**

USDxxx

Please note that the price for the insurance does not include premium tax, stamp duty or any other charges, including bank charges. If applicable these will be for Member's account.

Signed on behalf of the Managers,  
International Transport Intermediaries Management Co Ltd

[Signature box]

Date

05/04/2013

## Endorsement definitions:

**Associated company** – any company, corporation or organisation declared as such to ITIC in the Directors' and Officers' proposal form in which a director, officer or equivalent of a *nominated company* is required by the *nominated company* to hold such a position.

**Claim(s)** – any legal or administrative or regulatory proceedings received by an *insured person* alleging that they have committed a *wrongful act*; or any written or verbal communication received by an *insured person* alleging a *wrongful act*.

**Defence costs** – reasonable and necessary fees, including disbursements, incurred in the investigation, mitigation, defence, adjustment and appeal of any *claim* provided that ITIC has consented to these in writing prior to them being incurred.

**Employment practices claim** – any claim involving actual or alleged wrongful dismissal, termination or discharge of employment, wrongful failure to employ or promote, discrimination, harassment, negligent employee evaluation or wrongful deprivation of career opportunity.

**Insured person** – any past, present or future director or officer or equivalent of the *nominated company* or *associated company* when acting or serving as such when performing the insured services at paragraph 2.0 of the certificate of entry; the lawful spouse of a director or officer or equivalent where recovery is sought because joint property is held or owned by or on behalf of his or her spouse.

**Loss** – compensatory damages awarded against an *insured person* by a *tribunal* empowered to do so, settlements compromising any actual or anticipated legal proceedings made with the prior written consent of ITIC and *defence costs*. *Loss* shall not include fines or penalties, taxes, remuneration or employment related benefits, the multiplied portion of damages or any amounts for which it is unlawful to provide insurance for.

**Nominated company** – any senior or joint member company, corporation or organisation listed on the certificate of entry performing the insured services at paragraph 2.0 of the certificate of entry. Any other company or organisation which is declared and agreed as such to ITIC in the Directors' and Officers' proposal form;

**Tribunal** – any official court, judicial, arbitral or regulatory body or individual responsible for adjudicating upon a *claim* or bringing a *claim*.

**Wrongful act** – Any actual or alleged libel, slander, error, misstatement, misleading statement, misrepresentation, omission, neglect, breach of duty, breach of warranty of authority or other act attempted or committed by an *insured person* when acting or serving in such capacity including any actual or alleged act giving rise to an *employment practices claim*.

All other terms and conditions as detailed in the certificate of entry and any subsequent endorsements remain unchanged. This endorsement is otherwise subject to the ITIC Rules applicable to the current certificate of entry.