

# BRITANNIA P&I RULE BOOK CLASS 6 | 2020/21\*



**BRITANNIA P&I**  
TRUSTED SINCE 1855

**FREIGHT, DEMURRAGE & DEFENCE RULES**

\* POLICY YEAR

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# I Introductory

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## **RULE 1 MEMORANDUM AND ARTICLES OF ASSOCIATION**

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These Rules are subject to the Memorandum and Articles of Association of The Britannia Steam Ship Insurance Association Limited.

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## **RULE 2 DEFINITIONS**

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In these Rules the words standing in the first column of the table next hereinafter contained shall bear the meanings set opposite them respectively in the second column thereof, if not inconsistent with the subject or context.

<b>The Association</b>	The Britannia Steam Ship Insurance Association Limited.
<b>Associated Company</b>	A person or company affiliated or associated with a Member and to whom the benefit of the cover afforded by the Association to the Member is extended in accordance with Rule 16.
<b>The Board</b>	The Directors for the time being of the Association or as the context may require those Directors present at a duly convened meeting of the Board at which a quorum is present.
<b>Call Rate</b>	In relation to any Entered Ship, the rate at which an Estimated Total Call is payable to the Association in accordance with Rule 11(1).
<b>Calls</b>	Any monies payable to the Association in respect of an Entered Ship pursuant to Rule 11.
<b>Certificate of Entry</b>	A document and any endorsement thereto issued by the Association in accordance with these Rules and the Articles of



Association which records the names and seniority of the Members interested in, and evidences the contract of insurance in respect of, an Entered Ship.

- This Class** Class 6-Freight, Demurrage and Defence.
- Closed Policy Year** A Policy Year of the Association which the Board shall have declared to be closed in accordance with Rule 37(1).
- The Committee** The Representatives for the time being of the Association or as the context may require those Representatives present at a duly convened meeting of the Committee at which a quorum is present.
- Contribution** An Estimated Total Call, Exceptional Call or Fixed Premium levied by the Association pursuant to Rule 7 and Rule 11.
- Costs** Any legal fees or legal costs, including lawyers' disbursements, and any other expenses, including survey fees, necessarily incurred in the defence or prosecution of a claim.
- Expenses or dues incurred by a Member in the operation of or maintenance of any property and the salary or retainer of any employee or third party shall be excluded.
- Entered Ship** A Ship which has been entered for insurance in this Class of the Association.
- Entered Tonnage** The tonnage for which a Ship is entered and upon which Contribution to the funds of the Association is calculated.
- Fleet Entry** The entry of more than one Ship by one or more Members on the basis that those Ships will be treated together as a fleet for underwriting purposes.
- Full Tonnage** The gross full tonnage of a Ship as measured in accordance with the International Convention on Tonnage Measurement of Ships, 1969 and certified or stated in the Certificate of Registry or other official document relating to the registration of such Ship. In case

of doubt the tonnage under the said Convention shall prevail. For the purposes of these Rules and the Articles of Association the gross tonnage of a Ship shall remain unchanged for each Policy Year and shall be stated in the Certificate of Entry of that Ship at the start of that Policy Year or at the time of entry of that Ship.

- Hull Policies** Policies effected on the hull and machinery of a ship including any excess liability policy.
- Insurance** Any insurance or reinsurance against the risks specified in these Rules.
- The Managers** The Managers for the time being of the Association including, if the Managers are a firm, each partner of the Managers or, if the Managers are a limited or unlimited company, each director of the Managers.
- Member** A Member of the Association as defined in Article 3 of the Articles of Association and more particularly a Member of this Class of the Association.
- Passenger** A person carried on board an Entered Ship by virtue of holding a ticket of passage.
- Policy Year** A year from noon GMT on any 20th February to noon GMT on the next following 20th February.
- The Register** The Register of Members of the Association.
- Representative** A representative of a Member appointed to the Committee.
- These Rules** The rules, regulations and bye-laws for the time being in force concerning this Class of the Association.
- Seaman** A person (including the Master) engaged under articles of agreement or otherwise contractually obliged to serve on board an Entered Ship (except persons engaged only for nominal pay) including a substitute for such person and also including such persons while proceeding to or from such Ship.

