



# MARITIME MUTUAL

INSURANCE ASSOCIATION (NZ) LIMITED

RULE BOOK

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# THE GENERAL RULES OF THE ASSOCIATION

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## **RULE 1**

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### **DEFINITIONS**

In these Rules the following words and phrases shall have the following meanings unless the context otherwise requires.

#### **Articles**

The Memorandum and Articles of the Association.

#### **The Association**

Maritime Mutual Insurance Association (NZ) Limited, a company incorporated in New Zealand.

#### **Association Year**

The period from noon GMT on any 20th February to noon GMT on the next following 20th February.

#### **Certificate of Entry**

This expression includes every endorsement to a Certificate of Entry.

#### **The Classes**

Class I - Protection and Indemnity

Class II - Freight, Demurrage and Defence

Class III - Hull & Machinery (War Risks)

Class IV - Hull & Machinery (Marine Risks)

Class V - Small Craft Hull & Machinery (Marine Risks)

Class VI - Charterers' Liability

#### **Class Rules**

The Rules, regulations and bye-laws for the time being in force concerning any Class of the Association.

#### **The Committee**

The Committee constituted under the Articles in respect of the Class concerned.

#### **The Directors**

The Board of Directors for the time being of the Association.

#### **Discretion**

The sole, absolute and unfettered discretion of the Managers or Directors (as the case may be).

#### **Entered Ship**

The ship which has been entered for insurance in the Association by the Member.

#### **General Rules**

The General Rules for the time being of the Association.

#### **Joint Member**

This expression has the meaning given to it in General Rule 6.

#### **Limited Member**

A Member with limited rights and obligations as defined in General Rule 6.4.



### **The Managers**

The Managers for the time being of the Association

### **Member**

A person who has a ship, vessel, unit or craft entered into one or more of the classes of Maritime Mutual Insurance Association (NZ) Limited and/or is entered on the registry of Members of Maritime Mutual Association Limited and/or is a beneficiary of the Maritime Mutual Trust.

### **Policy Period**

Unless otherwise agreed or provided, a period beginning at noon GMT on any 20th February and ending at noon GMT on the next following 20th February.

### **Register**

The Register of Members of the Association

### **Rules**

The General Rules and the relevant Class Rules.

### **Ship**

In the context of a ship entered or proposed to be entered into any Class of the Association the word ship shall mean any ship, boat, hovercraft or other description of vessel (even when still under construction) used or intended to be used for any purpose whatsoever in navigation or otherwise on, under, over or in water or any part thereof or any proportion of the tonnage or any share therein.

### **Ship Manager**

A ship manager or other managing agent acting on behalf of the owner of an entered ship.

### **Tonnage**

The gross tonnage of a ship as certified or stated in the Certificate of Registry or other official documents relating to the registry of the ship and 'ton' refers to the unit of such tonnage.

Writing shall include facsimile, telex, printing, typewriting, lithography and any other permanent mode or modes of representing or reproducing words in a visible form and includes e-mail.

Words importing the singular shall include the plural and vice versa.

Words importing the masculine shall include the feminine and vice versa.

Words importing persons shall include bodies corporate and vice versa.

## RULE 2

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### ENTRY

1. Any person who wishes to enter a ship for insurance in any Class of the Association shall apply on the application form in current use by the Association giving the full particulars therein required together with all material information and any other information specifically requested by the Managers
2. The information given in any application form together with any other information given in the course of applying for insurance or renewal or negotiating changes in the terms of the insurance shall, if the entry of the relevant ship be accepted, renewed or modified, be deemed to form part of the contract of insurance between the Member and the Association. It shall be a condition precedent that such information was true and complete so far as the Member knew or could with reasonable diligence have ascertained. If no application form is signed or if an application form cannot be produced at any time but nevertheless it appears that the Member has requested cover and the Association has accepted the risk, the absence of an application form shall not prejudice the rights and obligations of the Member or the Association.
3. As soon as reasonably practicable after accepting any application for the entry of the ship in any Class of the Association, the Managers shall issue a Certificate of Entry in such form as shall be in use by the Association at the time of issue which (subject to any special terms upon which such ship may be entered) shall state
  - a) that the person entering such ship has been or will be entered on the Register of Members of the Association as the case maybe,
  - b) the risk against which such ship has been entered for insurance in the Association,
  - c) the date and time when the entry of such ship is to commence,
  - d) the advance call in respect of such ship for each Class,
  - e) any special terms agreed pursuant to General Rule 3.
4. The terms and conditions upon which a ship is accepted for entry, including the nature and extent of the risks covered and the contribution payable by the Member, shall be those set out in the Rules but subject to such variations as may have been agreed in writing between the Member and the Managers.
5. If at any time the Managers and the Member agree to vary the terms and conditions upon which a ship is entered, the Managers as soon as reasonable practicable thereafter shall issue an endorsement stating the nature of such variation and the date and time from which such variation is to be effective.
6. Every Certificate of Entry issued shall be presumed to correctly reflect the terms of the insurance.
7. The Managers may in their discretion and without giving any reason refuse an application by any person for entry, or decline an application for renewal or variation of an entry of a ship in any Class whether or not that person is already a Member.
8. If a Member is entered in more than one Class, his entry in each Class shall be deemed to be a completely separate contract from his entry in any other Class.

## **RULE 3**

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### **SPECIAL ENTRIES**

1. The Managers may, notwithstanding the provisions as to contribution in these Rules, accept entries on special terms as to contribution, as to the nature and extent of risks covered or otherwise. Such entries shall otherwise be subject to the Rules.
2. The Managers may, in their discretion, decline to insure certain risks normally covered by the Association. In such circumstances or otherwise, the Managers may on their own account independently assist the Member in arranging for the risk to be covered with other associations or insurers. In such cases, the Member concerned will be so advised.

## **RULE 4**

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### **REINSURANCE ENTRIES**

The Managers may accept entries by way of reinsurance of direct insurers.

## **RULE 5**

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### **REINSURANCE**

The Managers may reinsure the whole or any portion of the risks assumed by the Association upon such terms and in such manner as they may think fit.

## **RULE 6**

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### **JOINT ENTRIES**

1. If an entry is made in the name or on behalf of more person than one, they shall be deemed to be Joint Members. Joint Members shall be jointly and severally liable to pay all contributions and any other sums due to the Association in respect of such entry.
2. If an application is made for entry in the Association of two or more ships forming part of a fleet through a ship manager with a view to obtaining terms which would not have been available had the ships been offered for entry separately, such entries may be accepted on the basis that the ship manager shall also sign the appropriate application form and shall together with the respective person be jointly liable as Members.
3. Applications for entry may be made and accepted in respect of ships of which the beneficial ownership is separate on terms that the ships concerned shall be deemed (for these purposes only) to form part of a specified fleet, on the basis that the Association shall deal with the entries of such ships in combination and not individually

In consideration for such an entry all Members within each such fleet entry shall agree to accept joint and several liability to pay all amounts due to the Association by way of calls or otherwise in respect of all ships within that fleet entry. In such cases, the ship manager shall also sign the appropriate application form and shall together with the respective persons be jointly liable as members.

4. Application may be made and accepted on such terms as the Managers in their discretion may propose to be

Limited Members. Limited Membership shall only be available at the request of the Member and must be related to the entered ship. The Association shall only be liable to the Limited Member to the extent that it would have been liable to the Member had the claim in question been brought and enforced against the Member. The Limited Member shall not be liable for calls except to the extent that the Certificate of Entry so provides, but the Limited Member shall otherwise be in the same position as a Joint Member and subject to all obligations to the Association as though he were a Member.

5. As regards entries made under General Rules 6.1, 6.2 or 6.4 above, the receipt by any such Joint Member of any payment by the Association shall be deemed to be the receipt by all such fellow Joint Members jointly and shall fully discharge the obligations of the Association in respect of the liability in respect of which such payment was made.
6. Failure by any Joint Member belonging to such fleet to disclose material information within his knowledge shall be deemed to have been the failure of all such fellow Joint Members.
7. Conduct (including misrepresentation or non-disclosure) by or on behalf of any Joint Member belonging to such fleet which would have entitled the Association to decline to indemnify him shall be deemed the conduct of all such fellow Joint Members.
8. Unless the Managers have otherwise agreed in writing, the contents of any communication from or on behalf of the Association to any Joint Member belonging to such fleet shall be deemed to have come to the knowledge of all such fellow Joint Members. Any communication from any Joint Member intended for the Association or the Managers shall be deemed to have been made with the full knowledge, approval and authority of such fellow Joint Members.
9. The Association shall in no case be liable for any costs, liability and expenses incurred in connection with any claims or disputes or proceeding between Joint Members or any of them. If the Association shall incur any cost, liabilities or expenses in such circumstances, the Association shall be entitled to an indemnity from the Members concerned in respect thereof.
10. Any limitation of the Association's liability to a Member, whether in the Rules or in an agreed special term, shall be construed as a limitation on the aggregate amount payable to all Joint Members. In such cases the claim of the registered owner of the entered ship concerned shall be preferred to the claims of fellow Joint Members, which shall rank *pari passu* among themselves as to any balance;

PROVIDED ALWAYS that in such cases the Directors may in their discretion take into account the possibility of further claims against the Association being made by the Joint Members or any of them, and may withhold such sums from distribution as they think fit in order to meet those claims.

11. If the insurance of any Joint Member is cancelled in accordance with General Rule 34, the insurance of all fellow Joint Members shall be cancelled at the same time
12. If the insurance of any Joint Member terminates or ceases otherwise than under General Rule 34, the Managers shall be entitled, but not obliged, to treat the insurance of fellow Joint Members as simultaneously ceasing or terminating or to treat such insurance as continuing on such terms as they shall in their discretion propose.

## RULE 7

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### CONTRIBUTION AND ADVANCE CALLS

1. Any entry for a period identical to an association year shall be allocated to the association year concerned. Any other entry shall be allocated to the association year in which the relevant Policy Period incepts. Unless otherwise provided, all contributions or calls in respect of any entry shall be allocated to the relevant class of the relevant association year.
2. Subject to the exercise of the power of the Managers set out in General Rule 3 to accept entries upon special terms and subject to General Rule 6.4, Members who have entered ships for insurance in any Class of the Association in any association year shall pursuant to the Articles and the Rules mutually insure each other as hereinafter set out against liability, loss, cost and expense which they or any of them may suffer, become liable to pay or may incur in respect of such entered ships. For this purpose the said Members shall contribute to the Association the advance call due from them in respect of that class. Such advance call shall be such sum which, when taken in conjunction with other advance call due, will provide for the Association such funds as are in the opinion of the Directors from time to time required to meet, as regards the class and association year concerned:
  - a) the losses, claims, expenses and other outgoings (whether incurred, accrued or anticipated) which in the opinion of the Managers necessarily and properly fall upon it,
  - b) such transfers to reserves or provisions as the Managers in their discretion consider it expedient to make, including transfers to reserves and provisions in respect of any deficiency which has occurred or which they consider may occur in respect of any closed policy year of the same class,
  - c) the proportion attributable to it of such sums as the Association may by any applicable law be obliged to set aside in order to establish and/or maintain an adequate solvency margin and/or guarantee funding in respect of any association year or otherwise. Contributions from Members to such sums shall be calculated pro rata to the advance call in the relevant association year,
  - d) any sums which any person is called upon but failed to pay in full to the Association,
  - e) the cost of reinsurance effected by the Association pursuant to General Rule 5 and of maintaining an equalization reserve,
  - f) Such of general expenses of the Association as the Directors may from time to time in their discretion consider fit to charge against the business of the Association in respect of such class and association year.
3. The Directors may create and maintain an equalization reserve for the purpose of contributing to the cost of exceptional claims in any class or classes that may arise from any occurrence whether past or future. For this purpose, the Directors may, in their discretion, make such transfers from the funds attributable to any association year to the equalisation reserve. In the event of exceptional claims, the Directors may make such transfers to any class or association year affected by such claims as in their discretion they consider fit.
4. Before the start of each policy period the Directors shall decide for each entry or proposed entry in each class the advance call which they propose to levy on each Member or proposed Member in respect of the coming policy period (subject to any special terms upon which such ships may be entered). In fixing the advance call rate of any ship the Directors may take into account all matters which they consider to be relevant including,

without prejudice to the generality of the foregoing, the degree of risk which is in their opinion estimated to be involved in the proposed insurance.

## **RULE 8**

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### **SUPPLEMENTARY CALLS**

The Directors may at any time during or after the end of each policy period (but not after the relevant association year has been closed) direct that in respect of any specified class and association year a supplementary call shall be paid for the benefit of the class concerned by each Member in respect of ships entered in such class in such association year of such amount as the Directors in their discretion may determine. Unless the Directors in their discretion otherwise decide, all supplementary calls so made, except any special call referred to in General Rule 9, shall be calculated pro rata to advance call levied on the Member concerned in respect of the class and association year concerned.

## **RULE 9**

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### **SPECIAL CALLS**

Notwithstanding anything in the Rules, the Directors may in their discretion at any time levy on any Member of the class concerned a special call, which shall be calculated pro rata to the advance call or the original estimated total call (at the discretion of the Directors) levied, on each person who was a Member entered in the class concerned during the association year during which the incident giving rise to the liability, loss, cost and expenses and other outgoings for which the special call is made or in relation to which there is a deficiency or shortfall. Such special calls shall be levied on and payable by all such persons unless the Certificate of Entry concerned specifically excludes liability to contribute to any Special Call.

## **RULE 10**

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### **RELEASE CALLS**

On the cesser of insurance in respect of an entered ship for any reason, the Managers may, on their own initiative or at the request of the Member, release the Member from liability for further calls in respect of such ship upon such terms (including the payment of a Release Call) as the Managers in their discretion may consider to be appropriate in all the circumstances. A release call in respect of such ship and the amount of such assessment shall be payable in full by the Member on demand without any set-off by the Member.

## **RULE 11**

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### **PAYMENT OF CALLS**

Every Advance, Supplementary, Release or Special call shall be payable in such instalments and on such dates as the Managers shall specify. No claims of any kind whatsoever against the Association shall constitute a set-off against any call or other sum of whatsoever nature due to the Association or shall entitle any person to withhold or delay payment of any such sums.

## **RULE 12**

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### **SECURITY FOR CALLS**

1. The Managers may at any time require, as a condition of entry or continued entry of a ship, that a Member shall provide security for the payment of calls or other amounts due to the Association in the form of a bank guarantee in a wording and for an amount specified by the Directors, and given by a bank approved by the Managers.
2. This insurance is a contract of marine insurance of the entered ship. It is acknowledged by the Member as being necessary for carrying on his business as ship owner and for the operation of his ship in national and/or international trade in connection with contracts for the carriage of goods or passengers on his ship. The Member confirms that he entered this ship as agent for and on behalf of the entered ship.

The Member recognises and grants to the Association an express maritime lien against the entered ship and loading freights to secure all obligations running from the Member to the Association under this contract of insurance. The Association may execute its maritime lien on the entered ship by appropriate process in any Court of any country having general admiralty and maritime jurisdiction.

## **RULE 13**

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### **LATE PAYMENTS**

1. Without prejudice to the rights and remedies of the Association under these Rules, particularly General Rules 12, 31 and 34, if any call or premium or part thereof or any sum of whatsoever nature due from any Member to the Association is not paid on or before the date specified for payment thereof, such Member shall pay interest on the amount not paid from and including the date so specified down to the date of payment at the rate prescribed in England to be charged on unsatisfied judgments, but the Managers may in their discretion waive payment of such interest in whole or in part.

## **RULE 14**

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### **DEBTOR MEMBERS**

If any contribution or other payment due from a Member to the Association is not paid and if the Managers consider that payment cannot economically be recovered, the sum required to make good any resulting shortfall or deficiency in the funds of the Association shall be deemed to be an expense of the Association for the purpose of contribution under General Rule 7.

## **RULE 15**

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### **CLOSING OF ASSOCIATION YEARS**

1. The Directors may, with effect from such date after the end of each association year as they may in their discretion decide, declare that the association year for any class shall be closed.
2. The Directors may declare that any such association year is closed notwithstanding that it is known or anticipated that there are in existence or may in the future arise claims, expenses or out-goings in respect of such association year which have not yet accrued or whose validity, extent or amount has not yet been established.

3. If upon the closing of any such association year or at any time thereafter it shall appear to the Directors that the whole of the contributions, premiums and other funds received in respect of that association year (and of all the transfer from general reserves and provisions made for the credit of or in respect of such policy year) are unlikely to be required for the purposes referred to in General Rule 7.2, the Directors may decide to dispose of any excess which in their opinion is not so required by transferring the excess or any part thereof to the general reserve or operating funds of the Association, to be available for all purposes of the Association irrespective of class and association year, or to the equalisation reserve.
4. The Directors may apply the general reserves of the Association by transferring to the credit of any association year for any class such proportion of the general or equalisation reserves of the Association as they see fit, in order to ensure that the association year of the class concerned is adequately funded.
5. If at any time after an association year for any class has been closed it shall appear to the Directors that the funds required in respect of such association year for the purposes referred to in General Rule 7.2 exceed or are likely to exceed the totality of the contributions, premiums and other receipts in respect of such association year (including all transfers from reserves and provisions made for the credit of or in respect of such policy year) then the Directors may decide to provide for such deficiency in any one or more of the following ways:
  - a) by transferring funds from the general reserves or operating funds of the Association,
  - b) by transferring funds standing to the credit of any other closed association year of the class concerned,
  - c) by levying an advance or supplementary contribution on an open association year for the class concerned for the purpose of meeting the whole or a part of such deficiency,
  - d) by levying a Special Call

If the Directors shall resolve as set out in General Rule 15.5(c) the Managers shall so inform the Members entered for such policy year on or before the time that payment is demanded.

6. At any time after any association year has been closed, the Directors may resolve to amalgamate the accounts of any two or more closed association years for any class and to pool any amount standing to the credit of the same. If the Directors shall so resolve then such closed association years concerned shall for all purposes be treated as though they constituted a single closed association year.

## **RULE 16**

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### **LAID UP RETURNS**

1. Subject to any class rules and to any terms and conditions which may have been agreed between a Member and the Managers in accordance with the provisions of the Rules, if an entered ship shall be and remain continuously in any safe port or anchorage approved by the Managers for a period of thirty or more consecutive days after finally mooring there (such period being computed from the day of arrival to the day of departure, one day only being excluded) and the said entered ship shall be completely free of cargo and not under repair, the Member shall be allowed a return of the advance call payable in respect of such ship for the said period, such return being calculated at the rate of 50 percent on a pro rata daily basis. If during such period the ship is also without crew the return shall be calculated as aforesaid but at the rate of 95 percent



provided that if a skeleton crew is on board the Managers may fix such rate of return as in their discretion they consider appropriate in the circumstances. The return of calls referred to herein shall be subject to the deduction of such amount for reinsurance and administrative expenses as the Managers may from time to time determine. No returns of calls shall be made by the Association unless the Managers receive written notification within twelve months of the end of the period in respect of which the returns are claimed. The Managers may in their discretion allow a lesser return in respect of any such period when the ship is under repair.

2. The Managers may at any time in their discretion notify a Member that a port or anchorage is no longer to be regarded as safe for the purpose of this Rule in which event no return of call shall be allowable in respect of any mooring at such port or anchorage that continues more than 15 days beyond the giving of such notice.

## **RULE 17**

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### **SURVEYS OF SHIPS**

1. The Managers may at any time in their discretion appoint a surveyor or such other person as they may think fit to inspect an entered ship on behalf of the Association. The Member shall afford such facilities as may be required by the Managers for such inspection, and shall promptly comply with such recommendations as the Managers may make following such inspection.
2. Unless and to the extent that the Directors in their discretion otherwise decide, a Member who commits any breach of his obligations referred to above shall not be entitled to any recovery from the Association in respect of any claim caused or occurring during the period after such breach is committed and before the Member has complied with his obligations above arising out of such breach.

## **RULE 18**

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### **ASSIGNMENT AND SUBROGATION**

1. No person shall assign his cover with the Association or the benefits thereof:
  - a) to charterers, or
  - b) to any other person whatsoever except as provided in sub-rule 3.

No such purported assignment shall bind the Association in any way whatsoever

2. No benefit of this cover shall accrue directly or indirectly to any other person through subrogation.
3. No assignment of any interest under these Rules shall have any effect unless and until the Assignor shall have notified the same to the Managers in writing fully identifying the Assignee and his address and the Managers shall in their discretion have approved the assignment in writing. On receipt of notice of such assignment the Association shall be entitled to cancel the entry in respect of which such Assignment has been made by giving fourteen days notice in writing to the Assignor and Assignee and upon expiry of such notice the cover afforded in respect of the ship shall cease. In any event the Association shall be entitled, in settling any claim presented by an Assignee, to deduct or retain such amount as the Managers may then estimate to be sufficient to discharge any liability of the Assignor existing at the time of the assignment or which has arisen or is likely to arise thereafter.

4. When a claim is paid by the Association whether under these Rules or otherwise the Association shall be subrogated to all rights and remedies in respect of that claim which the Member may have against any third party. The Association shall be entitled to use the name of the Member in bringing, defending, enforcing or settling legal proceedings (including proceedings in any arbitration) and the Member shall give all necessary information and assistance and produce and forward all documents to enable the Association to substantiate, settle or resist any claim. If the Associate uses the name of the Member, it shall indemnify him against all cost, charges, expenses and liabilities incidental thereto arising therefrom.
5. The Member shall, if requested by the Association, execute forthwith a formal assignment of all or any of the Member's such rights and remedies to the Association or execute a formal deed of subrogation.

