

No. 2 2012/2013 - BIMCO "GUARDCON" Contract for the Employment of Security Guards on Vessels

March 2012

Translations: Chinese  Vietnamese 

Dear Sirs

BIMCO "GUARDCON" Contract for the Employment of Security Guards on Vessels

Members are referred to BIMCO's GUARDCON contract for the employment of security guards on vessels (GUARDCON), published on 28 March 2012.

The decision as to whether or not to employ guards (either armed or unarmed) is an operational one for Members. In making that decision Members must always comply with Flag State law as well as any applicable local laws. Members are also reminded of their obligation to follow the due diligence principles set out in MSC.1/Circ.1405 together with Best Management Practices (currently Version 4, August 2011).

Nevertheless, it has been recognised that the growth in the number of Private Maritime Security Contractors (PMSCs), each with differing contractual terms, has been resulting in uncertainty. Accordingly, to benefit the wider shipping community, BIMCO has developed GUARDCON together with Explanatory Notes which were drafted by a working group comprising of shipowners, property underwriters, the International Group of P&I Clubs (represented by the West of England), maritime lawyers, representatives of security companies and other shipowner and marine insurance associations. GUARDCON is intended to harmonise the terms of engagement of PMSCs (described in GUARDCON as Contractors) as well as simplifying the processes for the vetting and approval of contracts by Members and their P&I Clubs.

Members are reminded that GUARDCON does not represent a recommendation or endorsement by BIMCO or the International Group of P&I Clubs for the use of security guards on board vessels. Nor are security guards a substitute for strict compliance with Best Management Practices. Moreover, placing security guards on board a vessel should only be considered after a risk assessment has been carried out and the Master should be involved in the decision-making process. However, the provisions of GUARDCON have been reviewed by the International Group's Maritime Security sub-committee and conform with Club cover and Pooling requirements.

GUARDCON addresses a number of key issues, including:

- standards to which the Contractor (PMSC) must conform to in terms of:
 - providing adequate insurance to cover their liabilities and contractual indemnities (which Members should verify); and
 - having in place the necessary permits and licences to allow them to lawfully transport and carry weapons

- liability and indemnity provisions based on knock for knock principles; and
- the Master's responsibility for the safe navigation and overall command of the vessel

If Members decide to use an amended version of GUARDCON, or a different contract, they should consult with the Managers well in advance of any contemplated embarkation of PMSCs to ensure that the proposed amendments or different contract comply with Club cover and Pooling requirements.

GUARDCON is accompanied by a separate guidance document "Guidance on the Rules for the Use of Force". That guidance is aimed at assisting Members in respect of agreeing on the rules for the use of force that must form part of any contract for the employment of PMSCs. Members should however note that the rules for the use of force must comply with the provisions of MSC.1/Circ.1405 and with Flag State and applicable national laws.

Should Members have any questions regarding GUARDCON or piracy issues in general they should contact:

GUARDCON and other maritime security contracts:

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All Clubs in the International Group of P&I Clubs have issued a similar circular.

Yours faithfully

For: **West of England Insurance Services (Luxembourg) S.A.**
(As Managers)

M W H Williams
Director