**Senior Member** In respect of an Entered Ship that Member whose name stands first in the Register in respect of such Ship who shall be the Member whose name stands first on the Certificate of Entry of such Ship.

**Ship** In the context of a ship entered or proposed to be entered in this Class of the Association, any ship, boat, hydrofoil, hovercraft or other description of vessel whether completed or under construction (including a lighter, barge or similar vessel howsoever propelled but excluding (a) a unit or vessel constructed or adapted for the purpose of carrying out drilling operations in connection with oil or gas exploration or production, (b) a fixed platform or fixed rig and (c) a wing-in-ground craft) used or intended to be used for any purpose whatsoever in navigation or otherwise on, under, over or in water or any part of such ship or any proportion of the tonnage thereof or any share therein.

**The United Kingdom** Great Britain and Northern Ireland.

**Writing shall include** printing, typewriting, lithography, facsimile and any other mode or modes of representing or reproducing words in a visible form.

**Words importing the singular number** only shall include the plural number and vice versa.

**Words importing the masculine gender** only shall include the feminine gender.

**Words importing persons** shall include individuals, partnerships, corporations and associations.

**The headings and sub-headings** as set out in these Rules are for convenience and ease of reference only and do not affect the construction of any Rule or Sub-Rule.

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**RULE 3 NATURE OF COVER**

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**3(1)** The cover provided by this Class of the Association is as set out in these Rules and only provides insurance for a Member against Costs incurred by him which arise:

- (A)** In respect of the Member's interest in an Entered Ship; and
- (B)** In connection with the building, purchase, sale or operation of the Ship; and
- (C)** Out of events occurring during the period of entry of the Ship in the Association;

*Provided always that:-*

- (i) claims or disputes arising under contract, in tort or under statute shall be deemed to arise as at the date when the cause of action accrues;
- (ii) claims or disputes concerning salvage or towage shall be deemed to arise as at the date when the said services commenced.

**3(2)** A Ship may be entered in this Class from the first date at which a Member has an interest in the said Ship, which may include the date of entering into:

- (a) a charter party in respect of the said Ship; or
- (b) a contract to purchase the said Ship; or
- (c) a contract to build the said Ship;

and may continue for as long as a Member retains an interest in the Entered Ship.

*Provided always that claims arising under a contract of purchase or building shall only be covered if:*

- (i) the Ship was entered as from the date when the relevant contract was signed; and

(ii) the entry of the Ship is continued until the Member takes possession of the said Ship and for the first Policy Year thereafter or, if the Member does not take possession, until the Member would have taken possession and for the first Policy Year thereafter.

**Conditions 3(3)** The risks covered as set out in Rule 17 and 18 are subject to all the conditions set out in other parts of these Rules and those risks may only be varied by special terms agreed in writing between a Member and the Managers, either under Rule 7 or Rule 17.

**3(4)** The entry of a Ship in the Association is only valid provided that the Member has paid Contributions as specified in Rule 7 and Rule 11 and as set out in the Certificate of Entry of the Entered Ship or any notice sent to the Member by the Association or the Managers under Rule 33(1).

**Sanctions 3(5)** Notwithstanding and without prejudice to any other provision of these Rules, including Rule 3(3), and the provisions of the Memorandum and Articles of Association, these Rules may, on such notice as the Board may in its discretion decide, be amended at any time (including with effect during the course of a Policy Year) to such extent as the Board may in its discretion determine is necessary as a result of the potential or actual implementation of or change in any sanction, prohibition, restriction, legislation, regulation or requirement to obtain any licence or approval, by any state, international organisation or other competent authority.

**Insurance Act 2015 3(6)** The following provisions of the Insurance Act 2015 (the Act) are excluded from these Rules and the contract of insurance:

Section 8 of the Act is excluded. As a result any breach of the duty of fair presentation shall entitle the Association to avoid the contract of insurance, regardless of whether the breach of the duty of fair presentation is innocent, deliberate or reckless.

Section 10 of the Act is excluded. As a result all warranties in these Rules or any contract of insurance must be strictly complied with and if the Member or any party afforded the benefit of cover by the Association fails to comply with any warranty the Association shall be discharged from liability from the date of the breach, regardless of whether the breach is subsequently remedied.