## **RULE 19**

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### **CLAIMS, LAWYERS, DEDUCTIBLES AND RELATED MATTERS**

#### **1.**

- a) Every claim or circumstances which may give rise to a claim in respect of which the Member is or may be insured by the Association shall be notified to the Managers immediately. Without prejudice to the obligation to give such notification, if the Managers are not so notified in writing of a claim or circumstance which may give rise to a claim within one year after the Member has or should have knowledge thereof, or fails to submit a claim in writing to the Managers for reimbursement of any liability, loss, cost or expense within one year after discharging the same, the claim against the Association shall be extinguished and the Association shall be under no further liability in respect thereof, unless the Directors in their discretion shall otherwise determine,
- b) the Member shall promptly notify the Managers of every survey or opportunity to survey in connection with any claim or circumstance which may give rise to a claim,
- c) the Member shall at all times promptly notify the Managers of any information, documents or reports in his or his agents' possession, custody, power or knowledge relevant to any claim or circumstances which may give rise to a claim and permit the Managers or their agents to examine and if necessary record or obtain copies of the said information, documents or reports
- d) the Member shall permit the Managers or their agents to interview any servant, agent, manager or other person who may have been employed by the Member at the material time or at any time thereafter or whom the Managers may consider likely to have any direct or indirect knowledge of the matter or who may have been under a duty at any time to report to the Member in connection therewith.
- e) the Member shall not, without the prior written consent of the Managers, compromise or admit liability for any claim in respect of which he may be insured by the Association
- f) the Managers shall have the right to control or direct the conduct of any claim or legal or other proceedings relating to any liability, cost or expense in respect of which the Member is or may be insured in whole or in part, and to recommend that the Member settle, compromise or otherwise dispose of such claim or proceedings on such terms as the Managers consider to be appropriate. The Managers shall not proceed to settle any claim or proceedings without the Member's consent. If the Member refuses to consent to any such recommendation made by the Managers and elects to

contest or continue any claim or legal proceedings, the Association's liability to reimburse the Member shall not exceed the amount for which the claim or proceedings could have been so settled, plus the costs and expenses incurred with the Managers' consent up to the date of such refusal.

Notwithstanding anything else in this Rule 19(1)(f), the consent of the Member shall not be required where the Association has

- i) provided bail, security for costs, deposits or other security on behalf of the Member or
  - ii) issued certificates, otherwise known as blue cards, furnished as evidence of insurance pursuant to Article VII of the International Convention on Civil Liability for Oil Pollution Damage 1992, Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001, Article 12 of the Nairobi International Convention on the Removal of Wrecks 2007, Article 12 of the International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea 2010 or any other convention or law requiring certificates to be furnished as evidence of insurance or
  - iii) issued certificates furnished as evidence of insurance or financial security in respect of liabilities or obligations under Regulation 2.5, Standard A2.5.2 and Regulation 4.2, Standard A4.2 of the Maritime Labour Convention 2006, as amended.
- g) if the Member commits any breach of his obligations referred to in sub-paragraphs (a) to (f) of this Rule, or if the Member shall wilfully or negligently withhold or knowingly conceal any relevant information, document or evidence, or shall make any false statement with a view to obtaining payment of any claim or the support of the Association in any matter, or if the Member shall cause or knowingly permit any other person so to act, the Directors may in their discretion reject in whole or in part any claim by the Member against the Association arising out of the casualty, dispute, event or matter concerned, or reduce the sum payable by the Association in respect thereof by such amount as they may in their discretion determine

## 2.

- a) Without prejudice to any other provisions of these Rules and without waiving any of the Association's rights hereunder, the Managers may in their discretion and at any and all times appoint and employ on behalf of a Member upon such terms as they may think fit lawyers, surveyors or other persons (whether or not lawyers, surveyors or other persons have already been appointed or employed by the Member) for the purpose of dealing with any matter liable to give rise to a claim by the Member upon the Association including, but not limited to, investigating or advising upon any such matter and taking or defending legal or other proceedings in connection therewith. The Managers may in their discretion at any time discontinue such employment as they may think fit.
- b) the cost and expense incurred in connection with a particular matter shall only be recoverable from the Association on condition that all lawyers, surveyors, and other person employed in the case are appointed with the prior consent of or by the Managers,

- c) all lawyers, surveyors and other persons appointed by the Managers on behalf of the Member or appointed by a Member with the prior consent of the Managers shall at all times be and be deemed to be appointed and employed on the terms:
  - i) that ( without prejudice to their right to retire from the matter on any other grounds) they shall be entitled to retire from the matter if either the Managers or the Member so requests or if any of them considers that a conflict of interest has arisen or may arise between the Member and the Association so that he ought to retire from the matter;
  - ii) that they have been instructed by the Member at all times (both while so acting and after having retired from the matter) to give advice and to report to the Managers in connection with the matter without prior reference to the Member;
  - iii) that they are to produce to the Managers without prior reference to the Member any document or information in their possession or power relating to such matter,

as if such person had been appointed to act and had at all times been acting on behalf of the Association and notwithstanding that any such advice, reports, documents or information would, as against the Association, otherwise be the subject of legal or any other form of privilege.

- 3. The Directors shall meet as often as may be required for the settlement of claims which shall be paid by the Association as the Directors may determine in accordance with these Rules, but the Directors may from time to time delegate to the Managers the power to agree and to effect payment of claims without prior reference to the Directors. No Director shall act as such in the settlement of any claim in which he is directly or indirectly interested as claimant
- 4. Without prejudice to any other provision of these Rules, unless the Member has obtained from the Managers their prior written approval of such cesser or failure, the Directors shall have power in their discretion to reject a claim or reduce the sum payable by the Association in respect thereof if,
  - a) the entered ship in respect of which the claim is submitted has ceased, before the incident which gave a rise to the claim, to be fully classed by a classification society approved by the Managers, or
  - b) if the Member has failed fully and timeously to comply with all the rules, recommendations and requirements of such society
- 5. In no circumstances whatsoever shall a Member be entitled to be paid interest on his claim against the Association or to recover any loss of profit or consequential loss from the Association.
- 6. Claims shall be limited to the amount by which they exceed agreed deductibles, but subject to the agreed limits. Deductibles to be applied to particular claims will be on the basis agreed between the Member and the Association as part of the terms and conditions upon which the entry of the ship is accepted or continued. In the absence of contrary notification from the Association, the deductibles and limits applicable to any particular entry at the end of any policy year shall continue to apply to that entry in the next policy year.

## **RULE 20**

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### **SUE AND LABOUR**

1. Upon the occurrence of any incident, event, dispute or circumstances which may give rise to a claim by the Member upon the Association, it shall be the duty of the Member and his servants and agents to take and continue to take all such steps as may be reasonable for the purpose of averting or minimising any liability, loss or expense in respect of which he may be insured by the Association
2. The duty imposed on the Member, his servants and his agents hereunder shall be to take such steps as could reasonably be expected be taken by a competent and prudent uninsured owner in the same or similar circumstances. No account shall be taken of any circumstances specific to the Member such as (without limitation) his lack of any relevant resources
3. If a Member, his servants or agents, commits any breach of this obligation, the Directors may in their discretion reject any claim by him against the Association arising out of the incident, event or circumstance concerned, or reduce the sum payable by the Association in respect thereof by such amount as they may in their discretion determine.

## **RULE 21**

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### **SET- OFF**

1. Without prejudice to any other provisions contained in the Rules, the Association shall be entitled to set off any amount due from a Member to the Association against any amount due to such Member from the Association.
2. No claim of any nature whatsoever by a Member against the Association shall constitute any set-off against any call or other sums of any nature whatsoever due to the Association, nor shall any such claim entitle the Member to withhold or delay payment to the Association at any time.

## **RULE 22**

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### **BAIL**

1. The Association is under no obligation to provide bail, security for costs, deposits or any other security whatsoever on behalf of any Member in any circumstances whatsoever. If however, the same is provided, it shall be on such terms (including as to payment of sums owed to the Association, deductible and confirmation of class) and in the manner as may be proposed by the Managers in their discretion. Unless otherwise agreed in writing, the Association shall be entitled to a commission from the Member of 1% per annum of the amount of the bail or security provided in addition to the cost of providing the same. The provision of bail or security shall not constitute any admission of liability by the Association for the claim in respect of which the bail or other security is given. In circumstances where the Association does agree to provide bail or other security, the Managers may at any time require the Member to provide an indemnity or third party guarantee acceptable to the Managers. The need for and acceptability of such an indemnity or guarantee both as to form and as to the guarantor will be at the discretion of the Managers.
2. No costs, expenses or charges incurred by a Member in connection with the provision of bail or other security to obtain the release of or prevent the arrest or attachment of an entered ship or any other property or assets whatsoever of that Member shall be recoverable from the Association.

## **RULE 23**

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### **UNUSUAL VOYAGES**

In the event of the entered ship sailing ( with or without cargo) with an intention of being broken up or being sold or prepared for breaking up or sailing for any purpose other than normal trading activities, no claim shall be recoverable from the Association in respect of any incident occurring subsequent to such sailing unless prior notice has been given in writing to the Managers by the Member, any amended terms of entry and additional advance call required by them have been agreed and paid and any requirements for survey complied with.

## **RULE 24**

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### **OTHER INSURANCES**

The Association shall not cover liabilities, losses, costs or expenses which would have been recoverable under any other insurance:

- 1) Where a Member is insured elsewhere in any manner or to any extent whatsoever, against any of the liabilities, losses, or expenses which would otherwise have been recoverable under the Rules, there shall be no contribution by the Association to such liabilities, losses or expenses on the basis of double insurances or otherwise, the intention being that all other insurances shall pay first and that this insurance shall cover only in excess of all other insurances.
- 2) The Association shall not cover liabilities, losses, costs or expenses recoverable under any other insurance or which would have been so recoverable:
  - i) apart from any term in such other insurance excluding or limiting liability on the ground of double insurance: and
  - ii) if the Vessel had not been entered in the Association with cover against the risks set out in these Rules.

## **RULE 25**

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### **IMPRUDENT OR IMPROPER TRADES**

The Association shall not insure a Member against any liabilities, losses or expenses arising out of or consequent upon an entered ship carrying contraband, blockade running, being employed in unlawful trade or performing any voyage or being employed in any trade if the Managers having regard to all the circumstances consider, in their discretion, that the carriage, trade or voyage was imprudent, unsafe, unduly hazardous or improper.

## RULE 26

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### WARRANTIES, CLASSIFICATION AND STATUTORY REQUIREMENTS

Unless otherwise agreed in writing between the Member and Managers the following shall apply to every entry of every ship,

- a) it is warranted that every entered ship and its cargo shall, at all times, be properly documented and shall not carry false papers,
- b) it is warranted that if a ship is entered in the Association on the basis that she is registered in a particular country and sails under a particular flag and/or management, she shall remain continuously so registered in that country and continuously sail under that flag and/or management, unless the Managers have given their prior written consent to the contrary,
- c) it is warranted that every entered ship is and shall remain throughout the period of entry fully classed with a Classification Society approved by the Managers, and that any change of Classification Society shall forthwith be notified to the Managers in writing; it is further warranted that every ship entered shall at all material times be crewed or manned in accordance with the laws, regulations and directions applying to that ship by virtue of its registry or flag and shall comply with laws, regulations or decrees relating to crewing or manning in each port which such ship visits, whether or not in the course of its employment,
- d) unless the Managers in their discretion waive compliance for such period and on such terms as in their discretion they think fit, the Member shall fully and timeously comply with all rules, recommendations and requirements of the Classification Society and will promptly report to the Classification Society and to the Managers any incident or condition in connection with the entered ship,
  - i) that might result in the Classification Society making recommendations for repair or some other action; or
  - ii) that according to the rules of the Classification Society, should have been reported to it.

The Member irrevocably authorises the Managers to inspect and copy information relating to the maintenance of Class either in the Member's possession or in the possession of any Classification Society with which the ship is or has at any time been classed and will at the request of the Managers confirm in writing that the Managers are entitled to inspect and copy such records of the Classification Society for whatever purpose the Managers deem necessary

- e) it is warranted that during the period of entry an entered ship shall be classed and maintained in class without any extensions or postponements from the Classification Society of their survey dates. It is further warranted that any recommendations by the Classification Society in relation to an entered ship will be complied with immediately they are notified to the Member and not during any period of grace that the Classification Society may allow,
- f) it is warranted that the Member will at all times comply with all statutory requirements of the State of the ship's flag relating to the construction, adaptation, condition, fitment, equipment, crewing and documentation of the entered ship and will likewise maintain the validity of such statutory certificates as are issued by or on behalf of the State of the ship's flag in relation to such requirements.

- g) it is warranted that the Member will at all times comply with the requirements of the International Convention for the Safety of Life at Sea (SOLAS) 1974, and any revisions or amendments thereof; the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1978, as amended, including the 1995 and 2010 Manila Amendments, and any revisions or amendments thereof; the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Personnel 1995, and any revisions or amendments thereof; and any other Conventions, Codes of Practice and Regulations as may from time to time be adopted by the members of the International Maritime Organisation and which shall have entered into force.

The Directors may, in their discretion, waive a defence of breach of warranty if, in their opinion, the breach of warranty concerned did not cause the claim concerned.

## **RULE 27**

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### **CARRIAGE OF RADIOACTIVE MATERIALS**

1. The coverage granted to the Member by the Association shall not insure the Member against any loss, damage, liability, expenses or costs arising directly or indirectly out of or in consequence of the emission of ionizing radiation from, or the toxic, explosive or other hazardous properties of nuclear fuels or radioactive products or waste carried in an entered ship; nor shall the coverage granted extend to the direct or indirect consequences of such substances being on board an entered ship.
2. Subject to all the rules except General Rule 27.1, the coverage granted shall however extend to the carriage only of pure radio-isotopes which are used or are intended to be used for any agricultural, medical or scientific purposes. It is a condition precedent of such cover that all such material is listed in the International Maritime Dangerous Goods Code ("IMDG") and that such material is carried in full compliance with all the requirements of the IMDG Code and all the requirements of the International Maritime Organisation.
3. The Directors may in their discretion, by Regulation extend or reduce the coverage given by General Rule 27.2 to such further materials as they may in writing approve. The Managers may, in their discretion, extend the coverage given by General Rule 27.2 to individual consignments on such terms as they think fit.

## **RULE 28**

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### **RADIOACTIVE EXCLUSION**

**This rule shall be paramount and shall override anything whatsoever to the contrary contained in this insurance.**

In no case shall this insurance cover liabilities, losses, damages or expenses directly or indirectly caused by or contributed to or arising from:

1. Ionising radiation from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion or decay of nuclear fuel.
2. The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.
3. Any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.



## RULE 29

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### SPECIFIC EXCLUSION

**This rule shall be paramount and override anything to the contrary contained in this insurance, except**

- a) the Rules of Class III as regards entries in Class III; and**
- b) any reference in the Certificate of Entry that, by specific reference to General Rule 29, modifies the effect of this General Rule.**

The Association shall not be liable to any Member in respect of any liabilities, losses, damages or expenses directly or indirectly caused by or contributed to by:

- a) war (actual or threatened), act of war, war-like operations, civil war, revolution, rebellion, insurrection, martial law, state of emergency, civil strife or any hostile act by or against a belligerent power;
- b) occupation by armed or unarmed fighting forces whether of a regular or irregular nature;
- c) a person acting maliciously or in the name or at the instigation of a political or terrorist organization or grouping;
- d) capture, seizure, arrest, restraint or detainment (barratry and piracy excepted), and the consequences thereof or any attempt thereat;
- e) strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions;
- f) confiscation or expropriation;
- g) mines, torpedoes, bombs, rockets, shells or similar weapons of war, (save for those liabilities, losses or expenses which arise solely by reason of the transport of any such weapons whether on board the entered ship or not) but PROVIDED ALWAYS that this exclusion shall not apply to the use of such weapons, whether as a direct result of Government order or with the agreement of the Directors or Managers of the Association where the reason for such use is the mitigation of liabilities, losses or expenses which would otherwise fall within the cover given by the Association;
- h) blockades or threatened blockades of whatsoever nature.
- i) kidnap and ransom and all claims arising from kidnap and ransom attempts.

## RULE 30

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### SANCTIONS

The Association shall in no circumstances cover any liability, loss, damage, cost or expense:-

- a) where the provision of cover or any payment in respect thereof exposes or may expose the Association or the Managers to the risk of being or becoming subject to any sanction, prohibition or adverse action in any form whatsoever by any state, international organization or other competent

authority which the Directors in their sole discretion determine may materially affect the Association in any way whatsoever.

- b) which is not recoverable by the Association in full or in part from reinsurers or parties under any reinsurance contract by reason of any sanction, prohibition or adverse action against them by any state or international organization or the risk thereof if payment were to be made by such reinsurers or parties.

## **RULE 31**

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### **CALLS**

1. If any events specified in paragraphs 1-3 of General Rule 32 shall occur in relation to a Member or to an entered ship, then in every such case (provided that notice in writing is given to the Managers within one month after the date thereof) the Member or former Member shall be liable to pay only calls in respect of such ship for the relevant policy period on a pro rata basis, namely the proportion of such calls applicable to the period beginning at the commencement of that policy period and ending at noon on the date of the happening of such event.
2. The Association shall remain entitled to levy calls on any former Member as though he had remained a Member but only as regards the entered ship and the association years in which it was entered.

## **RULE 32**

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### **CESSER OF INSURANCE**

1. A Member shall cease to be insured by the Association in respect of any and all ships entered by him or on his behalf upon the happening of any of the following events:
  - a) if a Member is an individual
    - i) upon his death;
    - ii) if a receiving order is made against him;
    - iii) if a petition in bankruptcy is presented in respect of him or any analogous proceedings are commenced against him in any jurisdiction outside the United Kingdom, or he makes any compromise, scheme or arrangement with his creditors generally in order to avoid or prevent the presentation of such a petition or such analogous proceedings;
    - iv) if he shall become bankrupt or make any composition or arrangement with his creditors;
    - v) if he shall become incapable by reason of mental disorder of managing and administering his property and affairs;or if an event having a similar effect under any system of law shall occur in relation to that individual;
  - b) if a Member is a corporation,

- i) upon the passing of any resolution for voluntary winding up;
  - ii) upon its commencing proceedings under any bankruptcy or insolvency laws to seek protection from its creditors or to reorganise its affairs;
  - iii) upon its making any compromise, scheme or voluntary arrangement with its creditors or upon its commencing proceedings under any bankruptcy or insolvency laws to seek protection from its creditors or to reconstruct or readjust its debts or to reorganise its affairs;
  - iv) upon a Receiver, Administrator or Manager of all or part of the corporation's business or undertaking being appointed;
  - v) upon an order being made for the appointment of an Administrator, Receiver or Liquidator or for compulsory winding up;
  - vi) upon dissolution;
- or if an event having similar effect under any system of law shall occur in relation to that corporation,
- c) if the Member's insurance is cancelled under General Rule 34.2
2. Unless otherwise agreed in writing by the Managers, a Member shall cease forthwith to be insured by the Association in respect of a ship entered by him or on his behalf upon the happening of any of the following events in relation to such ship:
- a) if the Member shall part with or assign the whole or any part of his interest in the ship, whether by Bill of Sale or other formal document or agreement or shall cease to have an interest in the ship or shall part with or transfer the entire control or possession of the ship, whether by demise charter or by any other way whatsoever,
  - b) if the ship is mortgaged or otherwise hypothecated without an undertaking or guarantee approved by the Managers being given to pay all contributions due or to or become due in respect of the entered ship, unless the Managers exercise their discretion in any particular case to dispense with such an undertaking or guarantee,
  - c) if any person having given an undertaking or guarantee under the preceding paragraph fails to discharge his liability thereunder upon demand by the Managers.
  - d) in the case of any entry by a time charterer, if the time charter ends or is terminated,
  - e) if the entry of the ship is terminated in accordance with any Class Rule,
  - f) if the management of the ship is transferred or the flag of the ship is changed, where a ship is entered for insurance through an agent ( not being an insurance broker), such agent shall for the purposes of this paragraph in this Rule be deemed to be the manager of the entered ship unless at the time of the ship's entry for insurance the Managers were furnished with the name of the management of the ship to be insured.
  - g) If the Member fails to provide a Bank Guarantee required to be furnished under General Rule 12.1

within 14 days of being called upon to do so.

- h) if the ship or the Member including, if the Member is a corporation, the officers and beneficial owners or any one of them shall be appear on the United Nations Security Council Sanctions List, the United States Department of the Treasury Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons List, the European Union Consolidated Financial Sanctions List or any other national or international sanctions list such that by continuing with the entry of the ship the Association or the Managers might be exposed to the risk of being or becoming subject to any sanction, prohibition or adverse action in any form whatsoever by any state, international organization or other competent authority.
3. Unless otherwise agreed in writing by the Managers and subject to Rule 34, a Member shall cease to be insured by the Association in respect of a ship entered by him or on his behalf upon the happening of whichever shall be earliest of the following events:
- a) if the ship shall be missing for ten days from the date she was last heard of or from her being posted at Lloyd's as missing,
  - b) if the ship shall become an actual total loss or shall be agreed by the Hull Underwriters (whether of marine or war risks) as constituting a constructive total loss or a compromised total loss or shall become a commercial total loss,
  - c) if the Hull Underwriters (whether of marine or war risks) make a payment without commitment to a Member in respect of an unrepaired damage claim which exceeds the market value of the ship immediately prior to the casualty which gave rise to such claim,
  - d) if the Managers in their discretion conclude that the ship is to be considered or deemed to be an actual or constructive total loss or otherwise commercially lost.
4. The Managers may, as condition of agreement that the insurance of the ship continue after the occurrence of any of the events or circumstances listed in this Rule impose such terms and conditions as they think fit for the continuation of the insurance.

### **RULE 33**

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#### **GENERAL EFFECTS OF TERMINATION, CESSER AND CANCELLATION OF INSURANCE OTHER THAN UNDER GENERAL RULE 34**

Where a Member's insurance in respect of any or all entered ships terminates, ceases or is cancelled otherwise than in accordance with General Rule 34, then:

- a) if the cesser of insurance be occasioned by the death of an individual Member, the Association shall remain liable for claims, subject always to the Rules and to the terms and conditions of entry of the ship in the Association, in respect of all of such ships arising by virtue of an event which had occurred prior to the happening of the event giving rise to such cesser of insurance,
- b) if the cesser of insurance be occasioned by circumstances as defined in General Rule 32.3 above, the Association shall, subject always to the Rules and to the terms and conditions of the entry of the ship in the Association, remain liable in respect of liabilities flowing directly from the casualty which has

given rise to the actual or constructive or commercial loss of the ship,

- c) such person, his estate, heirs, executors, receiver, administrator, personal and representatives, trustees in bankruptcy or liquidator as the case may be shall and remain liable for all contributions, premiums and any other sums whatsoever payable in respect of the policy period in which the insurance terminates, ceases or is cancelled and previous policy years, unless and except to the extent that General Rule 31 is brought into operation and/or the Members liability may have otherwise been limited under General Rule 10 and satisfied by payment thereof,
- d) to the extent that any claim or potential claim against the Association has been or may be paid by the Association or may be pursued against the Association by the former Member all the obligations of the Member to the Association shall continue to apply to the former member as though he remained a Member.

## **RULE 34**

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### **CANCELLATION FOR NON-PAYMENT**

1. Without prejudice to any other provision whatsoever of the Rules if the Association has not received from a Member, within the time permitted by the Association, payment in full of any amount (whether by the way of call contribution, deductible, survey fee, premium, additional premium, interest or of any other sum whatsoever), which the Association has stated to be due to it and has required the Member to pay, the Managers may give the Member notice in writing:
  - a) referring to this Rule,
  - b) requiring him to pay such amounts by the date specified in such notice, not being less than seven days from the date on which the notice is given, and
  - c) informing him that if he fails to pay such amount in full on or before the date so specified, his insurance in respect of any ship in relation to which payment of that amount was required, together with, if the Managers in their discretion so specify, his insurance in respect of any or all other ships entered in the Association by him or on his behalf in any Class, shall be cancelled forthwith at the end of the date so specified without further notice or other formality.
2. If a Member fails to comply with the requirements set out in any notice issued by the Managers in accordance with General Rule 34.1, the Member's insurance shall be cancelled as specified in such notice, irrespective of whether the insurance is current at the date of the cancellation or has by then ceased, been terminated or cancelled in accordance with any other provision of the Rules, and the remainder of this rule shall apply.
3. With effect from the date of cancellation the Association shall cease to be liable for any claim of whatsoever kind under the Rules in respect of any and all insurances specified in the notice under General Rule 34.1:
  - a) irrespective of whether such claim has occurred or arisen or may arise by reason of any event which has occurred at any time prior to the date of cancellation, including during previous policy years,
  - b) irrespective of whether such claim arises by reason of any event occurring after the date of cancellation,
  - c) irrespective of whether the Association may prior to such event have made payment of or accepted

liability, either expressly or by conduct or implication for such claim or appointed lawyers, surveyors or any other person to deal with such claim,

- d) irrespective of whether the Association at the date of or prior to the date of cancellation knew that such claims might or would arise,

and as from the date of cancellation any liability of the Association for such claim shall terminate retrospectively and the Association shall be under no liability whatsoever in respect of the insurances so specified.

**4.** When a Member's insurance has been cancelled in accordance with General Rule 34.1:

- a) in relation to the policy period to which the cancellation refers all contributions, premiums and other sums payable in respect of such policy period shall be payable pro rata only for the period up to the date of cancellation,
- b) in relation to any policy period preceding that to which the cancellation refers, all contributions, calls, premiums and other sums of whatsoever kind shall be payable in full and non-returnable;

PROVIDED ALWAYS that:

- i) Without prejudice to the generality of General Rule 35 no act, omission, course of dealing, forbearance, delay or indulgence of any kind by or on behalf of the Association (whether express or implied) or acceptance of liability for or the recognition of any claim, whether occurring before or after any such date of cancellation, shall derogate from the effect of General Rule 34 or be treated as any waiver of any of the Association's rights whatsoever thereunder;
- ii) the Directors may in their discretion, and upon such terms as they think fit, including, but not restricted to terms as to payment of calls, contribution, premium or other sum, admit either to terms as to payments of calls, contribution, premium or other sum, admit either in whole or in part any claim in respect of any ship entered by a Member for which the Association is under no liability by virtue of this Rule, whether such claim has arisen before or after the date of cesser or in their discretion, upon such terms they think fit, including a term that the Member shall remit wholly or partly any payment of call, contribution, premium or other sum due to the Association.

**5.** This General Rule shall apply mutatis mutandis to a person who was, but is no longer, a Member.

**RULE 35**

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**FORBEARANCE**

No act, omission, course of dealing, forbearance, delay or indulgence by the Association in enforcing any of the Rules or any of the terms and conditions of its contracts with Members, nor any granting of time by the Association shall prejudice or affect any of the rights and remedies of the Association under the Rules or under such contracts. No such matter shall be treated as any evidence of waiver of the Association's rights thereunder;

nor shall any waiver of a breach by a Member of the Rules or contracts operate as a waiver of any subsequent

breach thereof. The Association shall at all times and without any notice be entitled to insist on the strict application of the Rules and on the strict enforcement of its contracts with Members.

## **RULE 36**

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### **MEMBERSHIP OF OTHER BODIES**

The Managers may cause the Association (in respect of such of the Members of the Association as are eligible to become a member of such organisations) to become a member of or affiliated to Chambers of Shipping or similar societies or organisations and for this purpose may authorize the payment by the Association to these bodies of such subscriptions or grants as the Managers in their discretion decide;

PROVIDED ALWAYS that where such membership is for the particular benefit of some Members of the Association rather than all the Members, the Managers may resolve that a subscription or grant as the case may be shall be met by the Members who so benefit by way of additional calls upon those Members alone.

## **RULE 37**

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### **BYE-LAWS AND REGULATIONS**

1. The Directors in their discretion may make, alter or revoke Bye-laws prescribing the conditions and/or the form of contracts of carriage generally or for use in any particular trade or for any particular port or place. Notice shall be sent by the Managers to all the Members upon the making of any such Bye-law which shall come into operation on the date stated in the notice and shall thereupon be deemed to be incorporated in these Rules. The accidental omission to give such notice or the non-receipt of such notice shall not invalidate such Bye-law or any alteration thereof. The Directors may further impose such terms upon the Member as they may think fit as a condition of the continuance of the entry of the Member's ship or ships in any class.
2. The Directors may in their discretion make, alter or revoke Regulations affecting or restricting the employment or use of an entered ship including the warranties embodied in General Rule 26. On giving written notice thereof to the Members concerned, the same shall be and become binding upon and be observed by such Members. The accidental omission to give such notice or the non-receipt of such notice by any such Member shall not invalidate such Regulations or any alterations thereof.
3. If a Member shall commit a breach of such Bye-law or Regulation, the Managers may reject or reduce any claim made by the Member to the extent to which it would not have arisen if the Member had complied with the Bye-law or Regulation and the burden of proving in each case that liabilities, losses or expenses concerned ( or any part thereof) could not have been avoided by such a compliance shall be on the Member.
4. The Directors may in their discretion recommend the use of any particular form of contract of carriage in any particular trade. Members whose ships are engaged in such trade shall endeavour to use such forms of contract of carriage when the circumstances of the fixture or engagement of such ships permit.

## **RULE 38**

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### **POWERS OF THE DIRECTORS**

1. The Directors may exercise all such powers of the Association and do on behalf of the Association all such acts as may be exercised and done by the Association and as are not by law, the Articles of the Association or the

Rules, bye-laws or regulations required to be exercised or done by the Association in General Meeting.

2. The Directors may delegate any of their powers, duties or discretions to any Committee of the Directors consisting of such of their body as they think fit. Any Committee so formed shall in exercise of any power, duty or discretion so delegated conform to any direction that may from time to time be imposed on it by the Directors.
3. The Directors or, subject to any directions imposed as aforesaid, any Committee of the Directors may from time to time vest in the Managers such of the powers, duties and discretions by these Rules vested in the Directors or delegated to any Committee of the Directors (as the case may be) as the Directors or any such Committee of the Directors shall think fit and any such powers, duties or discretions so vested may be made exercisable for such period upon such conditions and subject to such restrictions and generally upon such terms as the Directors or such Committee of the Directors (as the case may be) may determine.
4. Whenever any power, duty or discretion is conferred or imposed upon the Managers by virtue of these Rules, such power, duty or discretion may, subject to any terms, conditions or restrictions contained in these Rules, be exercised by any one or more of the Managers or by any servant or agent of the Managers to whom the same shall have been delegated or sub-delegated.
5. If the Directors shall so decide or the Managers shall so request, any power exercisable under the Rules by the Managers may be exercised by the Directors.
6. If the Member so requests, the Directors may in their discretion review, de novo or otherwise, any discretion that has been exercised by the Manager.

## **RULE 39**

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### **MARINE INSURANCE ACT**

The Rules and all contracts of insurance made by the Association shall be subject to and incorporate the provisions of the New Zealand Marine Insurance Act 1908, and any statutory modification thereof except insofar as such act or modification may have been excluded by these Rules or by any terms of such contracts.

## **RULE 40**

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### **NOTICES**

1. Subject to General Rule 43, a notice or other document required under these Rules to be served on the Association may be served by sending it through the post in a prepaid letter or by sending it by telegram, cable, radio-telegraph, facsimile, telex or e-mail addressed to the Managers at their address for the time being.
2. A notice or other document required under these Rules to be served on a Member may be served by sending it through the post in a pre-paid letter or by sending it by telegram, cable, radio-telegraph, facsimile, telex or e-mail addressed to such Member at his address as appearing in the Register. In the case of joint Members, notice shall be served on the joint Member whose name stands first in the Register and such service shall be deemed sufficient service upon all the joint Members.
3. For the purpose of the above sub-rules where for any reason the Association does not possess or has not



been provided with or is uncertain of the address of a Member from the entry in the Register of Members any notice or other document shall be deemed to be properly served if served upon any person, body, ship manager or intermediary of whatsoever nature through whom the application for entry of the ship in the Association appears to have been made on behalf of the Member.

**4.**

- a) Any notice or other document sent by post shall be deemed to have been served 5 clear days after the day on which the letter containing the same was put in the post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post, pre-paid first class,
- b) any notice sent by telegram, cable or radio-telegraph shall be deemed to have been served on the day after it was handed into the telegraph, cable or radio-telegraph office and in proving such service it shall be sufficient to prove that such telegram, cable or radio-telegraph was duly handed in,
- c) any notice sent by facsimile, e-mail or telex shall be deemed to have been served on the day it was despatched and in proving service, it shall be sufficient to prove that such telex, e-mail or facsimile was duly despatched.

- 5.** The successors, representatives, receivers, legal curators, trustees in bankruptcy or liquidators or the like of any person who is or was at any time a Member of the Association shall be bound by a notice or other document served as aforesaid if sent to the last such address of such Member appearing in the Register notwithstanding that the Association may have notice of the Member's death, disability, insanity, bankruptcy or liquidation.

**RULE 41**

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**CHOICE OF LAW**

The Rules and any contract of insurance between the Association and a Member shall be governed by and construed in accordance with New Zealand Law.

**RULE 42**

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**RECOVERY OF DEBTS TO THE ASSOCIATION**

The Association may initiate proceedings against the Member in the Commercial Court of the High Court of Justice of London, to recover any sums which the Association may assert to be due to it from a Member. Without prejudice to the foregoing, the Association shall be entitled to commence and maintain any action to recover any sums which the Association may consider to be due to it from a Member in any jurisdiction. The Association may take Proceedings in any jurisdiction in order to obtain security for any claim it asserts.

**RULE 43**

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**SERVICE OF PROCEEDINGS ON THE ASSOCIATION**

Any notice of any legal proceedings must be served on the Association at its registered office. Neither the Managers nor their correspondents are authorized to accept service of any legal proceedings whatsoever including, without limitation, the service of any notice required in order to initiate an arbitration.

## **RULE 44**

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### **DISPUTES AND DIFFERENCES**

Subject to General Rule 42, if any difference or dispute shall arise between a Member and the Association out of or in connection with the Rules or any contract between them or as to the rights and obligations of the Association or the Member thereunder or in connection therewith, such difference or dispute shall in the first instance be referred to and adjudicated upon by the Directors. Such reference and adjudication shall be on written submissions only.

If the Member concerned does not accept the decision of the Directors or if the Directors fail to make any decision within three months of the reference to them of the difference or the dispute, it shall be referred to arbitration in Auckland or London, at the discretion of the Directors. The parties shall endeavour to agree on a sole arbitrator. If they cannot agree on a sole arbitrator within 14 days of an invitation to agree a sole arbitrator, then the dispute shall be referred to two arbitrators (one to be appointed by each of the parties) and an umpire to be appointed by the arbitrators. No Member or Director of the Association nor the Managers nor any employee of the Managers shall act as arbitrator or umpire.

Without prejudice to any other provisions of these Rules and without waiving any of the Association's rights hereunder, if the Member wishes to refer a dispute or difference to arbitration under these rules, it must do so within three months of a decision of the Directors following a reference of the difference or dispute to the Directors under this rule or, as the case may be, within six months of a reference of any dispute or difference to the Directors hereunder if the Directors have failed to make any decision upon the reference to them of the difference or dispute. In the event that arbitration is not commenced by these time limits, the claim shall be barred and wholly extinguished.

The Tribunal may conduct its proceedings in a mercantile manner without strict regard for legal technicalities regarding evidence. The Tribunal may, if a point of law arises, obtain the opinion thereon of such counsel or solicitor as it may think fit, and may act upon any such opinion. Unless the Tribunal otherwise directs, the cost of and incidental to its proceedings shall form part of the costs of the award. The cost of and incidental to any such reference and award shall be in the discretion of the Tribunal which may determine the amount thereof, or direct the same to be taxed as between solicitor and client or otherwise, and may decide by whom and to whom and in what manner the same shall be borne and paid.

The submission to arbitration and all connected proceedings shall otherwise be subject to the provisions of the New Zealand Arbitration Act, 1996 or any statutory modification or re-enactment thereof or, should the Directors exercise their discretion in favour of London arbitration, to the English Arbitration Act 1996 or any statutory modification or re-enactment thereof. No Member shall be entitled to maintain any action, suit or other legal proceedings against the Association otherwise than in accordance with the procedures laid down in this Rule. A Member may only commence proceedings, other than the arbitration above, in order to enforce an award under such arbitration and then only for such sum, if any, as the award may direct to be paid by the Association.

Notwithstanding any other matter set out in this Rule 44 any difference or dispute arising between a Member and the Association out of or in connection with a claim arising under Rule 4.1(v) and (vi) of Class 1 Protection and Indemnity and Rule 4.1(v) and (vi) of Class 6 Charterer's Liability shall be determined by a single arbitrator acting as an expert appointed in default of agreement by the President for the time being of the Medical Council of New Zealand whose decision shall be final and binding on all parties.

# CLASS I

# Protection and Indemnity

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## **RULE 1**

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### **DEFINITIONS**

In these Rules, the following words and phrases shall have the following meanings unless the context otherwise requires.

#### **Carrying Unit**

Any device or receptacle in or on which cargo is carried including, without prejudice to the generality of the foregoing, any container, trailer, flat, tank or similar receptacle which is owned or leased by a Member and which is either intended to be or is or has been carried on an entered ship or in respect of which the Member has entered into a contract of through carriage.

#### **Container**

Containers constructed in accordance with the recommendations of the International Standards Organisation and complying with the requirements of the International Convention for Safe Containers, 1972, as amended.

#### **Customary Towage**

Towage for the purpose of entering or leaving port or manoeuvring within the port during the ordinary course of trading and/or the towage of such entered ships (e.g. barges) as are habitually towed in the ordinary course of their trading from port to port or from place to place and have been declared as such in writing to the Managers.

#### **Deviation**

A departure from the contractually agreed voyage or adventure which deprives the Member of the right to rely on a defence, exemption to right to limitation which would otherwise have been available to him.

#### **General Rules**

The General Rules for the time being of the Association.

#### **The Hague-Visby Rules**

The International Convention for the Unification of Certain Rules Relating to Bills of Lading signed at Brussels on 25th August 1924 as amended by the Protocol to that Convention signed at Brussels on 23rd February 1968.

#### **Master**

The Master of an entered ship or the substitute for or the replacement of such Master engaged under a written contract of employment or contract of service to serve on board the entered ship concerned.

#### **Member of The Crew**

Any person (including apprentices but excepting the Master and any persons engaged only for nominal pay) engaged under a written contract of employment or contract of service to serve on board the entered ship concerned including a substitute for such person and also such persons whilst proceeding to or from such ship.

#### **Passenger**

A person carried on board an entered ship by virtue of holding a passenger ticket.

#### **Personal Effects**

Clothes, documents, navigational or other technical instruments and tools but excluding cash, valuables or any articles which in the opinion of the Managers are not an essential requirement for the Master or a member of the crew as the case may be.

### **Proper Value**

The value for which an entered ship should in the opinion of the Managers be insured as determined by the Managers in their discretion. For the purpose of this definition, the Managers are entitled to take account of whether the Hull and Machinery and/or Excess Liability policies of such ship have been the subject of periodic review in the light of market conditions, so that the total amount of liability cover provided by those policies is maintained at all times at a figure which is as near as possible to the equivalent of the free uncommitted market value of the ship, but in no event less than the aggregate of the limits of liability set out in the International Convention relating to the Limitation of Liability of Owners for Marine Claims, 1976, and any revisions thereof.

*NB: Members are therefore recommended to confer with their brokers and/or ship valuers in order to assess, in the light of the above, the total amount for which collision liability insurance should be arranged. Provided the necessary insurance is arranged on the basis of the advice received, the Managers will usually give favourable consideration to the insured value being the proper value.*

### **The Rules**

The General Rules and the Class I Rules.

### **Supernumerary**

A relative of the Master or of a member of the crew, or any other person whom a Member has agreed to maintain or carry on board an entered ship (except a passenger) including persons engaged under a contract of employment or contract of service for nominal pay.

## **RULE 2**

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### **INTRODUCTORY**

1. Insurance in this Class is subject to the Rules, General Rules and to the Memorandum and Articles of the Association.
2. The contract relating to entry in this Class shall be deemed to be separate from the contract for entry in any other Class.
3. Notes printed in italic script are indicative of current practice, but do not form part of the Rules.

## **RULE 3**

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### **GENERAL**

#### **1. Right of recovery**

If the Member shall, in respect of risks set out in Rule 4, incur any liability, loss or expense in respect of the entered ship arising from a casualty or event occurring during the policy period, the Member shall be entitled to recover out of the funds of the Association the amount of such liability, loss or expense in accordance with the Rules and Certificate of Entry in respect of such entered ship;

PROVIDED ALWAYS THAT:

- i) unless the Directors in their discretion otherwise determine, it shall be a condition precedent of a Member's right to recover from the funds of the Association in respect of any such damages, liability, loss or expense that he shall first have unconditionally discharged the same in full by payment out of

monies belonging to him absolutely and not by way of loan or otherwise; and

- ii) the liability of the Association shall be subject to the Certificate of Entry and subject to the Rules;
- iii) the limit of liability specified in the Certificate of Entry shall be inclusive of legal costs and expenses and, notwithstanding s.78(1) of the New Zealand Marine Insurance Act, 1908, inclusive of costs and expenses of suing and labouring;
- iv) no legal costs or expenses or costs or expenses of suing and labouring shall be recoverable unless either they have been incurred with prior consent in writing of the Managers or the Managers have determined in their discretion that such costs and expenses were reasonably incurred.
- v) in any case the liability of the Association for any and all liabilities, losses, costs and expenses incurred by all Members, Co-assureds and Affiliates under any one entry and which arise out of any one event shall be limited to the sum insured in the terms of entry, provided always that to the extent the Association has reinsured the risks insured under any one entry, the Association shall only be obliged to pay any amount in excess of USD 1 Million per event as and when such funds are received by the Association from the reinsurer(s).

## 2. Limitation of liability

- a) Subject to the Rules and to any special terms and conditions upon which and limits and deductibles subject to which a ship may entered, the liability of the Association shall in no circumstance exceed the liability of the Member ( less any applicable deductible) in respect of any entered ship as this liability may or would ultimately be determined and fixed by law, including any laws pertaining to limitation of shipowner's liability. The Association shall in no circumstance be liable for any sum in excess thereof,
- b) If a Member for whose account a ship is entered is not the registered owner, demise charterer, manager or operator of the ship, such Member shall be deemed to be entitled to all the limitations of liability which would apply if he were the registered owner of the ship and were entitled to limit liability. Any amount recoverable from the Association shall be limited accordingly unless the Association shall before entry have agreed to an increase in the Association's liability and such agreement is recorded in the Certificate of Entry.