Section 11 of the Act is excluded. As a result the Rules and all terms of the contract of insurance between the Association and the Member or any party afforded the benefit of cover by the Association, including terms which tend to reduce the risk of loss of a particular kind, loss at a particular location and/or loss at a particular time, must be strictly complied with and if the Member or any party afforded the benefit of cover by the Association fails to comply with any such term, the Association's liability may be excluded, limited or discharged in accordance with these Rules notwithstanding that the breach could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

Section 13 of the Act is excluded. As a result the Association shall be entitled to exercise its right to terminate the contract of insurance in respect of the Member and any party afforded the benefit of cover by the Association in the event that a fraudulent claim is submitted by or on behalf of the Member or any party afforded the benefit of cover by the Association.

Section 13A of the Act is excluded. As a result the Rules and the insurance contract between the Association and the Member and any party afforded the benefit of cover by the Association shall not be subject to nor shall the Association or the Managers be in breach of any implied term that they will pay any sums due in respect of a claim within a reasonable time save where the breach is deliberate or reckless and Section 13A of the Act is excluded to this extent.

Section 14 of the Act is excluded. As a result, the contract of insurance between the Association, the Member and any party afforded the benefit of cover by the Association shall be deemed to be a contract of the utmost good faith, and any breach of the duty of the utmost good faith shall entitle the Association to avoid the contract of insurance.

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**RULE 4 MEMBERSHIP**

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- Entry of a Ship 4(1)** Every person whose application to enter a Ship in this Class of the Association for the insurance of his interest in that Ship shall (if not already a Member) be and shall become a Member of the Association as from the date of the acceptance of his application and his name shall be entered in the Register.
- Directors 4(2)** Every Director shall (if not already a Member), whilst holding office, be a Member of the Association and his name shall be entered in the Register.
- Reinsurance 4(3)** Whenever the Association agrees to accept the entry of a Ship by way of reinsurance from an insurer the Managers may in their discretion decide that the person insured by such insurer (if otherwise qualified to be a Member) is to be a Member of the Association in addition to the said insurer and they may accept the application on either basis. If such person is accepted as a Member his name shall be entered on the Register.
- Cessation of 4(4)** A person shall cease to be a Member if for any reason  
**Membership** whatsoever the entry of all Ships in respect of which his interest was insured by the Association shall have ceased or terminated.
- 4(5)** The Members who are entered for the time being in this Class shall form one separate Class within the Association.

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**RULE 5 RIGHT OF RECOVERY**

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**5(1)** If a Member shall incur any Costs as hereinafter set out in Rule 17 in respect of a Ship which was entered in the Association at the time of the claim giving rise to such Costs, such Member shall be entitled to recover out of the funds of this Class of the Association the amount of such Costs to the extent and upon the terms, conditions and exceptions provided by these Rules and by the Certificate of Entry. But if a tonnage less than the Full Tonnage of the Ship was entered in the Association, the Member shall, unless the entry of the Ship has been accepted on special terms which otherwise provide, be entitled only to recover such proportion as the Entered Tonnage bears to the Full Tonnage of the Ship.

*Provided always that, unless the Board (or, in the case of claims not exceeding USD 2 million, the Committee) in its discretion otherwise determines, it shall be a condition precedent of a Member's right to recover from the funds of the Association in respect of any liability, costs or expenses that the Member shall first have discharged or paid them.*

**Subrogation 5(2)** Any recovery by the Member from the Association is subject to the Association's rights of subrogation and the Member will, on request of the Managers, sign a Certificate of Subrogation.

**Set-off 5(3)** Without prejudice to any other part of these Rules the Association shall be entitled to set-off any amount due from a Member against any amount due to such Member from the Association.

**Currency 5(4)** Where a Member is entitled to a recovery out of the funds of this Class of the Association in respect of a loss suffered by him in a currency other than the currency specified in his Certificate of Entry under Rule 6(3)(G) (the specified currency), that loss shall be



converted into the specified currency at the rate of exchange ruling on the day the relevant credit note is issued by the Association to the Member.

**Limit 5(5)** Recovery of Costs in respect of any one claim, dispute or proceeding shall be limited to USD10 million, except in respect of any claim, dispute or proceeding under Rules 18(7) or 18(13) in which case the recovery of Costs shall be limited to USD2 million. For the purposes of this Rule, unless the Managers decide otherwise, all claims arising in connection with a contract for the repair, alteration, building, purchase or sale of a ship shall be considered to be one claim, dispute or proceeding. In respect of all other claims, disputes or proceedings, the Managers in their sole discretion will decide whether or not a series of claims, disputes or proceedings shall be considered to be a single claim, dispute or proceeding.

**Sanctions 5(6)** The Member shall have no entitlement to recovery out of the funds of this Class of the Association in respect of that part of any liabilities, costs and expenses which is not recovered by the Association under any reinsurance(s) arranged by the Association or the Managers, because of a shortfall in recovery from such reinsurers thereunder by reason of a sanction, penalty, prohibition or adverse action against them by a state, international organisation or other competent authority or the risk thereof if payment were to be made by such reinsurers. For the purposes of this Rule 5(6) "shortfall" includes any failure or delay in recovery by the Association by reason of such reinsurers making payment into a designated account in compliance with the requirements of any state, international organisation or other competent authority.

## II Entry and Contribution

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### **RULE 6 ENTRY**

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**Application 6(1)** Any person who wishes to enter a Ship for insurance in this Class of the Association shall apply for such entry in such form as may from time to time be required by the Managers and shall furnish any particulars and information requested by the Managers.

**Fair presentation 6(2)** The Member or potential Member and any agent:

- (i) must make to the Association and the Managers a fair presentation of the risk by providing the Managers with all material particulars and information together with any additional particulars and information as the Managers may require;
- (ii) will ensure that every material representation as to a matter of fact is substantially correct, and every material representation as to a matter of expectation or belief is made in good faith.

In accordance with Rule 3(6), Section 8 of the Insurance Act 2015 is excluded. Any breach of (i) or (ii) above shall entitle the Association to avoid the contract of insurance, regardless of whether the breach is innocent, deliberate or reckless.

The Member or potential Member is obliged to disclose any change in any material information relating to an entry including, but not limited to, change of management, flag, classification society, government authority responsible for ship certification for the trade in question, nationality of crew, trading or operating area or nature of trade or operation. Upon such disclosure, or failure to disclose, the Managers may amend the Member's premium rating or terms of entry, or terminate the entry in respect of such ship with effect from the time of disclosure or failure to disclose.

**Certificate of 6(3)** As soon as reasonably practicable after accepting any  
**Entry** application for the entry of a Ship in this Class of the Association, the Managers shall issue a Certificate of Entry which (subject to any special terms upon which such Ship may be entered) shall state:

- (A) The names of the Members on whose behalf such Ship has been entered and their interest in such Ship.
- (B) The names of the Members on whose behalf such Ship has been entered in the Register in the order in which their names appear on the Certificate of Entry and that this order shall be conclusive proof of the rights of seniority between Members in accordance with these Rules and the Articles of Association.
- (C) The risks against which such Ship has been entered for insurance in the Association and the amount of any deductible or retention to be borne by the Member in respect of such risks.
- (D) The date on which the entry of such Ship is to commence.
- (E) The Full and Entered Tonnage of such Ship.
- (F) Any special terms as to Contribution.
- (G) The currency in which Contributions are calculated which shall be the currency in which transactions between the Member and the Association are conducted, subject to the provisions of Rule 12(3).
- (H) Any limitations on the cover provided by the Association which are not set out in these Rules.

**Entered 6(4)** The Managers may accept the entry of a Ship for a tonnage  
**tonnage** other than the Full Tonnage of such Ship.

**Subject to 6(5)** The terms and conditions upon which a Ship is accepted for  
**Rules** entry, including those relating to the nature and extent of the risks covered and the Contributions payable by the Member, shall be those set out in the Rules and bye-laws hereinafter mentioned

but subject to such variations, within the scope of these Rules, as may have been agreed between the Member and the Managers and set out in the Certificate of Entry.

**Variation of 6(6) cover** 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 reasonably practicable thereafter, shall issue an endorsement to the Certificate of Entry stating the nature of such variation and the date from which such variation is to be effective.

**Contract of 6(7) insurance** Every Certificate of Entry issued as aforesaid shall be conclusive of the contract of insurance.

**Refusal of 6(8) application** The Managers may in their discretion and without giving any reason refuse an application by any person for entry of a Ship in this Class whether or not that person is already a Member of the Association.