## 3. Oil pollution limitation

- a) Subject to (b) and (c) below, the Association's liability for any and all claims in respect of damage directly or indirectly caused or threatened by oil pollution shall be limited in the aggregate to such amount as may be stated on the Certificate of Entry. The Directors may, in their discretion, impose special terms and conditions on the insurance of damage caused or threatened by oil pollution,
- b) Unless the Directors shall in their discretion otherwise decide, the limit of the Association's liability shall apply irrespective of whether the accident or occurrence involves the actual or threatened escape of oil from one or more ships and to all claims brought by the Member or joint Members in respect of the entered ship in respect of such accident occurrence. If the aggregate of such claims exceeds that limit, the liability of the Association for each claim shall be such proportion of the oil pollution limit as each such claim bears to the aggregate of all such claims.
- c) Unless the Directors shall in their discretion otherwise decide, if the entered ship provides salvage or

other assistance to another ship following a casualty, a claim by the Member who entered the entered ship in respect of oil pollution arising out of the salvage and/or assistance rendered to the casualty shall be aggregated with any liability or cost incurred in respect of oil pollution by any other entered ships similarly engaged in connection with the same casualty when such other ships are insured by the Association in respect of oil pollution. In this circumstance the limit of the liability of the Association to the Member who entered the entered ship shall be such proportion of the greater oil pollution limit as the claim of that Member bears to the aggregate of all such claims insured by the Association which arise directly or indirectly out of the casualty.

#### 4. Want of due diligence

- 1) If liabilities, losses, or expenses are incurred as a result of want of due diligence by the Member, his managers, superintendents or onshore management, then the Directors may, in their discretion, reduce the liability of the Association to the Member to the extent that such want of due diligence has, in their opinion, caused the liabilities, losses or expenses concerned.
- 2) In exercising their discretion under paragraph 4 (1) of this Rule the Directors may take into account any failure by the Member, his managers, superintendents or onshore management to comply with recommendations in connection with operation of the entered ship which may have been made in any Circular or Risk Bulletin issued by the Association and published on its website.

### RULE 4

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#### RISKS COVERED

Subject to the Rules and to the Certificate of Entry, the risks covered by the Association are the risks set out in sub-rules 1 to 26 of this Rule, in respect of costs relating thereto by reason of the liability, loss or expenses (as the case may be) and legal costs of the Member by reason of his interest in an entered ship,

PROVIDED ALWAYS that

- i) the Member is only insured to the extent that he has paid and discharged his liability or paid the loss or expense concerned, save for claims arising under sub rule 1 to the extent provided in sub rule 1 (vii) and claims arising under sub rule 5 (b) or as the Directors in their discretion shall otherwise decide.
- ii) The Member shall be liable to reimburse the Association in full for any payment made to the Master or a member of crew or his representatives under sub-rule 1(b) and / or sub-rule 5(d) unless and to the extent that cover would otherwise have been available to the Member under the other provisions of sub-rules 1 and 5.
- iii) Sub-rules 1(b) and 5(d) take effect only as financial security in favour of the Master and crew and are not an extension of cover available to the Member under the other provisions of sub-rules 1 and 5.

#### 1. Loss of life, personal injury and illness

- a) Damages, compensation, wages, maintenance, hospital, medical and funeral expenses for which a Member may be liable arising out of loss of life, personal injury or illness of:
  - i) the Master or a member of crew,
  - ii) any person on board any other ship,



- iii) any other person;
- b) Where the Association has issued to a Member a certificate of insurance or other financial security in respect of shipowners' liability as required under Regulation 4.2 Standard A4.2.1 paragraph 1(b) of the Maritime Labour Convention 2006 as amended (MLC Certificate) the Association may discharge and pay on behalf of the Member the liabilities, losses, costs and expenses set out in and subject to the conditions in the MLC Extension Clause 2019 included as an Appendix to these Rules. The terms and conditions of the MLC Extension Clause 2019 shall be deemed to be part of the contract of insurance with a Member upon approval by the Association of an application of the Member for an MLC Certificate.

PROVIDED ALWAYS that:

- i) insofar as it relates to a member of the crew or the Master nothing shall be recoverable if the liability arises pursuant to the terms of a contract of employment or contract of service or crew agreement and would not have arisen but for those terms, unless the said contract or agreement has been previously approved by the Manager in writing;
- ii) nothing shall be recoverable if the liability relates to a person other than a member of crew or Master unless it arises out of any negligent act or omission on board or in relation to the handling of cargo from the time of receipt of that cargo from the shipper or pre-carrier at the port of shipment until delivery of that cargo to the consignee or onward carrier at the port of discharge;
- iii) there shall be no recovery under this paragraph arising out of a Member's liability under a contract of indemnity between the Member and a third party;  
*NB: see sub-rule 17 of this Rule.*
- iv) there shall be no recovery under this sub-rule arising out of a Member's liability to supernumeraries or to passengers;
- v) there shall be no recovery in respect of losses directly or indirectly caused by human immunodeficiency virus or similar diseases or in respect of any sexually transmitted disease.
- vi) there shall be no recovery in respect of death by natural causes or pre-existing medical conditions
- vii) Where the Member has failed to discharge or pay a legal liability to pay damages or compensation for the loss of life, personal injury or illness of a member of the crew the Association may discharge or pay such liability on behalf of the Member on the following conditions:-
  - a) The member of crew or dependent has no enforceable right of recovery from any other party and would otherwise remain uncompensated;
  - b) Subject to the provisions of sub rule 1(vii)(c) below the Association shall in no circumstances be liable for any sum in excess of the amount which the Member would have been able to recover from the Association under the Rules and the Certificate of Entry;
  - c) Where the Association is under no liability in respect of the claim by virtue of the entry having been cancelled for non payment under General Rule 34, the Association may nevertheless discharge or pay the claim to the extent that it arises from an event occurring prior to

cancellation of the entry, but only as agent of the Member who shall reimburse the Association in full for the amount paid. 2.

## 2. Ancillary expenses

The cost to a Member of putting in to or remaining in port solely in circumstances which do or would entitle the Member to recovery under sub-rule 1 of this Rule but confined to port charges and the net loss to the Member in respect of bunkers, insurance, wages of crew, stores and victualling necessarily incurred as a result of the change of itinerary while securing medical attention or awaiting a substitute.

## 3. Passengers

Liability which a Member incurs arising out of:

- a) loss of life, personal injury or illness of a passenger (including medical, hospital, repatriation and funeral expenses) which also arises out of any act, neglect, or default of the Master and/or crew on board or in relation to the entered
- b) loss of or damage to passengers' baggage and personal possessions,
- c) ancillary expenses as specified in Rule 4.2 necessarily incurred in landing an injured or sick passenger;

PROVIDED ALWAYS that:

- i) the passenger ticket or the contract of passage shall relieve the Member of liability to the maximum extent permitted by the appropriate law;

*NB: Members are required, prior to inception, to submit specimen copies of their passenger conditions to the Managers to ensure that Members are properly protected and to permit the latter to impose any additional calls or premium if less protective terms are accepted by the Association.*

- ii) save at the discretion of the Managers no liability shall attach to the Association for any payments made by the Member in excess of his legal liability; and on demand by the Managers the Member shall be bound to prosecute and enforce any right of recovery he may have against the passenger;
- iii) there shall be no recovery from the Association in respect of claims relating to cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature;
- iv) there shall be no recovery in relation to any liabilities whatsoever incurred by the Member arising out of travel by air;
- v) no cover shall be provided by the Association in respect of any breach of immigration or health regulations whether such breach arises from the fault of the passenger or otherwise.5.

## 4. Supernumeraries

Liability which a Member incurs to or in respect of a supernumerary under any of the sub-rules of this Rule as if such supernumerary was a member of the crew;

PROVIDED ALWAYS that (except in the case of a relative of the Master or of a member of the crew):

- i) an indemnity against the consequences of the supernumerary's action in a form approved by the Managers backed by a suitable guarantee acceptable to the Managers shall be taken by the Member; and
- ii) the Member shall ensure that the person giving the indemnity has taken out a suitable insurance to cover his obligations towards the Member;

AND FURTHER PROVIDED that in all cases, including in respect of relatives of the Master or of a member of the crew, the Managers shall have given their prior written approval of the presence on board of a supernumerary and the terms and conditions on which he is carried and the Member has paid or has agreed to pay such additional calls or premium as may be required by the Association.

### 5. Repatriation

- a) Repatriation expenses which are not recoverable under sub-rule 1 of this Rule and are incurred under statutory obligation or contract of employment or contract of service or crew agreement approved by the Managers in respect of the Master or member of crew PROVIDED ALWAYS that there shall be no recovery when the expenses result from the termination of a contract of employment or contract of service following the expiry of notice given in accordance with the terms of the relevant contract or termination as a result of discharge by mutual consent or breach by the Member of any such contract or from any other discretionary act of the Member or from the sale of the entered ship.
- b) The cost of repatriation or deportation necessarily incurred by reason of a member of crew having been left ashore or abandoned PROVIDED ALWAYS that there is a statutory obligation to pay such costs or there is a liability to pay such costs under any statutory enactment or domestic legislation giving effect or equivalent to the Maritime Labour Convention 2006 and such costs are not otherwise recoverable under this Rule.
- c) Expenses necessarily incurred by a Member in discharging his statutory obligations towards, or making necessary arrangements for, stowaways, refugees, Masters or members of crew who go on strike or deserters PROVIDED ALWAYS that the Member shall take or has taken all appropriate steps permitted by law to recover such expenses from the stowaway, refugee, Master or member of crew who go on strike or deserter or from any other person or insurer or from any national or international bodies or organizations concerned with such persons.
- d) Where the Association has issued to a Member a certificate of insurance or other financial security in respect of shipowners' liability as required under Regulation 2.5 Standard A2.5.2 of the Maritime Labour Convention 2006 as amended (MLC Certificate) the Association may discharge and pay on behalf of the Member the liabilities, losses, costs and expenses set out in and subject to the conditions in the MLC Extension Clause 2019 included as an Appendix to these Rules. The terms and conditions of the MLC Extension Clause 2019 shall be deemed to be part of the contract of insurance with a Member upon approval by the Association of an application of the Member for an MLC Certificate.

### 6. Substitutes

Expenses necessarily incurred in sending a substitute or engaging and subsequently repatriating a substitute to replace the Master or a member of the crew who shall have died or been left behind in consequence of illness, injury, desertion or any other cause where in the sole discretion of the Managers liability for such expenses could not reasonably have been avoided;

PROVIDED ALWAYS that:

(i) there shall be no recovery when the engagement of the substitute is necessitated by the termination of a contract of employment or contract of service following the expiry of notice given in accordance with that contract or by mutual consent or by breach by the Member or resulting from any other discretionary act of the Member;

(ii) wages shall be only recoverable as part of the said expenses when payable to a substitute engaged abroad while awaiting or during repatriation.

### **7. Shipwreck unemployment indemnity**

Wages payable to the Master or a member of the crew during unemployment in consequence of the wreck or total loss of an entered ship, and other payments made to or in respect of such persons in consequences of the wreck or total loss, under statutory obligation or collective or special agreements or contract of employment or contract of service approved by the Managers.

### **8. Loss of personal effects**

Compensation payable by a Member under statutory obligation or collective or special agreements, or contract of employment or contract of services approved by the Managers in respect of loss of or damage to personal effects of the Master or a member of the crew, on board an entered ship;

PROVIDED ALWAYS that no payment shall be made for theft or pilferage of crew's personal effects.

### **9. Distressed seamen**

Expenses incurred by or chargeable to a Member under statutory obligation or collective or special agreements or contract of employment or contract of service approved by the Managers in respect of distressed seamen, where such expenses are not recoverable under any other sub-rule of this Rule, except those ensuing upon the termination of a contract of employment or contract of service in accordance with the terms thereof or by mutual consent or by breach by the Member or resulting from any other discretionary act of the Member or from the sale of the entered ship.

### **10. Life salvage**

Life salvage, but only in as far as it is not recoverable under the Hull and Machinery policies on an entered ship or from cargo owners or their underwriters.

### **11. Collision liability**

Liability that the member incurs to pay to any other person by way of damages for loss of or damage to any other ship or to cargo or other property on board such ship, or delay or loss of use of such ship or to cargo on such ship caused by collision with the entered ship,

- a) to the extent of up to one-fourth of the Member's total liability which would be insured under the Hull Policies referred to in Rule 6, but is not by virtue of the three fourths collision liability clause (being the one-fourth liability which is not covered under the Hull Policies referred to in Rule 6) or, if the Member's actual Hull and Machinery policies exclude a smaller fraction than one-fourth, the fraction so excluded;

PROVIDED ALWAYS that such liability is not in fact recoverable under the Hull and Machinery policies on the entered ship, and

- b) to the extent that the Member's liability exceeds the sum insured under the Member's actual policies on Hull and Machinery and Excess Liabilities and under sub-paragraph (a) of this sub-rule, by reason of such loss or damage exceeding the valuation or sum insured under the said policies;

PROVIDED ALWAYS that:

- i) if the Managers consider the valuation or sum insured under the policies on Hull and Machinery and Excess Liabilities may be less than the proper value they shall in their discretion determine the proper value and the Member shall only be entitled to recover the excess of the amount which would have been recoverable under such policies if the ship had been insured at such value;
- ii) if both ships are to blame then, unless the liability of the owner of one or both of them becomes limited by law, claims under this sub-rule shall be settled upon the principle of cross liabilities, as if the owner of each ship had been compelled to pay the owner of the other ship such one-half or other proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the former in consequence of the collision;
- iii) a Member shall not be entitled to recover from the Association any franchise or deductible borne by the Member under the policies on Hull and Machinery and Excess Liabilities;
- iv) if a collision occurs involving two or more ships belonging to the same Member, the Member shall be entitled to recover from the Association and the Association shall have the same rights as if the ships had belonged to different owners.

## 12. Damage to property

Liability which a Member incurs for loss of or damage to any fixed or floating object, not being another ship or cargo or other property therein or cargo carried in an entered ship, by reason of contact between the entered ship and such object when not covered by Hull policies;

PROVIDED ALWAYS that:

- i) there shall be no recovery under this sub-rule of expenditure arising out of a Member's liability under a contract of indemnity between a Member and a third party;

*NB: see sub-rule 17 of this Rule*

- ii) if the loss, damage or expense relates to any property belonging to the Member, such Member shall be entitled to recover from the Association, and the Association shall have the same rights as if such property belonged to a third party. But only to the extent that such loss, damage or expense is not recoverable under any other insurance upon the said property.

## 13. Non-contact damage

Liability which a Member incurs:

- a) for loss of or physical damage to any other ship or cargo or other property therein caused by the wash of the entered ship;

PROVIDED ALWAYS that if the loss or damage relates to any ship or cargo or other property therein belonging to the Member, such Member shall be entitled to recover from the Association and the Association shall have the same rights as if such ship or cargo or other property belonged to a third

party, but to the extent only that such loss or damage is not recoverable under any other insurance upon the said ship, cargo or other property.

- b) for delay caused to any other ship solely by reason of the entered ship causing an obstruction to a navigable waterway or berth

#### 14. Removal of wreck

- a) Liabilities, losses or expenses relating to the raising, removal, destruction, lighting or marking of the wreck of an entered ship when such raising, removal, destruction, lighting or marking is compulsory by law or the expenses thereof are legally recoverable from the Member;

PROVIDED ALWAYS that:

- i) the value of the entered ship and any stores or materials saved and the value of all cargo or other property saved to which the Member is entitled and salvage remuneration received by the Member and any amounts obtained from third parties shall be deducted from such costs or expenses and only the balance thereof, if any, shall be recoverable;
  - ii) nothing shall be recoverable from the Association if the Member shall, without the consent in writing of the Directors, have transferred his interest in the wreck (otherwise than by abandonment to Hull Underwriters), prior to the raising, removal, destruction, lighting or marking of the wreck;
  - iii) nothing shall be recoverable from the Association in respect of lighting or marking of a wreck beyond a maximum period of two years beginning with the date of the event giving rise to wreck,
  - iv) recovery from the Association shall be conditional upon the circumstances in which the ship became a wreck having resulted from a fortuitous incident caused by collision, stranding, explosion, fire or similar cause and no claim shall be recoverable in the event that the entered ship becomes a wreck due to the dereliction or neglect of the Member.
- b) liability which a Member incurs in respect of the raising, removal, destruction, lighting or marking of the wreck of another ship to extent that the sinking of the ship is held to be the Member's fault;

#### 15. Towing of an entered ship

Liability which a Member incurs under the terms of a contract for:

- a) the customary towing of an entered ship to the extent that the Member is not insured against such liability under the terms of the Hull policies of the entered ship;

PROVIDED ALWAYS that the Managers may reject or reduce a claim arising out of such a contract if they decide, in their discretion, that it was unreasonable having regard to all the circumstances to have arranged for the towing to be performed or to have agreed to the terms of the contract or if in their discretion they decide that the contract of towing ought reasonably have provided that the relevant risk and liabilities did not fall upon the Owner of the towed vessel;

- b) any other towing of an entered ship;

PROVIDED ALWAYS that there shall be no recovery unless:

- i) the terms of the contract have been approved in writing by the Managers prior to the commencement of the tow giving rise to such liability; and
- ii) the Member has paid or agreed to pay such additional call or premium as may be required by the Association.

### **16. Towage by an entered ship**

Liability which a Member incurs to pay damages under the terms of contract for the towage of another ship by the entered ship;

PROVIDED ALWAYS that:

- i) an entered ship specially designed or converted for the purpose of towage has been declared as such to the Managers at the time of entry or at the time of conversion for the purpose of towage; and
- ii) the Managers in their discretion, having regard to all the circumstances;
  - a) consider the terms of the towage contract as reasonable and the liability as coming within the scope of the cover afforded by the Association, and
  - b) the Member has paid or agreed to pay such additional call or premium as may be required by the Association, and
- iii) unless the Managers shall otherwise agree in writing prior to the commencement of the tow giving rise to the liability, a Member shall not be entitled to be reimbursed by the Association in respect of the liability to the owners of the tow or its cargo or other property carried thereon arising out of loss of, damage to or wreck removal of the tow, its cargo or other property carried thereon.

### **17. Contracts of indemnity**

Liability which a Member incurs, including liability for loss of life or personal injury, but excluding liability for any cargo intended to be or being or having been carried in an entered ship, under a contract of indemnity between the Member and:

- a) stevedores or others employed in relation to the handling of the cargo of the entered ship,
- b) the owners or operators of cranes or other appliances or craft used during the operations of loading or discharging the entered ship,
- c) the owners or operators of harbours, docks, dry docks or canals,
- d) any other person, if in their discretion the Managers consider that liability comes within the scope of the cover afforded by the Association:

PROVIDED ALWAYS that:

- i) the terms of the contract of indemnity shall first have been approved in writing by the Managers; and

- ii) the Member has paid or agreed to pay such additional call or premium as may be required by the Association.

### 18. Quarantine

Additional expenses incurred in direct consequence of an outbreak of infectious disease on board, for disinfection of an entered ship or cargo or persons on board such ship, or in respect of quarantine;

PROVIDED ALWAYS that:

- i) such additional expenses shall be in relation to and limited to bunkers, insurances, wages of seamen, victualling, stores and port charges but only to the extent that such additional expenses, incurred during any period of detention while in quarantine, exceed such expenses as would otherwise have been incurred;
- ii) in the case of an entered ship being ordered or chartered to proceed to a port where it is known, or ought reasonably to be known, by the Member, his managers, superintendents or onshore management, that such a ship will as a result be subjected to quarantine there or elsewhere, there shall be no recovery of expenses arising out of or in consequence upon her having been at such port.