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## **RULE 7 SPECIAL INSURANCES**

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**7(1)** The Managers may accept the entry of a Ship on terms that the Member is liable to pay a fixed premium provided that every Member whose application for the entry of a Ship is accepted on the basis of paying a fixed premium shall be bound to pay and shall pay to the Association such sums as shall have been agreed with the Managers and at such time or times as the Managers shall have specified.

**7(2)** The Managers may accept insurances including entries of Ships on special terms as to Membership and Contribution and, within the scope of these Rules, as to the nature and extent of risks covered, provided that where such insurance is accepted the person insured shall be bound to pay and shall pay to the Association such sums as shall have been agreed with the Managers and at such time or times as the Managers shall have specified. In particular the Managers may accept such insurances from other insurers.

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**RULE 8 JOINT ENTRIES**

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- Payments 8(1)** Unless otherwise agreed by the Managers, where any Ship is entered in the names or on behalf of more persons than one (hereinafter referred to as Joint Members) they shall be jointly and severally liable to pay all Contributions and other sums due to the Association in respect of such entry and the receipt by any Joint Member of any payment by the Association shall be deemed to be the receipt by all Joint Members jointly and shall fully discharge the obligations of the Association in respect of such payment.
- Disclosure 8(2)** Failure by any Joint Member to disclose material information within his knowledge shall be deemed to have been failure of all the Joint Members.
- Conduct 8(3)** Conduct of any Joint Member which would have entitled the Association to decline to indemnify him shall be deemed the conduct of all the Joint Members.
- Extent of 8(4)  
cover** The Association shall not insure any Joint Member against any liabilities, costs or expenses which arise other than out of operations and/or activities customarily carried on by or at the risk and responsibility of shipowners (or the case of a charterers' entry, charterers) and which are within the scope of the cover afforded by these Rules and the Certificate of Entry.
- Communications 8(5)** Unless the Managers have otherwise agreed in writing, all communication from or on behalf of the Association to any Joint Member shall be deemed to be within the knowledge of all the Joint Members and any communication from any Joint Member to the Association or to the Managers shall be deemed to have been made with the full approval and authority of all the Joint Members.

**Limits of 8(6)** Where any Ship is entered in the names of or on behalf of  
**cover** Joint Members, any limits on the cover provided by the Association and set out in the Certificate of Entry or these Rules shall apply to Joint Members in the aggregate as if the Ship had been entered by the Senior Member only.

PROVIDED ALWAYS THAT:

There shall be no recovery in respect of any liabilities, costs or expenses which arise as the result of a claim brought between Joint Members.

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**RULE 9 PERIOD OF INSURANCE**

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**9(1)** Unless otherwise agreed at the time of entry and subject as otherwise provided in these Rules, the insurance shall begin at the time on the date stated in the Certificate of Entry when the Member first has an interest in the Entered Ship or, in the case of a change in the terms of entry, immediately after midnight on that date at the place where the Ship is located and shall continue until noon GMT on the 20th February next following. All Contributions shall be calculated as if the entry of the Ship or change in the terms of entry had taken place at noon GMT on the date stated in the Certificate of Entry.

**Change of 9(2)** The insurance shall continue for the next Policy Year upon  
**conditions** the same terms and conditions as those in force for the current Policy Year, unless at the request of a Member other terms shall be agreed, or unless:

(i) 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 the 20th January in any year, that the insurance (not being for a fixed period) specified in the notice is to cease. In either event the insurance shall cease at the end of the then current Policy Year; or unless

(ii) the Managers shall have given notice not later than noon GMT on the 20th January that the terms of the insurance by the Association for the next following Policy Year are to be changed. In the event of such notice being given, the insurance for the next following Policy Year shall continue upon such terms as may be agreed between the Member and the Managers before noon GMT on the 20th February immediately following such notice and, if no terms shall by then have been agreed, the insurance shall thereupon cease.

PROVIDED ALWAYS THAT:

(a) if before 20th December in any year the Managers give notice of a decision of the Board under Rule 11(1)(A) and/or a resolution of the Board under Rule 32(5) the Member shall be deemed to have agreed to and accepted such decision and/or resolution and the insurance shall continue for the next Policy Year unless by 20th January following he gives notice to the Managers under paragraph (i) of this Rule; or

(b) if the Managers give notice of an alteration in the Rules of the Association before the end of a Policy Year the Member shall be deemed to have agreed to and accepted such alteration and the insurance shall continue for the next Policy Year with the alteration taking effect from the start of that Policy Year.