### 19. Loss of or damage to cargo

Liability which the Member incurs for damage to or loss or shortage of or responsibility in respect of cargo intended to be or being or having been carried in an entered ship, arising out of breach by a Member (or by persons for whose acts, neglects or defaults the Member is liable) of the Member's obligation or duty as a carrier:

PROVIDED ALWAYS that:

- i) if a Member enters into a contract of carriage by sea (other than a contract of through carriage) when the Member knows or ought to know it contains exemptions from liability less favourable to the carrier than the provisions of the Hague-Visby Rules or such other Conventions or Rules as the Managers may from time to time approve, the Managers may in their discretion reject any claim or reduce it to the extent that they consider it would have been reduced had the contract of carriage contained exemptions from liability as favourable to the carrier as those contained in the Hague-Visby Rules;
- ii) if the cargo is intended to be or has been carried in an entered ship under a contract of through carriage including transit by land, water or air to or from such ship or storage on land or water, there shall be no recovery unless that contract has first been approved by the Managers and the Member has paid or agreed to pay such additional call or premium as may be required by the Association;
- iii) no claim shall be allowed in respect of loss or damage to specie, bullion, precious or rare metals or stones, plate, jewellery or other objects of a rare or precious nature, bank notes, bonds or other negotiable instruments, unless the contract of carriage and the spaces, apparatus and means used for the carriage and the instructions given for the safe custody thereof have first been approved by the Managers;
- iv) where cargo is carried under an ad valorem bill of lading and the value per unit ( as defined in the Hague-Visby Rules), piece or package has been stated to be in excess of USD 1,500 (or equivalent in any other currency) no claim shall be allowed for more than USD 1,500 per unit, piece or package unless the Member has before shipment,



- a) given notice of such higher valuation to the Managers, and
  - b) agreed to pay such additional premium as the Managers in their discretion may require;
- v) with regard to live animals, no Member shall be entitled to recover from the Association any claim in respect of the carriage thereof, unless the form of contract and the bill of lading, waybill or similar document under which they are to be carried has been approved in writing by the Association before the shipment and, further, unless the spaces, equipment and means used for the carriage and custody of such animals comply with the regulations of the country of the flag of the entered vessel and of the countries of each loading, discharging and intermediate port concerning the safe carriage of such animals;
- vi) the Managers may at any time require to be satisfied as to the suitability of spaces, plant and apparatus used and instructions given for the carriage of cargo in insulated or refrigerated containers owned or leased by the Member in which such cargo is to be carried and the Member shall, upon request and at his own expense, supply the relevant information to the Managers. The Managers may in their discretion withhold or withdraw their approval. If the Managers withhold or withdraw their approval and so notify the Member, such Member shall not be entitled to recover from the Association, in respect of any loss of or damage to such cargo, the carriage of which began after the service of such notice;
- vii) where the cargo carried on an entered ship in respect of which a claim arises belongs to the Member, such Member shall be entitled to recover from the Association and the Association shall have the same rights as if such cargo belonged to a third party but only to the extent that such loss or damage is not recoverable under any other insurance upon the said cargo which in any event shall be deemed to be insured for its full value at the time of shipment on the current form of Lloyd's policy with the Institute Cargo Clauses (A) 1.1.82
- viii) no claim shall be allowed where a Member has become liable in consequence of a deviation unless;
- a) in the case of a deviation authorized by the Member, prior written notice of the intended deviation has been given to the Managers, or
  - b) in the case of deviation without the Member's authority the earliest possible notice has been given to the Managers upon the Member receiving information thereof; and
- in either case the Managers have in their discretion confirmed to the Member that his cover under this Rule continues unprejudiced. Nevertheless, the Managers may allow such a claim either in part or in whole notwithstanding the failure of the Member to give such notice as aforesaid if, in their discretion, they consider that the Member had reasonable grounds for believing that no deviation was to be or had been made.
- NB: If, upon receiving information of the deviation, the Managers advise the Member that his cover under this sub-rule is prejudiced, and if the Member then requests the Managers to arrange a special insurance to cover his liabilities arising out of the deviation and the Managers do obtain such coverage, the cost of such insurance shall be borne entirely by the Member.*
- ix) unless the Managers shall in their discretion otherwise determine, there shall be no recovery in respect of a Member's liability;

- a) for liability, cost or expense arising out of discharge of cargo at a port or place other than the port of place provided in the contract of carriage,
  - b) for liability, cost or expense arising out of the failure to arrive or late arrival of the entered ship at a port of loading or the failure to load any particular cargo or cargoes in an entered ship,
  - c) for liability, cost or expense arising out of the delivery of cargo without the production by the person to whom delivery is made of the relevant negotiable bills of lading, waybills or other negotiable documents duly endorsed to such person,
  - d) for liability, cost or expense arising out of or in respect of issue of a bill of lading, waybill or other negotiable documents recording the shipment or receipt for shipment on a date prior to or subsequent to the date on which the cargo was in fact loaded, shipped or received as the case may be,
  - e) for liability, cost or expense in respect of a bill of lading, waybill or other similar document containing or evidencing the contract of carriage, issued with a description of the cargo or its condition, marks, numbers, weight or measurement which the Master of the entered ship or the Member knew or ought to have known was not correct,
  - f) for liability, cost or expense in respect of delivery of cargo against only one of a set of original negotiable bills of lading, waybills or other negotiable documents carried on the entered ship during all or part of the transport of that cargo on board that ship,
  - g) for liability, cost or expense in respect of any cargo carried on deck unless the bill of lading, waybill or other negotiable document states that the cargo is carried on deck and that the Member is free from liability for all loss or damage or that the liability of the Member is the minimum required by law. This exclusion does not apply to cargo carried in containers which are fully enclosed in steel or aluminium, *NB: as to containers, see proviso (xiii).*
- x) if the liability of the Member arises from the terms of a contract of indemnity between the Member and the owners or operators of cranes or other appliances or craft used during the operations of loading or discharging an entered ship, or persons responsible for the custody of cargo to be loaded in or having been discharged from an entered ship, the Member shall only be entitled to recover if the terms of the contract of indemnity shall first have been approved by the Managers;
- xi) the Member shall be entitled to recover the extra cost (in excess of the cost which would otherwise have been incurred by him under the contract of carriage) of discharging or disposing of damaged or worthless cargo in respect of which the Member may be liable, but only to the extent that such Member is unable to recover in respect thereof against any other party;
- xii) **Steel products**  
the Association will not be liable for claims arising out of the carriage of steel products unless a preloading survey has been carried out at the Member's expense by a surveyor approved by the Association, the bills of lading claused in accordance with surveyor's findings and any recommendations of the surveyor complied with;
- xiii) **Containers not carried under deck**  
unless previously otherwise agreed in writing by the Managers, the Association will not be liable for

claims arising out of the carriage of any container not carried under deck unless such container is fully enclosed in steel or aluminium and is carried in accordance both with the applicable regulations of the International Maritime Organisation and with a lashing plan approved by the Classification Society with which the vessel is classed or by a surveyor appointed by the Association but paid for by the Member;

xiv) **Perishable Cargoes**

the Association will not be liable for claims arising out of the carriage of perishable cargoes unless;

- a) a pre-shipment survey carried out at the Member's expense by a surveyor approved by the Association has determined that cargo is fit for the intended voyage, and
- b) the surveyor has confirmed in writing that the cargo space, ventilation equipment and stowage are fit for the intended carriage, and
- c) the Member complies with all recommendations made by the surveyor in connection with the carriage.

**20. Collision liability to cargo carried in an entered ship**

Liability for loss of or damage to cargo carried in an entered ship arising out of a collision between the entered ship and another ship caused by the fault both of the entered ship and the other ship for which a Member is liable to indemnify the owner or charterer of such other ship, solely by reason of responsibility for such loss or damage being determined in a country where the liability for such loss or damage is joint and several and the 'Both to Blame' Collision Clause is held invalid;

PROVIDED ALWAYS that where such cargo belongs to the Member, such Member shall be entitled to recover from the Association and the Association shall have the same rights as if such cargo belonged to a third party but to the extent only that such loss or damage is not recoverable under any other insurance upon the said cargo which in any event shall be deemed to be insured for its full value at the time of the shipment on the current form of Lloyd's marine policy with the Institute Cargo Clauses (c) 1.1.82 .

**21. Unrecoverable general average contributions**

The proportion of general average expenditure (including salvage) and special charges which the Member is entitled to claim from cargo or from some other party to the maritime adventure but which are not legally recoverable solely by reason of a breach of the contract of carriage;

PROVIDED ALWAYS that:

- i) if such proportion and special charges are not recoverable by reason of deviation, the terms of proviso(viii) of sub-rule 19 of this Rule shall likewise apply to this sub-rule;
- ii) the Managers may in their discretion reject any claim or reduce it to the extent by which they consider it would have been reduced had the contract of carriage contained exemptions from liability as favourable to the carrier as those contained in the Hague-Visby Rules.
- iii) unless previously otherwise agreed in writing by the Managers there shall be no recovery under this rule if the entered ship was at the time of the general average incident more than 10 years old.

## 22. Ship's proportion of general average

Ship's proportion of general average expenditure (including salvage) and sue and labour expenses which are not recoverable under the policies on Hull and Machinery and Excess Liabilities by reason of the value of an entered ship being assessed for contribution to general average or salvage at a sound value in excess of the insured value under such policies;

PROVIDED ALWAYS that if in the opinion of the Managers the amount insured under such policies is less than the proper value, they shall determine the proper value and the Member shall only be entitled to recover the excess of the amount which would have been recoverable under such policies if the ship had been insured at such value.

## 23. Fines

Fines or other penalties in respect of the entered ship imposed by any court, tribunal or authority of competent jurisdiction for:

- a) short or overlanding or over delivery of cargo or for failure to comply with regulations relating to declaration of goods or documentation of the ship or cargo provided that the Member is insured by the Association for cargo liability under sub-rule 19 of Rule 4.
- b) smuggling or for any infringement of any customs law or regulation other than in relation to cargo carried on the entered ship.
- c) breach of immigration laws or regulations.
- d) the accidental escape or discharge of oil or any other substance of the threat thereof provided that the Member is insured for pollution liability by the Association under sub-rule 24 of Rule 4, subject to the applicable limit of liability in respect of oil pollution claims.
- e) Any other act, neglect or default of the Master or member of the crew or other servant or agent of the Member where, in the discretion of the Managers, the liability comes within the scope of the cover afforded by the Association;

PROVIDED ALWAYS that:

- i) there shall be no recovery from the Association of a fine imposed upon a Member for the overloading of an entered ship or for illegal fishing or for the legal costs and expenses in relation thereto;
- ii) there shall be no recovery from the Association under (c) above unless the Member can satisfy the Managers that proper steps were taken to guard against desertions and landing without the permission of the proper authority and in the case of men who are refused permission to land by the United States authorities, unless sufficient watchmen approved by the Association's local representatives have been employed or the men concerned have been taken ashore into police care for safe custody;
- iii) there shall be no recovery under this sub-rule arising out of a Member's liability in respect of supernumeraries;
- iv) there shall be no recovery in respect of infringement or violations of or non compliance with provisions regarding construction, adaptation, equipment and documentation of ships contained in the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the

Protocol of 1987 and as modified or amended by any subsequent legislation, including any modifications or amendments thereto, of any state giving effect to that Convention;

- v) there shall be no recovery from the Association of fines or penalties of whatsoever nature for which a Member may be liable if the Managers consider in their discretion that the Member knew or should reasonably have known that he would become liable or if the Managers in their discretion consider that such fines or penalties arise out of default of the Member, his managers, superintendents or onshore management.

#### **24. Pollution**

The liabilities, losses, damages, costs and expenses set out in paragraphs (a) to (e) below when and to the extent that they are caused by or incurred in consequence of the discharge or escape from the entered ship of oil or any hazardous substance, or the threat of such discharge or escape:

- a) liability for loss, damage or contamination,
- b) any loss, damage or expense which the Member incurs, or for which he is liable, as a party to the International Tanker Owner's Pollution Federation (ITOPF) or any other agreement approved by the Directors, including the cost and expenses incurred by the Member in performing his obligation under such agreements,
- c) the cost of any measures reasonably taken for the purpose of avoiding or minimizing pollution or any resulting loss or damage together with any liability for loss of or damage to property caused by measures so taken,
- d) the cost of any measures reasonably taken to prevent an imminent danger of the discharge or escape from the insured ship of oil or any hazardous substance,
- e) the cost or liabilities incurred as a result of compliance with any order or direction given by any government or authority for the purpose of preventing or reducing pollution or the risk of pollution, provided always that such costs or liabilities are not recoverable under the Hull policies of the entered ship;

PROVIDED ALWAYS that:

- i) if the discharge or escape from the entered ship causes loss, damage or contamination to property belonging wholly or in part to the Member, he shall have the same rights of recovery from the Association as if such property belonged wholly to different owners;
- ii) any claim under this Rule shall without prejudice to any other exception or limitation herein, be subject to the limitation of cover set out in Rule 3.3.

#### **25. Legal Costs of Enquiries**

Legal costs and expenses which a Member incurs in respect of a formal enquiry into a casualty involving the entered ship, but only to the extent that the Managers may in their discretion determine.

#### **26. Risks incidental to shipowning**

Liability, loss or expense incidental to the business of the owning, operating or managing ships which, in the discretion of the Directors, comes within the scope of the cover afforded by the Association. Claims under this

paragraph shall be recoverable to such extent only as the Directors may in their discretion determine; however the Directors may not, except by a unanimous decision, decide that a claim falling within an exception is within the cover.

## **RULE 5**

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### **ENTRY AND NOTICE**

1. Unless otherwise agreed in writing at the time of entry and subject as otherwise provided in these Rules, the insurance shall begin at the time and date stated in the Certificate of Entry and shall continue until noon GMT on 20th February next following.
2. The insurance shall be renewed for the next policy period on the same terms and conditions as those in force for the current policy period unless, at the request of the Member, other terms shall mutually be agreed or unless:
  - a) notice shall have been given in writing by either the Member to the Managers or the Managers to the Member not later than noon GMT on 20th January in the current policy period, that the insurance specified in the notice is to cease is not to be renewed, or
  - b) the Managers shall have given notice not later than noon GMT on 20th January in the current policy period that the terms of the insurance by the Association for the next following policy period are to be changed, in which case the insurance for the next following policy period shall be renewed upon such terms as may be agreed between the Member and the Manager before noon GMT on 20th February immediately following such notice, and if no terms shall by then have been agreed, the insurance shall not be renewed;

PROVIDED ALWAYS that if before 20th December in any year the Managers give notice of an alteration in the Rules and/or a decision of the Directors under General Rule 7.4

The Member shall be deemed to have agreed to and accepted such alteration and/or decision and the insurance shall be renewed for the next policy period, unless by 20th January following, he has given notice to the Managers under (a) of this paragraph.

3. Notwithstanding anything herein contained, the Directors or the Managers may at any time terminate the entry of any ship in the Association by giving seven days notice to the Member.
4. An entered ship shall not be withdrawn from the Association by the Member at any other time or in any other manner except with the written consent of the Managers.
5. The Member shall be under a duty to disclose to the Association all material circumstances in connection with any renewal of this insurance. The duty shall arise 45 days prior to the expiry of the current policy period and shall continue until the Association is irrevocably committed to renew this insurance.

## **RULE 6**

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### **EXCLUSION OF RISKS COVERED BY HULL POLICIES, ETC**

The Association shall not insure the Member to any extent whatsoever against any of the risks and liabilities, costs or expenses against which he would be insured if at the time of the incident giving rise to the said risks, liabilities,

costs or expenses the entered ship had been:

- a) fully insured for its proper value under Hull policies on terms not less wide than those of the current form of Lloyd's Marine Policy with Institute Time Clauses - Hulls 1.10.83 with no deductible, franchise, or self insurance applicable to claims under such policies,
- b) fully insured for its proper value against war risks on terms no less wide than under the Rules of Class III of the Association with the Institute War and Strikes Clauses Hulls - Time 1.11.95 and no deductible, franchise or self insurance.
- c) fully insured against the risks insured by the Association's Class II -Freight, Demurrage and Defence - or by some equally wide insurance with no deductible, franchise or self insurance

## **RULE 7**

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### **ABANDONMENT**

In the event of an entered ship becoming an actual or constructive total loss, the Association shall, subject to the Hull underwriters' rights in the matter, be entitled to require the Member concerned to abandon the ship to the Association or to such other person whatsoever as the Association shall nominate and, if the Member concerned does not abandon the ship having received such a request from the Association, the Association shall not be responsible for any claim that could have been avoided had the Member abandoned the ship as aforesaid and the burden of proving that the claim could not have been avoided by such abandonment shall be upon the Member.

## **RULE 8**

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### **OTHER RISKS EXCLUDED**

1. The Association shall not insure a Member in respect of a ship entered by him against:
  - a) loss of damage to such ship, or loss or damage to any equipment (including but not limited to navigational equipment, tackle, furniture, fittings, lashing and containers) and stores (including but not limited to fuel and lubricating oils) or any other property of whatsoever nature which is not on an entered ship pursuant to a contract of carriage by sea,
  - b) the cost and charges of or in relation in any manner whatsoever to the repair of such ship (except where this forms part of cargo's or ship's proportion of general average expenditure recoverable respectively under sub-rule 21 and 22 of Rule 4),
  - c) loss of freight or hire relating to such ship (except where this forms part of the measure of damages payable by the Member and recoverable under sub-rule 19 of Rule 4)
  - d) salvage of such ship (except life salvage or where salvage forms part of general average expenditure recoverable respectively under sub-rules 10, 21 and 22 of Rule 4).
  - e) Loss arising out of the cancellation of a charter or other engagement of such ship,
  - f) Bad debts or the direct or indirect consequences of insolvency or fraud or financial default of any

person whatsoever including agents,

- g) Demurrage on or detention of or delay to such ship
- h) The cost of forwarding passengers to their destination or returning them to their port of embarkation or of their maintenance ashore consequent upon a casualty to such ship,
  - i) Notwithstanding sub-rule 23 punitive, exemplary or aggravated damages.
  - ii) costs or expenses incurred or payments made in relation to ransom demands, extortion, blackmail, bribery or other unlawful demands.

2. Unless special cover shall have been agreed in writing between a Member and the Managers, the Association shall be under no liability for any claim relating to liability, loss or expense in respect of:
- a) an entered ship which is a salvage tug, fire-fighting ship or other ship used or designed or intended to be used for salvage operations, when the claim arises as a result of or during any salvage operations or attempted salvage operation,
  - b) an entered ship which is used for operations of drilling, core sampling, oil production or gas production, when the claim arises as a result of or during this operation,
  - c) an entered ship which is a dredger, when the claim arises as a result of or during dredging operations,
  - d) an entered ship which is used for the operations of pile driving, pipe or cable laying or blasting, when a claim arises as a result of or during those operations,
  - e) an entered ship which is designed for or involved in operations below the surface of the sea.



# CLASS II

## Freight, Demurrage and Defence

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## **RULE 1**

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### **DEFINITIONS**

In these Rules, the following words and phrases shall have the following meanings unless the context otherwise requires,

#### **Approval**

Approval shall be in discretion of the Directors or Managers (as the case may be).

#### **Cost**

Fees and/or disbursements for advice or representation by lawyers or surveyors (or similar experts independent of the Member) in connection with any actual or threatened or intended dispute or claim.

#### **General Rules**

The General Rules for the time being of the Association.

#### **Proper Value**

The value for which an entered ship should in the opinion of the Managers be insured as determined by the Managers in their discretion. For the purpose of this definition, the Managers are entitled to take account of whether the Hull and Machinery and/or Excess Liability policies of such ship have been the subject of periodic review in the light of market conditions, so that the total amount of liability cover provided by those policies is maintained at all times at a figure which is as near as possible to the equivalent of the free uncommitted market value of the ship, but in no event less than the aggregate of the limits of liability set out in the International Convention relating to the Limitation of Liability of Owners for Marine Claims 1976 and any revisions thereof.

*NB: Members are therefore recommended to confer with their brokers and/or ship valuers in order to assess, in the light of the above, the total amount for which collision liability insurance should be arranged. Provided the necessary insurance is arranged on the basis of the advice received, the Managers will usually give favourable consideration to the insured value being the proper value.*

#### **Rules**

The General Rules and the Class II Rules.

## **RULE 2**

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### **GENERAL**

1. Insurance in this Class is subject to the General Rules and to the Memorandum and Articles of the Association.
2. The contract relating to entry in this Class shall be deemed to be separate from the contract for entry in any other Class, provided that if the Member ceases for any reason to be covered under Class I of the Association either at all or in relation to a particular occurrence, then the coverage under this insurance shall likewise cease.
3. Notes printed in italic script are indicative of current practice but do not form part of the Rules.

## **RULE 3**

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### **RIGHT OF RECOVERY**

If the Member shall become liable for costs as set out in Rules 4 and 5 in respect of a ship which was entered in the Association at the time when the claim giving rise to such costs arose, the Member shall be entitled to recover out of the funds of the Association the amount of such costs to the extent and upon the terms, and subject to the conditions, limits, deductibles and exceptions provided for by the Rules and by the Certificate of Entry;

PROVIDED ALWAYS that:

- a) unless the Managers in their discretion otherwise determine, it shall be a condition precedent of a Member's right to recover from the funds of the Association in respect of any cost that the Member shall have first unconditionally discharged the same in full by payment out of monies belonging to him absolutely and not by way of loan or otherwise;
- b) as to claims and disputes arising under contract (other than those specified in proviso (ii) to this Rule) in tort or under statute, such claims and disputes will be deemed to have arisen at the date when the cause of action accrued;
- c) as to claims and disputes concerning salvage, or in respect of towage services, such claims and disputes will be deemed to have arisen at the date when relevant services commenced;
- d) in no circumstances whatsoever shall the Association be under any obligation to provide bail or security for costs.

## **RULE 4**

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### **COSTS INSURED**

Subject to Rule 3, the Member shall be insured by the Association in respect of the following costs:

1. The cost incurred by a Member with the approval of the Managers for the purpose of obtaining legal or other advice in connection with any of the claims, disputes or proceedings specified in Rule 5.
2. The costs of or incidental to any legal or other proceedings which a Member may take or defend with the approval of the Managers for the purpose of asserting or defending claims specified in Rule 5 including any such costs which the Member may become liable to pay to any other party to those proceedings.
3. The costs of or incidental to any of the legal or other proceedings specified in sub-rules 11 and 12 of Rule 5 to which a Member may be a party or at which he may be represented, with the approval of the Managers, including any such costs which the Member may become liable to pay to any other party to those proceedings.

If the Member shall incur liability or loss as a result of compliance with requirements of the Directors pursuant to Rule 5, sub-rule 4, then he shall be indemnified by Association in respect thereof.

However, as regards costs of claims falling within sub-rule 3 of Rule 5 which are or which are deemed by Rule 7 to be covered by other insurances, then this insurance shall only cover the same proportion of such costs as the part of the claim not so insured or deemed to be insured bears to the total claim.

## RULE 5

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### MATTERS COVERED

Subject to Rules 7 and 8, the cover provided hereunder shall relate solely to the following categories of claims, disputes or proceedings relating to the entered ship:

1. Claims under any charterparty, bill of lading, waybill, contract of affreightment or similar contract relating to the entered ship or to the carriage of goods in or to the trading of the entered ship generally, including but not limited to the exercise or assertion of any rights arising thereunder or generally including but not limited to the right of withdrawal, exercise of a lien, and claims arising therefrom, claims and disputes concerning hire, off-hire, set-off, freight, deadfreight, laytime, demurrage and/or damages for detention, despatch, speed, performance and description of vessel, port safety and orders given to the entered ship.
2. Claims in respect of detention of the entered ship by third parties (including detention consequent from damage to the entered ship) and in respect of interference, neglect, default or any other cause whatsoever involving detention of or loss of or damage to the entered ship by any Department of State, authority, public body or other person or persons whatsoever connected with maritime business;

PROVIDED ALWAYS that the Directors may require a Member to cause the entered ship to remain where she is for the purpose of testing the legality of such detention and if the Member shall comply with any such requirement the Member shall be insured by the Association against any liability incurred to third parties consequent on such compliance and against any actual loss sustained by a Member during a period of such compliance to the extent that such loss is not otherwise recoverable, but not exceeding such sums as the Directors in their sole and absolute discretion may from time to time decide.