**9(3)** The Board or Managers may at any time by 30 days' notice to a Member terminate the entry of any Ship in this Class.

**9(4)** An Entered Ship shall not be withdrawn from the Association at any time or in any manner except under the provisions of Rule 9(2) or with the consent of the Board or Managers.

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**RULE 10 CONTRIBUTION BY WAY OF CALLS**

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**10(1)** Subject to Rule 7, Members who have entered Ships for insurance in this Class of the Association for any part of a Policy Year shall

through the Association insure each other as hereinafter set out against Costs which they or any of them may incur or may become liable to pay in respect of such Entered Ships, and for this purpose the said Members shall contribute by way of Calls to the funds required to meet:

- (A) The claims, expenses of the Association and other outgoings (whether incurred, accrued or anticipated) which in the opinion of the Board necessarily and properly fall upon this Class of the Association in respect of such Policy Year.
  - (B) Such transfers to reserves or provisions as the Board may deem it expedient to make, including transfers to reserves and provisions in respect of any deficiency which has occurred or which may be thought likely to occur in respect of any Closed Policy Year as the Board thinks fit.
  - (C) The proportion attributable to this Class of such sums as the Association may by any Governmental legislation or regulation be required to set aside in order to establish and/or maintain an adequate Solvency Margin and/or Guarantee Fund in respect of any Policy Year.
- 10(2)** The said Calls shall be levied by means of an Estimated Total Call or Exceptional Calls in accordance with the provisions of Rule 11.

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**RULE 11 CALLS**

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- 11(1) (A)** Before the start of a Policy Year the Association shall levy upon Members an Estimated Total Call calculated at the Call Rate upon their Ships (subject to any special terms upon which such Ships may be entered).
- (B) The Call Rate in respect of each Entered Ship shall be notified in writing to the Member and may be altered in accordance with the provisions of Rule 6(6) and Rule 9(2)(ii).



**11(2)** If at any time before the closure in accordance with Rule 37(1) of any Policy Year the Board determines that the whole of the Estimated Total Call (together with any transfers from reserves made for the credit of or in respect of such Policy Year) is not required for the purposes set out in Rule 10:

(i) it may declare a discount of such percentage of the Estimated Total Call as it may decide; and

(ii) the liability of the Member to pay the Estimated Total Call under Rule 11(1)(A) shall be reduced accordingly.

**Exceptional 11(3) Calls** The Board may at any time or times during or after the end of each Policy Year (but not after such Policy Year has been closed) direct that an Exceptional Call shall be paid by each Member in respect of Ships entered for such Policy Year of such amount as the Board may think fit. All Exceptional Calls so made shall be calculated pro rata to the Estimated Total Call (less any returns of Call) in the relevant Policy Year.

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**RULE 12 PAYMENT**

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**Instalments 12(1)** Subject to Rule 7(2), the Estimated Total Call and every Exceptional Call shall be payable in such instalments and on such dates as the Board may specify.

**Notification 12(2)** As soon as reasonably practicable after the amount of any Estimated Total Call or the rate of any Exceptional Call shall have been fixed the Managers shall notify each Member concerned:

**(A)** Of such rates.

**(B)** Of the date on which the Call concerned is payable or, if such Call is payable by instalments, of the amounts of such instalments and the respective dates on which they are payable.

- (C) Of the amount payable by such Member in respect of each Ship entered by him.

**Currencies 12(3)** Notwithstanding Rule 6(3)(G) the Managers may require any Member to pay all or any part of any sums payable by him in such currencies as the Managers may specify.

**Tax 12(4)** The Member shall pay on demand to the Association the amount of any tax or other financial demand, relating to Calls or other sums due from or paid by the Member to the Association, for which the Managers determine the Association has or may become liable.

**Set-off 12(5)** No claim of any kind whatsoever by a Member against the Association shall constitute any set-off against the Contributions or other sums of whatsoever nature due to the Association or shall entitle a Member to withhold or delay payment of any such Contributions or sums.