3. Claims in respect of supply of inferior or unsatisfactory or unsuitable fuel, materials or equipment, or other necessaries or for negligent repair of or alteration to the entered ship;

PROVIDED ALWAYS that in relation to disputes about fuel quality, the member has subscribed to and used the Fuel Oil Bunker Analysis and Advisory Service or an equivalent scheme for the proper taking of samples of the fuel concerned and for the analysis of such samples.

4. Claims in respect of overcharges in accounts in relation to the entered ship howsoever arising.
5. Claims in respect of the cancellation of a charter party or like contract in respect of the entered ship.
6. Claims in respect of improper loading, lightening, stowage, trimming or discharging of cargo on or from the entered ship.
7. Claims for amounts due under policies of insurance on the entered ship and/or cargo and/or freight thereon;

PROVIDED ALWAYS that there shall be no coverage in respect of claims by or against the Association.

8. Claims in respect of salvage and/or towage services rendered by the entered ship unless the entered ship is entered as a tug or salvage vessel.
9. Representation of the Member at official investigations, Coroners' inquests or other enquiries whatsoever in relation to the entered ship.

10. Claims by or against passengers, stowaways, refugees, masters. Crew and other persons on or about the entered ship.
11. Claims in respect of general and/or particular average contributions or charges.
12. Claims arising in connection with any contract for or the building, conversion, purchase, sale or mortgage of the entered ship;

PROVIDED ALWAYS that:

- i) In respect of the building or conversion of a ship that the vessel has been insured for Builder's Risks at the time when the contract is signed or when the vessel's keel is laid, or equivalent work done, and that the building contract and insurance for Builders' Risks shall have been approved by the Managers at the time of entry;
- ii) in respect of the purchase of a second hand vessel that the entry of that vessel commenced as at the date of signing of such contract.

13. Claims by or against revenue or customs authorities in connection with the entered ship.
14. All such claims and disputes and all cost of legal or other proceedings ( other than those specified in the foregoing paragraphs of this Rule) as the Managers in their discretion decide are within the scope of this Class;

PROVIDED ALWAYS that in relation to any and to all of the matters referred to in sub-rules 1 to 14 of this Rule, the Association shall be under no liability in respect of any legal or other proceedings commenced or defended without the prior written approval of the Managers, the Managers having discretion as to what cases may be taken up, as to the conduct thereof and as to the discontinuance or settlement of cases which have already been taken up with the Association's approval.

If the Managers in their discretion decide that it is not appropriate for a member to be supported by the Association in connection with any claim or dispute or proceedings having regard solely to the cost likely to be incurred in such proceedings as compared with the amount in dispute then the Managers may in their discretion (as an alternative to refusing to support the Member in such proceedings) pay to the Member out of the funds of this Class of the Association the whole or any part of the claim by or against the Member as the Managers may think fit. If such a payment is tendered by the Association, then the liability of the Association in respect of the claim, dispute or proceedings shall thereupon cease.

## **RULE 6**

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### **ENTRY AND NOTICE**

1. Unless otherwise agreed in writing at the time of entry and subject as otherwise provided in the Rules, the insurance shall begin at the time and date stated in the Certificate of Entry and shall continue until noon GMT on 20th February next following.
2. The insurance shall be renewed for the next policy on the same terms and conditions as those in force for the current policy period, unless at the request of a Member other terms shall be agreed or unless:

- a) notice shall have been given in writing by either the Member to the Managers or the Managers to the Member not later than noon GMT 20th January in each year, that the insurance specified in the notice is not to be renewed, or
- b) the Managers shall have given a notice not later than noon GMT on 20th January in the current policy period that the terms of the insurance by the Association for the next following policy period are to be changed in which case the insurance for the next following policy period shall be renewed upon such terms as may be agreed between the Member and the Managers before noon GMT on 20th February immediately following such notice, and if no terms shall by then have been agreed, the insurance shall not be renewed;

PROVIDED ALWAYS that if before 20th December in any year the Managers give notice of an alteration in the Rules of the Association and/or a decision of the Directors under General Rule 7.4, the Member shall be deemed to have agreed to and accepted such alteration and/or decision and the insurance shall be renewed for the next policy period, unless by 20th January following, he had given notice to the Managers under sub-rule 2(a) of this Rule.

3. Notwithstanding anything herein contained, the Directors or the Managers may at any time terminate the insurance of any ship in the Association by giving seven days notice to a Member.
4. An entered ship shall not be withdrawn from the Association by the Member at any other time or in any other manner except with the written consent of the Managers.
5. The Member shall be under a duty to disclose to the Association all material circumstances in connection with any renewal of this insurance. This duty shall arise 45 days prior to the expiry of the current policy period and shall continue until the Association is irrevocably committed to renew this insurance.

## **RULE 7**

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### **EXCLUSION OF RISKS COVERED BY HULL POLICIES ETC**

The Association shall not insure the Member to any extent whatsoever against any costs to the extent that they relate to a loss in respect of which he was insured by any insurer other than the Association, or would have been insured if, at the time of the incident giving rise to the said costs, the entered ship had been:

- a) fully insured for its proper value under Hull policies on terms not less wide than those of the Lloyd's Marine Policy with Institute Time Clause - Hulls, 1.20.83, with no deductible, franchise or self-insurance applicable to claims under such policies,
- b) fully insured for its proper value against war risks on terms not less wide than under the Rules of Class III of the Association with the Institute War and Strike Clauses Hulls - Time 01.11.95, with no deductible, franchise or self-insurance, and
- c) fully insured against risks covered by the Association's Class I - Protection and Indemnity - or by some equally wide insurance.

## **RULE 8**

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### **RISKS SPECIFICALLY EXCLUDED**

Unless the Directors in their discretion otherwise decide, the Member shall not be covered for the costs of asserting or defending any claims or disputes or proceedings in respect of:

- a) a substantial body of shipowners rather than the individual Member, unless all or the majority are entered in the Class
- b) diplomatic action or action by national or international bodies, other than those referred to in Rule 5.4,
- c) liner conferences,
- d) an amount which is less than US\$ 5000.00 (Five Thousand United States Dollars),
- e) a claim which the Managers, in their discretion, conclude is not economically recoverable or has no reasonable prospect of recovery, taking into account, without prejudice to the generality of the foregoing, any legal problems of enforcement and any assets available to satisfy a judgment or award,
- f) a claim which has arisen owing to the want of due diligence of the Member, his managers, superintendents or onshore management in the chartering, control or management of an entered ship,
- g) a claim against the Member which relates to money owed by or damages claimed against that Member and where the Managers in their discretion conclude that there is no justification in the Member's refusal to pay,
- h) a claim where the Member, his managers, superintendents or onshore management knew or ought reasonably to have known that he was in breach of any regulations or agreements, whether relating to safety, navigation, port requirements or contracts of employment or otherwise.

## **RULE 9**

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### **CONDITIONS OF RECOVERY**

No costs shall be recoverable from the Association unless:

- a) they have been incurred with the prior written consent of the Managers, or
- b) they have been incurred by the Association on behalf of the Member in accordance with General rule 19.2 (employment of lawyers and others), or
- c) the Directors in their discretion shall decide that they were reasonably incurred and ought in all the circumstances to be borne by the Association.



## RULE 10

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### GENERAL POWERS OF THE DIRECTORS

1. The Directors shall, subject to the Rules, be entitled in their discretion to decide whether a Member should be supported by the Association in respect of any claims or disputes or proceedings which are set out in Rule 5.
2. Without prejudice to General Rule 19.2 the Directors shall be entitled in their discretion to decide that the Association shall support the Member in connection with any claims, disputes, or proceedings to such state or extent, in such manner and on such terms and conditions as the Directors may think fit, including a term that the Member will not be reimbursed by the Association in respect of any specified amount or proportion of the cost referred to in Rule 4
3. Without prejudice to the General Rule 19.1(g) the Directors shall be entitled, at any time, in their discretion to decide that the Association shall discontinue its support or decline to provide further support in connection with any claims, disputes or proceedings notwithstanding any previous decision by the Director to support the same.
4. If the Member shall incur any costs, in connection with any claims, disputes or proceedings or incur any liability to pay any costs to any other party to such claims disputes or proceedings at a time when the Member has not complied with any terms or conditions imposed by the Managers or Directors, or if a Member shall incur any costs through any neglect or default on his part or that of his servants or agents, then the Member shall not be entitled to recover any such costs from the Association and shall be liable to repay to the Association any cost which the Association may have incurred in connection with such claims, disputes or proceedings;

PROVIDED ALWAYS that the Directors may in their discretion decide that the Association should pay or reimburse the Member in whole or in part in respect of any costs for which the Association would not otherwise be liable under this sub-rule or in respect of the costs of any proceedings to which a Member has been a party or in which he has been represented without the support of the Directors under Rule 4.2 or in respect of any such costs as are referred to in rule 4.3 which a Member may have incurred without the approval of the Directors.

5. When a Member has settled proceedings on terms which result in a net recovery for him which includes costs recoverable from any other party or lacks a provision as to the recovery of costs from the paying party, then in either event, the Member shall make to the Association such payment in respect of costs recovered as the Managers shall in their discretion consider fair.
6. Where a Member has become entitled by judgment, award, agreement, admission or otherwise to recover from any other party in whole or in part the costs of, or incidental to, any proceedings but the Member has been unable to recover the full amount of the claim and costs to which he as become entitled, the Member shall be obliged, if the Directors in their discretion so require, to pay to the Association such proportion of the sum actually recovered by him as the amount of such costs covered by the Association bear to the sum of such claim and costs.

## **RULE 11**

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### **DEDUCTIBLES**

The Member shall bear one fifth of all costs and expenses arising from claims, disputes and proceedings, except for any claims, disputes and proceedings arising in or being pursued in the United States of America, in respect of which the Member shall bear one third of all such costs and expenses. If the Association has paid any costs and expenses that should have been borne by the Member, the Association shall be entitled to recover such costs and expenses from the Member as a debt due from the Member.

# CLASS III

## Hull & Machinery etc, (War Risks)

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## **RULE 1**

---

### **DEFINITIONS**

In these Rules, the following words and phrases shall have the following meanings unless the context otherwise requires.

### **General Rules**

The General Rules for the time being of the Association.

### **Rules**

The General Rules and the Class III Rules.

## **RULE 2**

---

### **GENERAL**

1. Insurance in this Class is subject to the General Rules and to the Memorandum and Articles of the Association.
2. The contract relating to entry in this Class shall be deemed to be separate from the contract for entry in any other Class.

## **RULE 3**

---

### **RIGHT OF RECOVERY**

Subject to the Rules, the Member shall be insured in respect of the entered ship in accordance with the Certificate of Entry concerned.

## **RULE 4**

---

### **CLAIMS**

1. It is a condition precedent to the liability of the Association for any claim in respect of damage to the property of the Member that the claim is lodged with the Association within 12 months of the Member becoming aware of the existence of the damage concerned. If this condition precedent is not complied with, then the liability of the Association in respect of the claim concerned shall be extinguished.
2. Unless otherwise recorded in the Certificate of Entry:
  - a) if this entry is direct insurance, then the Claims Cooperation Clause (A) or (B) appearing in the Annex shall apply, and
  - b) if this entry is reinsurance, then the Claims Control Clause appearing in the Annex shall apply.
3. No other Clause appearing in the Annex shall apply to this insurance unless specifically incorporated herein by the Certificate of Entry.

## **RULE 5**

---

### **LAID UP RETURNS**

There shall be no returns in the event of the vessel being laid up.

## **RULE 6**

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### **ENTRY AND NOTICE**

1. Unless otherwise agreed in writing at the time of entry and subject as otherwise provided in the Rules, the insurance shall begin and end at the time and dates stated in the Certificate of Entry.
2. On expiry, the insurance shall be renewed for a new policy period of one year commencing with the end of the expiring policy period on the same terms and conditions as those in force for the expiring policy period, unless at the request of a Member other terms shall be agreed or unless:
  - a) no less than 30 days' notice shall have been given in writing by either the Member to the Managers or the Managers to the Member that the insurance specified in the notice is not to be renewed, or
  - b) the Managers shall have given no less than 30 days' notice that the terms of the insurance by the Association for the next following policy period are to be changed, in which case the insurance for the next following policy period shall be renewed upon such terms as may be agreed between the Member and the Managers prior to the end of the expiring policy period, and if no terms shall by then have been agreed, the insurance shall not be renewed;

PROVIDED ALWAYS that if the Managers give 60 days' notice of an alteration in the Rules of the Association and/or a decision of the Directors under Rule 7.4 of the General Rules, the Member shall be deemed to have agreed to and accepted such alteration and/or decision and the insurance shall be renewed in accordance with this sub-rule, unless notice has been given in accordance with sub-rule 2 (a) of this Rule.

3. Notwithstanding anything herein contained, the Directors or the Managers may at any time suspend or terminate the insurance of any ship by the Association by giving seven days notice to a Member.
4. An entered ship shall not be withdrawn from the Association at any other time or in any other manner except with the written consent of the Managers.
5. The Member shall be under a duty to disclose to the Association all material circumstances in connection with any renewal of this insurance. The duty shall arise 45 days prior to the expiry of the current policy period and shall continue until the Association is irrevocably committed to renew this insurance.

## **RULE 7**

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### **SUSPENSION OF COVER**

This Rule shall apply notwithstanding any other term of this insurance, including any terms incorporated by reference to standard market clauses:

1. The coverage granted by this insurance may be suspended by the Association giving seven days notice (such suspension becoming effective on the expiry of seven days from midnight of the day on which notice of

suspension is issued by or to the Association). The Association however agrees to reinstate this insurance subject to agreement between the Association and the Member prior to the expiry such notice of suspension as to the new rate of premium and/or condition and /or warranties.

2. Whether or not such notice of cancellation has been given, this insurance shall be suspended automatically:
  - a) on the outbreak of war (whether there be declaration of war or not) between any of the following countries:
    - France,
    - The Russian Federation,
    - The People's Republic of China,
    - The United Kingdom, and
    - The United States of America,
  - b) In the event of the entered ship being requisitioned either for title or use.
3. In the event of automatic suspension of cover, the Association shall be under no obligation to reinstate cover.

## ANNEX

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### CLAIMS CONTROL CLAUSE

Notwithstanding anything herein contained to the contrary, it is a condition precedent to any liability of the Association that:

- a) in the event of any claim being made or threatened against the Member in respect of damage caused by the entered ship, the Member shall give immediate notice thereof to the Association and the Member shall not agree to or make any settlement of any such claim without the written consent of the Association, and
- b) in the event of damage being suffered by the entered ship, the Member shall give immediate notice thereof to the Managers, and the Member shall not agree to settle any resulting claim without the prior consent of the Association.

### CLAIMS CO-OPERATION CLAUSE (A)

1. The Member shall, upon knowledge of any loss or circumstances which may give rise to a claim under this coverage, advise the Association as soon as practicable.
2. The Member shall arrange for the Association to be furnished with all information available in respect of such loss or losses and shall co-operate with the Association in the adjustment and settlement thereof.

### CLAIMS CO-OPERATION CLAUSE (B)

1. The Member shall, upon knowledge of any circumstances which may give rise to a claim under this coverage, advise the Association as soon as practicable.
2. The Member shall arrange for the Association to be furnished with all information available in respect of such loss or losses particularly, but not limited to, all survey advices and reports and any other technical reports commissioned by the Leading Underwriters, by whose decisions and settlements (excluding "ex-gratia" settlements) the Association has agreed to be bound.



# CLASS IV

## Hull & Machinery etc, (Marine Risks)

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## **RULE 1**

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### **DEFINITIONS**

In these Rules, the following words and phrases shall have the following meanings unless the context otherwise requires.

### **General Rules**

The General Rules for the time being of the Association.

### **Rules**

The General Rules and the Class IV Rules.

## **RULE 2**

---

### **GENERAL**

1. Insurance in this Class is subject to the General Rules and to the Memorandum and Articles of the Association.
2. The contract relating to entry in this Class shall be deemed to be separate from the contract for entry in any other Class.

## **RULE 3**

---

### **RIGHT OF RECOVERY**

Subject to the Rules, the Member shall be insured in respect of the entered ship in accordance with the Certificate of Entry concerned.

## **RULE 4**

---

### **CLAIMS**

1. It is a condition precedent to the liability of the Association for any claim in respect of damage to the property of the Member that the claim is lodged with the Association within 12 months of the Member becoming aware of the existence of the damage concerned. If this condition precedent is not complied with, then the liability of the Association in respect of the claim concerned shall be extinguished.
2. Unless otherwise recorded in the Certificate of Entry:
  - a) if this entry is direct insurance, then the Claims Co-operation Clause (A) or (B) appearing in the Annex shall apply, and
  - b) if this entry is reinsurance, then the Claims Control Clause appearing in the Annex shall apply.
3. No other Clause appearing in the Annex shall apply to this insurance unless specifically incorporated herein by the Certificate of Entry.

## **RULE 5**

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### **LAID UP RETURNS**

Unless otherwise agreed, laid up returns (if any) will be made in accordance with Clause 23 of the Institute Time Clauses - Hulls 1.11.95 and the Joint Hull Committee Scale of Returns applicable to risks written after 1st November 1975.

## **RULE 6**

---

### **ENTRY AND NOTICE**

1. Unless otherwise agreed in writing at the time of entry and subject as otherwise provided in the Rules, the insurance shall begin and end at the time and dates stated in the Certificate of Entry.
2. On expiry, the insurance shall renew for a new policy period of one year commencing with the end of the expiring policy period on the same terms and conditions as those in force for the expiring policy period, unless at the request of a Member other terms shall be agreed or unless:
  - a) no less than 30 days' notice shall have been given in writing by either the Member to the Managers or the Managers to the Member that the insurance specified in the notice is not to be renewed, or
  - b) the Managers shall have given no less than 30 days' notice that the terms of the insurance by the Association for the next following policy period are to be changed, in which case the insurance for the next following policy period shall be renewed upon such terms as may be agreed between the Member and the Managers prior to the end of the expiring policy period, and if no terms shall by then have been agreed, the insurance shall not be renewed;

PROVIDED ALWAYS that if the Managers give 60 days' notice of an alteration in the Rules of the Association and/or a decision of the Directors under Rule 7.4 of the General Rules, the Member shall be deemed to have agreed to and accepted such alteration and/or decision and the insurance shall be renewed in accordance with this sub-rule, unless notice has been given in accordance with sub-rule 2 (a) of this Rule.

3. Notwithstanding anything herein contained, the Directors or the Managers may at any time suspend or terminate the insurance of any ship by the Association by giving seven days notice to a Member.
4. An entered ship shall not be withdrawn from the Association at any other time or in any other manner except with the written consent of the Managers.
5. The Member shall be under a duty to disclose to the Association all material circumstances in connection with any renewal of this insurance. The duty shall arise 45 days prior to the expiry of the current policy period and shall continue until the Association is irrevocably committed to renew this insurance.

## ANNEX

---

### CLAIMS CONTROL CLAUSE

Notwithstanding anything herein contained to the contrary it is condition precedent to any liability of the Association that:

- a) in the event of any claim being made or threatened against the Member in respect of damage caused by the entered ship, the Member shall give immediate notice thereof to the Association and the Member shall not agree to or make any settlement of any such claim without the written consent of the Association, and
- b) in the event of damage being suffered by the entered ship, the Member shall give immediate notice thereof to the Managers, and the Member shall not agree to settle any resulting claim without the prior consent of the Association.

### CLAIMS CO-OPERATION CLAUSE (A)

1. The Member shall, upon knowledge of any loss or circumstances which may give rise to a claim under this coverage, advise the Association as soon as practicable.
2. The Member shall arrange for the Association to be furnished with all information available in respect of such loss or losses and shall co-operate with the Association in the adjustment and settlement thereof.

### CLAIMS CO-OPERATION CLAUSE (B)

1. The Member shall, upon knowledge of any circumstances which may give rise to a claim under this coverage, advise the Association as soon as practicable.
2. The Member shall arrange for the Association to be furnished with all information available in respect of such loss or losses particularly, but not limited to, all survey advices and reports and any other technical reports commissioned by the Leading Underwriters, by whose decisions and settlements (excluding "ex-gratia" settlements) the Association has agreed to be bound.

# CLASS V

## Small Craft Hull & Machinery etc, (Marine Risks)

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## **RULE 1**

---

### **DEFINITIONS**

In these Rules, the following words and phrases shall have the following meanings unless the context otherwise requires.

### **General Rules**

The General Rules for the time being of the Association.

### **Rules**

The General Rules and the Class V Rules.

## **RULE 2**

---

### **GENERAL**

1. Insurance in this Class is subject to the General Rules and to the Memorandum and Articles of the Association.
2. The contract relating to entry in this Class shall be deemed to be separate from the contract for entry in any other Class.

## **RULE 3**

---

### **RIGHT OF RECOVERY**

Subject to the Rules, the Member shall be insured in respect of the entered ship in accordance with the Certificate of Entry concerned.

## **RULE 4**

---

### **CLAIMS**

It is a condition precedent to the liability of the Association for any claim in respect of damage to the property of the Member that the claim is lodged with the Association within 12 months of the Member becoming aware of the existence of the damage concerned. If this condition precedent is not complied with, then the liability of the Association in respect of the claim concerned shall be extinguished.

## **RULE 5**

---

### **LAID UP RETURNS**

Unless otherwise agreed, laid up returns (if any) will be made in accordance with Clause 23 of the Institute Time Clauses - Hulls 1.11.95 and the Joint Hull Committee Scale of Returns applicable to risks written after 1st November 1975.



## **RULE 6**

---

### **ENTRY AND NOTICE**

1. Unless otherwise agreed in writing at the time of entry and subject as otherwise provided in the Rules, the insurance shall begin and end at the time and dates stated in the Certificate of Entry.
2. On expiry, the insurance shall be renewed for a new policy period of one year commencing with the end of the expiring policy period on the same terms and conditions as those in force for the expiring policy period, unless at the request of a Member other terms shall be agreed or unless:
  - a) no less than 30 days' notice shall have been given in writing by either the Member to the Managers or the Managers to the Member that the insurance specified in the notice is not to be renewed, or
  - b) the Managers shall have given no less than 30 days' notice that the terms of the insurance by the Association for the next following policy period are to be changed, in which case the insurance for the next following policy period shall be renewed upon such terms as may be agreed between the Member and the Managers prior to the end of the expiring policy period, and if no terms shall by then have been agreed, the insurance shall not be renewed;

PROVIDED ALWAYS that if the Managers give 60 days' notice of an alteration in the rules of the Association and/or a decision of the Directors under Rule 7.4 of the General rules, the Member shall be deemed to have agreed to and accepted such alteration and/or decision and the insurance shall be renewed in accordance with this sub-rule, unless notice has been given in accordance with sub-rule 2(a) of this Rule.

3. Notwithstanding anything herein contained, the Directors or the Managers may at any time suspend or terminate the insurance of any ship by the Association by giving seven days notice to a Member.
4. An entered ship shall not be withdrawn from the Association at any other time or in any other manner except with the written consent of the Managers.
5. The Member shall be under a duty to disclose to the Association all material circumstances in connection with any renewal of this insurance. The duty shall arise 45 days prior to the expiry of the current policy period and shall continue until the Association is irrevocably committed to renew this insurance.

## **ANNEX**

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### **CLAIMS CONTROL CAUSE**

Notwithstanding anything herein contained to the contrary, it is condition precedent to any liability of the Association that:

- a) in the event of any claim being made or threatened against the Member in respect of damage caused by the entered ship, the Member shall give immediate notice thereof to the Association and the Member shall not agree to or make any settlement of any such claim without the written consent of the Association, and
- b) in the event of damage being suffered by the entered ship, the Member shall give immediate notice thereof to the Managers, and the Member shall not agree to settle any resulting claim without the prior consent of the Association.

### **CLAIMS CO-OPERATION CLAUSE (A)**

1. The Member shall, upon knowledge of any loss or circumstances which may give rise to a claim under this coverage, advise the Association as soon as practicable.
2. The Member shall arrange for the Association to be furnished with all information available in respect of such loss or losses and shall co-operate with the Association in the adjustment and settlement thereof.

### **CLAIMS CO-OPERATION CLAUSE (B)**

1. The Member shall, upon knowledge of any circumstances which may give rise to a claim under this coverage, advise the Association as soon as practicable.
2. The Member shall arrange for the Association to be furnished with all information available in respect of such loss or losses particularly, but not limited to, all survey advices and reports and any other technical reports commissioned by the Leading Underwriters, by whose decisions and settlements (excluding "ex-gratia" settlements) the Association has agreed to be bound.

# CLASS VI

## Charterers' Liability

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## **RULE 1**

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### **DEFINITIONS**

In these Rules, the following words and phrases shall have the following meanings unless the context otherwise requires.

#### **Association**

Maritime Mutual Insurance Association (NZ) Limited, a company incorporated in New Zealand.

#### **Carrying Unit**

Any device or receptacle in or on which cargo is carried including, without prejudice to the generality of the foregoing, any container, trailer, flat, tank or similar receptacle which is owned or leased by a Member and which is either intended to be or is or has been carried on an entered ship or in respect of which the Member has entered into a contract of through carriage.

#### **Chartered Ship**

The entered ship named as the chartered ship in the Certificate of Entry, including also property on the entered ship that belongs to the owner of the entered ship.

#### **Container**

Containers constructed in accordance with the recommendations of the International Standards Organisation and complying with the requirements of the International Convention for Safe Containers, 1972, as amended.

#### **Customary Towing**

Towing for the purpose of entering or leaving port or manoeuvring within the port during the ordinary course of trading and/or the towing of such entered ships (e.g. barges) as are habitually towed in the ordinary course of their trading from port to port or from place to place and have been declared as such in writing to the Managers.

#### **Deviation**

A departure from the contractually agreed voyage or adventure which deprives the Member of the right to rely on a defence, exemption to right to limitation which would otherwise have been available to him.

#### **General Rules**

The General Rules for the time being of the Association.

#### **The Hague-Visby Rules**

The International Convention for the Unification of Certain Rules Relating to Bills of Lading signed at Brussels on 25th August 1924 as amended by the Protocol to that Convention signed at Brussels on 23rd February 1968.

#### **Master**

The Master of an entered ship or the substitute for or the replacement of such Master engaged under a written contract of employment or contract of service to serve on board the entered ship concerned.

#### **Member of The Crew**

Any person (including apprentices but excepting the Master and any persons engaged only for nominal pay) engaged under a written contract of employment or contract of service to serve on board the entered ship concerned including a substitute for such person and also such persons whilst proceeding to or from such ship.

### **Passenger**

A person carried on board an entered ship by virtue of holding a passenger ticket.

### **Personal Effects**

Clothes, documents, navigational or other technical instruments and tools but excluding cash, valuables or any articles which in the opinion of the Managers are not an essential requirement for the Master or a member of the crew as the case may be.

### **The Rules**

The General Rules and the Class VI Rules.

### **Supernumerary**

A relative of the Master or of a member of the crew, or any other person whom a Member has agreed to maintain or carry on board an entered ship (except a passenger) including persons engaged under a contract of employment or contract of service for nominal pay.

## **RULE 2**

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### **INTRODUCTORY**

1. Insurance in this Class is subject to the Rules and to the Memorandum and Articles of the Association.
2. The contract relating to entry in this Class shall be deemed to be separate from the contract for entry in any other Class.
3. Notes printed in italic script are indicative of current practice, but do not form part of the Rules.

## **RULE 3**

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### **GENERAL**

#### **1. Right of recovery**

If the Member shall, in respect of risks set out in Rule 4, incur any liability, loss or expense in respect of the chartered ship arising from a casualty or event occurring during the policy period, the Member shall be entitled to recover out of the funds of the Association the amount of such liability, loss or expense in accordance with the Rules and Certificate of Entry in respect of such chartered ship;

PROVIDED ALWAYS THAT:

- a) unless the Directors in their discretion otherwise determine, it shall be a condition precedent of a Member's right to recover from the funds of the Association in respect of any such damages, liability, loss or expense that shall first have unconditionally discharged the same in full by payment out of monies belonging to him absolutely and not by way of loan or otherwise; and
- b) the liability of the Association shall be subject to the Certificate of Entry and subject to the Rules,
- c) the limit of liability specified in the Certificate of Entry shall be inclusive of legal costs and expenses and, notwithstanding s.78(1) of the Marine Insurance Act, 1906, inclusive of costs and expenses of suing and labouring,

- d) no legal costs or expenses or costs or expenses of suing and labouring shall be recoverable unless either they have been incurred with the prior consent in writing of the Managers or the Managers have determined in their discretion that such costs and expenses were reasonably incurred.

## **2. Limitation of liability**

- a) Subject to the Rules and to any special terms and conditions upon which and limits and deductibles subject to which a ship may entered, the liability of the Association shall in no circumstance exceed the liability of the Member ( less any applicable deductible) in respect of a chartered ship as this liability may or would ultimately be determined and fixed by law, including any laws pertaining to limitation of shipowner's liability. The Association shall in no circumstance be liable for any sum in excess thereof,
- b) The Member shall be deemed to be entitled to all the limitations of liability which would apply if he were the registered owner of the ship and were entitled to limit liability. Any amount recoverable from the Association shall be limited accordingly unless the Association shall before entry have agreed to an increase in the Association's liability and such agreement is recorded in Certificate of Entry.

## **3. Oil pollution limitation**

- a) Subject to (b) and (c) below, the Association's liability for any and all claims in respect of damage directly or indirectly caused or threatened by oil pollution shall be limited in the aggregate to such amount as may be stated on the Certificate of Entry. The Directors may, in their discretion, impose special terms and conditions on the insurance of damage caused or threatened by oil pollution,
- b) unless the Directors shall in their discretion otherwise decide, the limit of the Association's liability shall apply irrespective of whether the accident or occurrence involves the actual or threatened escape of oil from one or more ships and to all claims brought by the Member or joint Members in respect of the chartered ship in respect of such accident or occurrence. If the aggregate of such claims exceeds that limit, the liability of the Association for each claim shall be such proportion of the oil pollution limit as each such claim bears to the aggregate of all such claims.
- c) Unless the Directors shall in their discretion otherwise decide, if the chartered ship provides salvage or other assistance to another ship following a casualty, a claim by the Member who entered the entered ship in respect of oil pollution arising out of the salvage, the assistance or the casualty shall be aggregated with any liability or cost incurred in respect of oil pollution by any other entered ship similarly engaged in connection with the same casualty when such other ships are insured by the Association in respect of oil pollution. In this circumstance the limit of the liability of the Association to the Member who entered the chartered ship shall be such proportion of the greater oil pollution limit as the claim of that Members bears to the aggregate of all such claims insured by the Association which arise directly or indirectly out of the casualty.

## **4. Want of due diligence**

If liabilities, losses, or expenses are incurred as a result of want of due diligence by the Member, his managers, superintendents or onshore management, then the Directors may, in their discretion, reduce the liability of the Association to the Member to extent that such want of due diligence has, in their opinion, caused the liabilities, losses or expenses concerned.

## RULE 4

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### RISKS COVERED

Subject to the Rules and to the Certificate of Entry, the risks covered by the Association are the risks set out in sub rules 1 to 27 of this Rule, in respect of the liability, loss or expenses (as the case may be ) and legal costs of the Member relating thereto by reason of his interest in the chartered ship;

PROVIDED ALWAYS that:

- a) the Member is only insured to the extent that he has paid and discharged the liability or paid the loss or expense concerned, except to the extent that the Directors in their discretion shall decide otherwise; and
- b) the Member is only insured to the extent that he:
  - i) is liable under the terms of the charterparty under which he chartered in or chartered out the chartered ship, and
  - ii) would also be liable under the terms of the corresponding unamended form of charterparty currently approved by the Baltic and International Maritime Conference (BIMCO).

### 1. Loss of life, personal injury and illness

Damages, compensation, wages, maintenance, hospital, medical and funeral expenses for which a Member may be liable arising out of loss life, personal injury or illness of:

- a) the Master or a member of the crew,
- b) a supernumerary employed by the Member
- c) any person on board any other ship,
- d) any other person;

PROVIDED ALWAYS that:

- i) insofar as it relates to a member of the crew or the Master, nothing shall be recoverable if the liability arises pursuant to the terms of a contract of employment or contract of service or crew agreement and would not have arisen but for those terms, unless the said contract or agreement has been previously approved by the Managers in writing;
- ii) nothing shall be recoverable if the liability relates to a person other than a member of crew or Master unless it arises out of any negligent act or omission on board or in relation to the handling of cargo from the time of receipt of that cargo from the shipper or pre-carrier at the port of shipment until delivery of that cargo to the consignee or onward carrier at the port of discharge;
- iii) there shall be no recovery under this paragraph arising out of a Member's liability under a contract of indemnity between the Member and a third party;
- iv) there shall be no recovery under this sub-rule arising out of a Member's liability to supernumeraries or to passengers;



- v) there shall be no recovery in respect of losses directly or indirectly caused by human immunodeficiency virus or similar diseases or in respect of any sexually transmitted disease.
- vi) there shall be no recovery in respect of death by natural causes or pre-existing medical conditions.

## 2. Ancillary expenses

The cost to a Member of putting in to or remaining in port solely in circumstances which do or would entitle the Member to recovery under sub-rule 1 of this Rule but confined to port charges and the net loss to the Member in respect of bunkers, insurance, wages or crew, stores and provisions necessarily incurred as a result of the change of itinerary while securing medical attention or awaiting a substitute.

## 3. Passengers

Liability which a Member incurs arising out of:

- a) loss of life, personal injury or illness of a passenger (including medical, hospital, repatriation and funeral expenses) which also arises out of any act, neglect, or default of the Master and/or crew on board or in relation to the chartered ship,
- b) loss of or damage to passengers' baggage and personal possessions,
- c) ancillary expenses as specified in Rule 4.2 necessarily incurred in landing an injured or sick passenger;

PROVIDED ALWAYS that:

- i) the passenger ticket or the contract of passage shall relieve the Member of liability to the maximum extent permitted by the appropriate law;  
  
*N.B. Members are required, prior to inception, to submit specimen copies of their passenger conditions to the Managers to ensure that Members are properly protected and to permit the latter to impose any additional calls or premium if less protective terms are accepted by the Association.*
- ii) save at the discretion of the Managers no liability shall attach to the Association for any payments made by the Member in excess of his legal liability; and on demand by the Managers the Member shall be bound to prosecute and enforce any right of recovery he may have against the passenger;
- iii) there shall be no recovery from the Association in respect of claims relating to cash, negotiable instruments, precious or rare metals or stones, valuables or objects of a rare or precious nature;
- iv) there shall be no recovery in relation to any liabilities whatsoever incurred by the Member arising out of travel by air;
- v) no cover shall be provided by the Association in respect of any breach of immigration or health regulations whether such breach arises from the fault of the passenger or otherwise.

## 4. Supernumeraries

Liability which a Member incurs to or in respect of a supernumerary under any of the sub-rules of these Rules as if such supernumerary was a member of the crew;

PROVIDED ALWAYS that in all cases, including in respect of relatives of the Master or of a member of the crew, the Managers shall have given their prior written approval of the presence on board of a supernumerary and the terms and conditions on which he is carried and the Member has paid or had agreed to pay such additional class

or premium as may be required by the Association.

### **5. Repatriation**

- a) Repatriation expenses which are not recoverable under sub-rule 1 of this Rule and are incurred under statutory obligation or contract of employment or contract of service or crew agreement approved by the Managers in respect of the Master or a member of the crew, and
- b) expenses which are necessarily incurred by a Member in discharging his statutory obligations towards or making necessary arrangement for stowaways or refugees or for the Master or members of the crew who desert or go on strike;

PROVIDED ALWAYS that:

- i) there shall be recovery when the expenses result from the termination of a contract of employment or contract of service following the expiry of notice given in accordance with the terms of the relevant contract or termination as result of discharge by mutual consent or breach by the Member of any such contract or from any other discretionary act of the Member or from the sale of the chartered ship;
- ii) the Member shall take or has taken all appropriate steps permitted by law to recover such expenses from the Master, member of the crew, deserter, stowaway, refugee or from any other person, insurer or from any national or international bodies or organizations concerned with such persons.

### **6. Substitutes**

Expenses necessarily incurred in sending a substitute or engaging and subsequently repatriating a substitute to replace the Master, supernumerary employed by the Member, or a member of the crew who shall have died or been left behind in consequence of illness, injury, desertion or any other cause where in the sole discretion of the Managers liability for such expenses could not reasonably have been avoided;

PROVIDED ALWAYS that:

- i) there shall be no recovery when the engagement of the substitute is necessitated by the termination of a contract of employment or contract of service following the expiry of notice given in accordance with that contract or by mutual consent or by breach by the Member or resulting from any other discretionary act of the Member;
- ii) wages shall be only recoverable as part of the said expenses when payable to a substitute engaged abroad awhile awaiting or during repatriation.

### **7. Shipwreck unemployment indemnity**

Liability to indemnify the Owner or Disponent Owner of the chartered ship in respect of wages payable to the Master or a member of the crew during unemployment in consequence of the wreck or total loss of an chartered ship, and other payments made to or in respect of such persons in consequence of the wreck or total loss, under statutory obligation.

### **8. Loss of personal effects**

Compensation for which the Member is liable in respect of loss of or damage to personal effects of the Master, a supernumerary employed by the Member or a member of the crew, on board a chartered ship;

PROVIDED ALWAYS that no payment shall be made for theft or pilferage of crew's personal effects.

### **9. Distressed seamen**

Compensation that the Member is liable to pay in respect of distressed seamen, where such expenses are not recoverable under any other sub-rule of this Rule, except those ensuing upon the termination of a contract of employment or contract of service in accordance with the terms thereof or by mutual consent or by breach by the Member or resulting from any other discretionary act of the Member or from the sale of the chartered ship.

### **10. Life salvage**

*Not covered.*

### **11. Collision liability**

Liability that the member incurs to pay to any other person by way of damages for loss of or damage to any other ship or to cargo or other property on board such ship, or delay or loss of use of such ship or to cargo on such ship caused by collision with the chartered ship.

### **12. Damage to property**

Liability which a Member incurs for loss of or damage (including infringement of rights) caused to any harbour, dock, pier, jetty, land, or anything whatsoever moveable or immovable not being another ship or cargo or other property therein or cargo carried in an chartered ship;

PROVIDED ALWAYS that:

- i) there shall be recovery under this sub-rule of expenditure arising out of a Member's liability under a contract of indemnity between a Member and a third party;  
*NB: see sub-rule 17 of this Rule*
- ii) if the loss, damage or expense relates to any property belonging to the Member, such Member shall be entitled to recover from the Association, and the Association shall have the same rights as if such property belonged to a third party, but only to the extent that such loss, damage or expense is not recoverable under any other insurance upon the said property.

### **13. Non-contact damage**

Liability which a Member incurs:

- a) for loss of or physical damage to any other ship or cargo or other property therein caused by the wash of the chartered ship;

PROVIDED ALWAYS that if the loss or damage relates to any ship or cargo or other property therein belonging to the Member, such Member shall be entitled to recover from the Association and the Association shall have the same rights as if such ship or cargo or other property belonged to a third party, but to the extent only that such loss or damage is not recoverable under any other insurance upon the said ship, cargo or other property.

- b) for delay caused to any other ship solely by reason of the chartered ship causing an obstruction to a navigable waterway or berth

#### 14. Removal of wreck

- a) Liabilities, losses or expenses relating to the raising, removal, destruction, lighting or marking of the wreck of a chartered ship when such raising, removal, destruction, lighting or marking is compulsory by law or the expenses thereof are legally recoverable from the Member;

PROVIDED ALWAYS that:

- i) the value of the vessel itself and any stores or materials saved and the value of all cargo or other property saved to which the Member is entitled and salvage remuneration received by the Member and any amounts obtained from third parties shall be deducted from such costs or expenses and only the balance thereof, if any, shall be recoverable,
  - ii) nothing shall be recoverable from the Association if the Member shall, without the consent in writing of the Directors, have transferred his interest in the wreck (otherwise than by abandonment to Hull Underwriters), prior to the raising, removal, destruction, lighting or marking of the wreck,
  - iii) nothing shall be recoverable from the Association in respect of lighting or marking of a wreck beyond a maximum period of two years beginning with the date of the event giving rise to wreck,
- b) Liability which a Member incurs in respect of the raising, removal, destruction, lighting or marking of the wreck of another ship to extent that the sinking of the ship is held to be the Member's fault; PROVIDED ALWAYS that nothing shall be recoverable from the Association in respect of lighting or marking of a wreck beyond a maximum period of two years beginning with the date of the event giving rise to wreck.

#### 15. Towage of a chartered ship

Liability which a Member incurs under the terms of a contract for:

- a) the customary towage of a chartered ship;

PROVIDED ALWAYS that the Managers may reject or reduce a claim arising out of such a contract if they decide, in their discretion, that it was unreasonable having regard to all the circumstances to have arranged for the towage to be performed or to have agreed to the terms of the contract or if in their discretion they decide that the contract of towage ought reasonably have provided that the relevant risks and liabilities did not fall upon the Owner of the towed vessel,

- b) any other towage of a chartered ship;

PROVIDED ALWAYS that there shall be no recovery unless

- i) the terms of the contract have been approved in writing by the Managers prior to the commencement of the tow giving rise to such liability; a
  - ii) the Member has paid or agreed to pay such additional call or premium as may be required by the Association.

### 16. Towage by a chartered ship

Liability which a Member incurs to pay damages under the terms of contract for the towage of another ship by the chartered ship;

PROVIDED ALWAYS that:

- i) a chartered ship specially designed or converted for the purpose of towage has been declared as such to the Managers at the time of entry or at the time of conversion for the purpose of towage; and
- ii) the Managers in their discretion, having regard to all the circumstances:
  - a) consider the terms of the towage contract as reasonable and the liability as coming within the scope of the cover afforded by the Association, and
  - b) the Member has paid or agreed to pay such additional call or premium as may be required by the Association, and
- iii) unless the Managers shall otherwise agree in writing prior to the commencement of the tow giving rise to the liability, a Member shall not be entitled to be reimbursed by the Association in respect of the liability to the owners of the tow or its cargo or other property carried thereon arising out of loss of, damage to or wreck removal of the tow, its cargo or other property carried thereon.

### 17. Contracts of indemnity

Liability which a Member incurs, including liability for loss of life or personal injury but excluding liability for any cargo intended to be or being or having been carried in a chartered ship, under a contract of indemnity between the Member and:

- a) stevedores or others employed in relation to the handling of the cargo of the entered ship,
- b) the owners or operators of cranes or other appliances or craft used during the operations of loading or discharging the chartered ship,
- c) the owners or operators of harbours, docks, dry docks or canals,
- d) any other person if in their discretion the Managers consider that liability comes within the scope of the cover afforded by the Association:

PROVIDED ALWAYS that:

- i) the terms of the contract of indemnity shall first have been approved in writing by the Managers; and
- ii) the Member has paid or agreed to pay such additional call premium as may be required by the Association.

### 18. Quarantine

Additional expenses incurred in direct consequence of an outbreak of infectious disease on board, for disinfection of a chartered ship or cargo or persons on board such ship, or in respect of quarantine;

PROVIDED ALWAYS that:

- i) such additional expenses shall be in relation to and limited to bunkers, insurances, wages of seamen, victualling, stores and port charges but only to the extent that such additional expenses incurred during any period of detention while in quarantine exceed such expenses as would otherwise have been incurred;
- ii) in the case of a chartered ship being ordered or sub-chartered to proceed to a port where it is known, or ought reasonably to be known by the Member, his managers, superintendents or onshore management, that such a ship will as a result be subjected to quarantine there or elsewhere, there shall be no recovery of expenses arising out of or in consequence upon her having been at such port.

### 19. Loss of or damage to cargo

Liability which the Member incurs under the charterparty to his disponent owner for damage to or loss or shortage of or responsibility in respect of cargo intended to be or being or having been carried on a chartered ship, arising out of breach by a Member (or by persons for whose acts, neglects or defaults the Member is liable) of the Member's obligation or duty as a carrier, or as charterer;

PROVIDED ALWAYS that:

- i) if a Member enters into a contract of carriage by sea (other than a contract of through carriage) when the Member knows or ought to know it contains exemptions from liability less favourable to the carrier than the provisions of the Hague-Visby Rules or such other Conventions or Rules as the Managers may from time to time approve, the Managers may in their discretion reject any claim or reduce it to the extent that they consider it would have been reduced had the contract of carriage contained exemptions from liability as favourable to the carrier as those contained in the Hague-Visby Rules;
- ii) if the cargo is intended to be, or has been carried on a chartered ship under a contract of through carriage including transit by land, water or air to or from such ship or storage on land or water, there shall be no recovery unless that contract has first been approved by the Managers and the Member has paid or agreed to pay such additional call or premium as may be required by the Association;
- iii) no claim shall be allowed in respect of loss or damage to specie, bullion, precious or rare metals or stones, plate, jewellery or other objects of a rare or precious nature, bank notes, bonds or other negotiable instruments, unless the contract of carriage and the spaces, apparatus and means used for the carriage and the instructions given for the safe custody thereof have first been approved by the Managers;
- iv) where cargo is carried under an ad valorem bill of lading and the value per unit ( as defined in the Hague-Visby Rules), piece or package has been stated to be in excess of USD 1,500 (or equivalent in any other currency) no claim shall be allowed for more than USD 1,500 per unit, piece or package unless the Member has before shipment,
  - a) given notice of such higher valuation to the Managers, and
  - b) agreed to pay such additional premium as the Managers in their discretion may require;
- v) with regard to live animals, no Member shall be entitled to recover from the Association any claim in respect of the carriage thereof, unless the form of contract and the bill of lading, waybill or similar

document under which they are to be carried has been approved in writing by the Association before the shipment and, further, unless the spaces, equipment and means used for the carriage and custody of such animals comply with the regulations of the country of the flag of the entered vessel and of the countries of each loading, discharging and intermediate port concerning the safe carriage of such animals;

- vi) the Managers may at any time require to be satisfied as to the suitability of spaces, plant and apparatus used and instructions given for the carriage of cargo in insulated or refrigerated containers owned or leased by the Member in which such cargo is to be carried and the Member shall, upon request and at his own expense, supply the relevant information to the Managers. The Managers may in their discretion withhold or withdraw their approval. If the Managers withhold or withdraw their approval and so notify the Member, such Member shall not be entitled to recover from the Association, in respect of any loss of or damage to such cargo the carriage of which began after the service of such notice;
- vii) where the cargo in a chartered ship in respect of which a claim arises belongs to the Member, such Member shall be entitled to recover from the Association and the Association shall have the same rights as if such cargo belonged to a third party but to the extent only that such loss or damage is not recoverable under any other insurance upon the said cargo which in any event shall be deemed to be insured for its full value at the time of shipment on the current form of Lloyd's policy with the Institute Cargo Clauses (C) 1.1.82.
- viii) no claim shall be allowed where a Member has become liable in consequences of a deviation unless;
  - a) in the case of a deviation authorized by the Member, prior written notice of the intended deviation has been given to the Managers, or
  - b) in the case of deviation without the Member's authority the earliest possible notice has been given to the Managers upon the Member receiving information thereof; and

in either case the Managers have in their discretion confirmed to the Member that his cover under this Rule continues unprejudiced.

Nevertheless, the Managers may allow such a claim either in part or in whole notwithstanding the failure of the Member to give such notice as aforesaid if, in their discretion, they consider that the Member had reasonable grounds for believing that no deviation was to be or had been made.

*NB: If, upon receiving information of the deviation, the Managers advise the Member that his cover under this sub-rule is prejudiced, and if the Member then requests the Managers to arrange a special insurance to cover his liabilities arising out of the deviation and the Managers do obtain such coverage, the cost of such insurance shall be borne entirely by the Member.*

- ix) unless the Managers shall in their discretion otherwise determine, there shall be no recovery in respect of a Member's liability;
  - a) for liability, cost or expense arising out of discharge of cargo at a port or place other than the port of place provided in the contract of carriage,
  - b) for liability, cost or expense arising out of the failure to arrive or late arrival of the entered

ship at a port of loading of the failure to load any particular cargo or cargoes in a chartered ship,

- c) for liability, cost or expense arising out of the delivery of cargo without the production by the person to whom delivery is made of the relevant negotiable bills of lading, waybills or other negotiable documents duly endorsed to such person,
  - d) for liability, cost or expense arising out of or in respect of issue of a bill of lading, waybill or other negotiable documents recording the shipment or receipt for shipment on a date prior to or subsequent to the date on which the cargo was in fact loaded, shipped or received as the case may be,
  - e) liabilities, costs or expenses in respect of a bill of lading, waybill or other similar document containing or evidencing the contract of carriage, issued with a description of the cargo or its condition, marks, numbers, weight or measurement which the Master of the entered ship or the Member knew or ought to have known was not correct,
  - f) liabilities, costs or expenses in respect of delivery of cargo against only one of a set of original negotiable bills of lading, waybills or other negotiable documents carried on the chartered ship during all or part of the transport of that cargo on board that ship,
  - g) liabilities, costs or expenses in respect of any deck cargo unless the bill of lading, waybill or other negotiable document states that the cargo is carried on deck and that the Member is free from liability for all loss or damage or that the liability of the Member is the minimum required by law. This exclusion does not apply to cargo carried in containers which are fully enclosed in steel or aluminium, *NB: as to containers, see proviso (xiii).*
- x) if the liability of the Member arises from the terms of a contract of indemnity between the Member and the owners or operators of cranes or other appliances or craft used during the operations of loading or discharging a chartered ship, or persons responsible for the custody of cargo to be loaded in or having been discharged from a chartered ship, the Member shall only be entitled to recover if the terms of the contract of indemnity shall first have been approved by the Managers;
  - xi) the Member shall be entitled to recover the extra cost (in excess of the cost which would otherwise have been incurred by him under the contract of carriage) of discharging or disposing of damaged or worthless cargo in respect of which the Member may be liable, but only to the extent that such Member is unable to recover in respect thereof against any other party;
  - xii) **Steel products**  
the Association will not be liable for claims arising out of the carriage of steel products unless a preloading survey has been carried out at the Member's expense by a surveyor approved by the Association, bills of lading claused in accordance with surveyor's findings and any recommendations of the surveyor complied with;
  - xiii) **Containers not carried under deck**  
unless previously otherwise agreed in writing by the Managers, the Association will not be liable for claims arising out of the carriage of any container not carried under deck unless such container is fully enclosed in steel or aluminium and is carried in accordance both with the applicable regulations of the International Maritime Organisation and with a lashing plan approved by the Classification Society



with which the vessel is classed or by a surveyor appointed by the Association but paid for by the Member;

xiv) **Perishable Cargoes**

the Association will not be liable for claims arising out of the carriage of perishable cargoes unless;

- a) a pre-shipment survey carried out at the Member's expense by a surveyor approved by the Association has determined that cargo is fit for the intended voyage, and
- b) the surveyor has confirmed in writing that the cargo space, ventilation equipment and stowage are fit for the intended carriage, and
- c) the Member complies with all recommendations made by the surveyor in connection with the carriage.

**20. Collision liability to cargo carried in a chartered ship**

Liability for loss of or damage to cargo carried in chartered ship arising out of a collision between the chartered ship and another ship caused by the fault both of the chartered ship and the other ship for which a Member is liable to indemnify the owner of charterer of such other ship, solely by reason of responsibility for such loss or damage being determined in a country where the liability for such loss or damage is joint and several and the 'Both to Blame' Collision Clause is held invalid;

PROVIDED ALWAYS that where such cargo belongs to the Member, such Member shall be entitled to recover from the Association and the Association shall have the same rights as if such cargo belonged to a third party but to the extent only that such loss or damage is not recoverable under any other insurance upon the said cargo which in any event shall be deemed to be insured for its full value at the time of the shipment on the current form of Lloyd's marine policy with the Institute Cargo Clauses (c) 1.1.82.

**21. Unrecoverable general average contributions**

The proportion of general average expenditure (including salvage) and special charges which the Member is entitled to claim from cargo or from some other party to the maritime adventure but which are not legally recoverable solely by reason of a breach of the contract of carriage;

PROVIDED ALWAYS that:

- i) if such proportion and special charges are not recoverable by reason of deviation, the terms of proviso(viii) of sub-rule 19 of this Rule shall likewise apply to this sub-rule;
- ii) the Managers may in their discretion reject any claim or reduce it to the extent by which they consider it would have been reduced had the contract of carriage contained exemptions from liability as favourable to the carrier as those contained in the Hague-Visby Rules.

**22. Charterers' proportion of general average**

Liability for Charterers' proportion of general average expenditure, special charges or salvage in respect of bunkers and freight at risk to the extent that such liability is not otherwise covered by insurance.

### 23. Fines

Fines for other penalties in respect of the chartered ship imposed by any court, tribunal or authority of competent jurisdiction for:

- a) short or overlanding or over delivery of cargo or for failure to comply with regulations relating to declaration of goods or documentation of the ship or cargo,
- b) smuggling or for any infringement of customs laws or regulation,
- c) breach of immigration laws or regulations.
- d) The accidental escape or discharge of oil or any other substance or the threat thereof provided that the Member is insured for pollution liability by the Association under sub-rule 24 of Rule 4 and subject to the applicable limit of liability in respect of oil pollution claims,
- e) Any other act, neglect or default of the Master or member of the crew or other servant or agent of the Member where, in the discretion of the Managers, the liability comes within the scope of the cover afforded by the Association;

PROVIDED ALWAYS that:

- i) there shall be no recovery from the Association of a fine imposed upon a Member for the overloading of a chartered ship or for illegal fishing or for the legal costs and expenses in relation thereto;
- ii) there shall be no recovery from the Association under (c) above unless the Member can satisfy the Managers that proper steps were taken to guard against desertions and landing without the permission of the proper authority and in the case of men who are refused permission to land by the United States authorities, unless sufficient watchmen approved by the Association's local representatives have been employed or the men concerned have been taken ashore into police care for safe custody;
- iii) there shall be no recovery under this sub-rule arising out of a Member's liability in respect of supernumeraries;
- iv) there shall be no recovery in respect of infringement or violations of or non compliance with provisions regarding construction, adaptation, equipment and documentation of ships contained in the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1987 and as modified or amended by any subsequent legislation, including any modifications or amendments thereto, of any state giving effect to that Convention;
- v) there shall be no recovery from the Association of fines or penalties of whatsoever nature for which a Member may be liable if the Managers consider in their discretion that the Member knew or should reasonably have known that he would become liable or if the Managers in their discretion consider that such fines or penalties arise out of default of the Member, his managers, superintendents or onshore management.

### 24. Pollution

The liabilities, losses, damages, costs and expenses set out in paragraphs (a) to (e) below when and to the extent that they are caused by or incurred in consequence of the discharge or escape from the chartered ship of oil or any hazardous substance, or the threat of such discharge or escape:

- a) liability for loss, damage or contamination,
- b) any loss, damage or expense which the Member incurs, or for which he is liable, as a party to the International Tanker Owner's Pollution Federation (ITOPF) or any other agreement approved by the Directors, including the cost and expenses incurred by the Member in performing his obligation under such agreements,
- c) the cost of any measures reasonably taken for the purpose of avoiding or minimising pollution or any resulting loss or damage together with any liability for loss of or damage to property caused by the measures so taken,
- d) the cost of any measures reasonably taken to prevent an imminent danger of the discharge or escape from the insured ship of oil or any hazardous substance,
- e) the cost or liabilities incurred as a result of compliance with any order or direction given by any government or authority for the purpose of preventing or reducing pollution or the risk of pollution, provided always that such costs or liabilities are not recoverable under the Hull policies of the chartered ship;

PROVIDED ALWAYS that:

- i) if the discharge or escape from the chartered ship causes loss, damage or contamination to property belonging wholly or in part to the Member, he shall have the same rights of recovery from the Association as if such property belonged wholly to different owners;
- ii) any claim under this Rule shall without prejudice to any other exception or limitation herein, be subject to the limitation of cover set out in Rule 3.3.

### **25. Legal Costs of Enquiries**

Legal costs and expense which a Member incurs in respect of a formal enquiry into a casualty involving the chartered ship, but only to the extent that the Managers may in their discretion determine.

### **26. Risks incidental to Shipchartering**

Liability, loss or expense incidental to the business of the chartering of ships which, in the discretion of the Directors, comes within the scope of the cover afforded by the Association. Claims under this paragraph shall be recoverable to such extent only as the Directors may in their discretion determine; however the Directors may not, except by a unanimous decision, decide that a claim falling within an exception is within the cover.

### **27. Loss of or damage to the Chartered Ship**

Loss that the Member incurs to the registered or disponent owner of the chartered ship for loss of or damage to that ship and for financial loss arising as a direct consequence of loss of or damage to that ship.

## **RULE 5**

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### **ENTRY AND NOTICE**

1. Unless otherwise agreed in writing at the time of entry and subject as otherwise provided in these Rules, the insurance shall begin at the time and date stated in the Certificate of Entry and shall continue until noon GMT

on 20th February next following.

2. The insurance shall be renewed for the next policy period on the same terms and conditions as those in force for the current policy period unless, at the request of the Member, other terms shall mutually be agreed or unless:
  - a) notice shall have been given in writing by either the Member to the Managers or the Managers to the Member not later than noon GMT on 20th January in the current policy period, that the insurance specified in the notice is not be renewed, or
  - b) the Managers shall have given notice not later than noon GMT on 20th January in the current policy period that the terms of the insurance by the Association for the next following policy period are to be changed, in which case the insurance for the next following policy period shall be renewed upon such terms as may be agreed between the Member and the Manager before noon GMT on 20th February immediately following such notice, and if no terms shall by then have been agreed, the insurance shall not be renewed;
3. Notwithstanding anything herein contained, the Directors or the Managers may at any time terminate the entry of any ship in the Association by giving seven days notice to the Member.
4. A chartered ship shall not be withdrawn from the Association by a Member at any other time or in any other manner except with the written consent of the Managers.
5. The Member shall be under a duty to disclose to the Association all material circumstances in connection with any renewal of this insurance. The duty shall arise 45 days prior to the expiry of the current policy period and shall continue until the Association is irrevocably committed to renew this insurance.

## **RULE 6**

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### **EXCLUSION OF RISKS COVERED BY OTHER POLICIES, ETC**

The Association shall not insure the Member to any extent whatsoever against any of the risks and liabilities, costs or expenses against which he would be insured if at the time of the incident giving rise to the said risks, liabilities, costs or expenses the chartered ship had been: fully covered against the risks insured by the Association's Class II - Freight, Demurrage and Defence - or by some equally wide insurance.

If the Member has the benefit of other insurances covering the risks insured under this entry, the insurance provided by this entry shall be excess of the coverage available under such other insurances.

## **RULE 7**

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### **OTHER RISKS EXCLUDED**

1. The Association shall not insure a Member in respect of a ship entered by him against:
  - a) loss of freight or hire relating to such ship (except where this forms part of the measure of damages payable by the Member and recoverable under sub-rule 19 or 27 of Rule 4)
  - b) salvage of such ship (except life salvage or where salvage forms part of general average expenditure)

recoverable respectively under sub-rules 21, 22 or 27 of Rule 4).

- c) loss arising out of the cancellation of a charter or other engagement of such ship,
  - d) bad debts or the direct or indirect consequences of insolvency or fraud or financial default of any person whatsoever including agents,
  - e) demurrage on or detention of or delay to such ship, except where it forms part of a claim under Rule 4.27,
  - f) the cost of forwarding passengers to their destination or returning them to their port of embarkation or of their maintenance ashore consequent upon a casualty to such ship,
  - g) notwithstanding sub-rule 4.23 punitive, exemplary or aggravated damages.
2. Unless special cover shall have been agreed in writing between a Member and the Managers, the Association shall be under no liability for any claim relating to liability, loss or expense in respect of:
- a) a chartered ship which is a salvage tug, fire-fighting ship or other ship used or designed or intended to be used for salvage operations, when the claim arises as a result of or during any salvage operations or attempted salvage operation,
  - b) a chartered ship which is used for operations of drilling, core sampling, oil production or gas production, when the claim arises as a result of or during this operation,
  - c) a chartered ship which is a dredger, when the claim arises as a result of or during dredging operations,
  - d) a chartered ship which is used for the operations of pile driving, pipe or cable laying or blasting, when a claim arises as a result of or during those operations,
  - e) a chartered ship which is designed for or involved in operations below the surface of the sea.

# APPENDIX

## MLC EXTENSION CLAUSE 2019

**The additional covers which follow do not form part of any member's insurance unless and to the extent that they are expressly agreed and incorporated into the member's certificate of entry.**

### Maritime Labour Convention Extension Clause 2019

#### Cover

1. Subject only to the other provisions of this extension, the club shall discharge and pay on the member's behalf under the 2006 Maritime Labour Convention, as amended (MLC 2006) or domestic legislation by a state party implementing MLC 2006:
  - a) liabilities in respect of outstanding wages and repatriation of a seafarer together with costs and expenses incidental thereto in accordance with Regulation 2.5, Standard A2.5.2; and
  - b) liabilities in respect of compensating a seafarer for death or long-term disability in accordance with Regulation 4.2, Standard A4.2.1.
2. The member shall reimburse the club in full:
  - a) any claim paid under paragraph 1(a) save to the extent that such claim is in respect of liabilities, costs or expenses recoverable under Class 1 Rule 4.5 (a); and
  - b) any claim paid under paragraph 1(b) save to the extent that such claim is in respect of liabilities, costs or expenses recoverable under Class 1 Rule 4.1 (a).

#### Exclusions

3. There shall be no payment under paragraph 1(a) or paragraph 1(b) if and to the extent that the liability, cost or expense is recoverable under any social security scheme or fund, separate insurance or any other similar arrangement.
4. The club shall not discharge or pay any liabilities, costs or expenses under paragraph 1(a) or paragraph 1(b), irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the member or the member's servants or agents, where such liabilities, costs or expenses were directly or indirectly caused by or contributed to by or arise from:
  - a) any chemical, biological, bio-chemical or electromagnetic weapon
  - b) the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, computer virus or process or any other electronic system.

## **Cancellation and automatic termination of cover**

### **5.**

- a) This extension may be cancelled in respect of war risks by the club on 30 days' notice to the member (such cancellation becoming effective on the expiry of 30 days from midnight of the day on which notice of cancellation is issued).
- b) Whether or not such notice of cancellation has been given, this extension shall terminate automatically in respect of war risks:
  - i) upon the outbreak of war (whether there be a declaration of war or not) between any of the following: the UK, the USA, France, the Russian Federation, the People's Republic of China;
  - ii) in respect of any ship, in connection with which cover is granted hereunder, in the event of such ship being requisitioned either for title or use.
- c) This extension excludes loss, damage, liability or expense arising from:
  - i) the outbreak of war (whether there be a declaration of war or not) between any of the following: the UK, the USA, France, the Russian Federation, the People's Republic of China;
  - ii) requisition for title or use.

## **Conditions**

- 6. This extension shall be subject to General Rules 28, 29, 30 and Class 1 Rule 6.
- 7. Without prejudice to paragraph 5, cover under this extension shall cease 30 days after notice of termination in accordance with either Regulation 2.5, Standard A2.5.2.11 or Regulation 4.2, Standard A4.2.1.12.
- 8. Any dispute arising out of or in connection with this extension shall be governed by and construed in accordance with English law and any claim, dispute, legal action or proceeding arising out of or in connection with this letter of undertaking shall be subject to the exclusive jurisdiction of the High Court of Justice in London.
- 9. For the purpose of this extension: "member" means any insured party who is liable for the payment of calls, contributions, premium or other sums due under the terms of entry. "seafarer" shall have the same meaning as in MLC 2006. "war risks" means the risks set out in General Rule 29.