**Penalty for 12(6)** Without prejudice to the rights and remedies of the Association under Rule 33(1), if any Contribution or instalment or part thereof or any other sum of whatsoever nature due from any Member is not paid by such Member on or before the date specified for payment thereof the Board may order such Member to pay interest on the amount not so paid, from and including the date so specified down to the date of payment, at such rate as the Board may from time to time determine.

**Bad debts 12(7)** If any Contribution or other payment due from a Member to the Association is not paid and if the Board decides that payment cannot be obtained, the sums required to make good any resulting shortfall or deficiency in the funds of the Association shall be deemed to be expenses of the Association for the purposes of Contribution under Rule 10.

**Effect of 12(8) a Member's non-payment** Without prejudice to the provisions of Rule 33 (cesser of all insurances) and Rule 34 (cesser of Ship entry), if any Contribution or other payment due from a Member to the Association is not paid within thirty days of the date of service on a Member of a debit note, notice or other demand for payment, there shall be no recovery from the Association in respect of any liabilities incurred by the Member in respect of any Ship which is or has been entered for insurance by him in the Association.

*Provided always that the Managers may serve a notice extending the time for payment and the Member may then make arrangements satisfactory to the Managers prior to the expiry of the period of grace allowed in the said notice for the payment of any such Contribution or other payment.*

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**RULE 13 RELEASE**

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**13(1)** Upon or at any time after the cesser of insurance in respect of an Entered Ship for any reason, the Managers may, at the request of the Member, release the Member from liability for further contribution to Calls in respect of such Ship upon such terms, and including the payment of such amount, as the Managers in their sole discretion may deem to be appropriate in the circumstances. In the absence of such request the Managers shall nevertheless have power to assess, as at the date of the cesser, or at any time thereafter, the liability of any Member for further Contributions in respect of such Ship and the amount of such assessment shall be payable by the Member on demand without any set-off.

The Managers may release a Member from liability from further contribution to either or both of the Estimated Total Call or Exceptional Calls made under Rule 11(3).

**13(2)** As from the date of the release of an Entered Ship under Rule 13(1) the Member shall be under no further liability to contribute to Calls in respect of that Ship under Rule 10 nor shall he have any right to share in any return of Contributions or other receipts under Rule 37(2) or Rule 39 in respect of that Ship.

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**RULE 14 RECOVERY OF CONTRIBUTIONS**

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All monies from time to time payable by a Member may be recovered by action commenced under the instructions of the Managers in the name of the Association.

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**RULE 15 FLEET ENTRY**

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Where one or more Ships have been entered as a Fleet Entry then the debts of any one Member in respect of any such Entered Ship shall be treated as the debt of all the other Members whose Ships are or were entered as part of the same Fleet Entry and the Association shall be entitled to act as if all the Ships forming part of the Fleet Entry were entered by the same Member.

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**RULE 16 COVER FOR ASSOCIATED COMPANIES**

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**16(1)** The Managers may accept the entry of any Ship upon terms that the benefit of the cover afforded by the Association to a Member in respect of that Ship shall be extended to Associated Companies of that Member. The rights and obligations as between the Association and any such Associated Company shall be such as may be agreed between the Member and the Managers.

**Conditions of 16(2) reimbursement** The liability of the Association to the Member and to Associated Companies to whom cover is extended in accordance with Rule 16(1) shall be limited in amount to reimbursement of claims relating to liabilities, costs or expenses incurred by one or more of the Associated Companies to the extent and amount only that the Member:

(a) would have incurred the same liabilities, costs and expenses if the same claims had been pursued against him; and

(b) would thereafter have been entitled to obtain reimbursement from the Association in accordance with the terms of entry of the Ship in the Association.

*Provided always* that conduct of any Associated Company which would have entitled the Association to decline to indemnify that Company shall be deemed to be the conduct of the Member.

**Receipt of 16(3) reimbursement** The receipt by the Member, or any Associated Company to whom cover has been extended in accordance with Rule 16(1), of any payment by the Association shall be deemed to be the receipt by the Member and all such Associated Companies jointly and shall fully discharge the obligations of the Association in respect of such payment.

### III Risks Covered

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**RULE 17 RISKS COVERED**

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The Member shall be insured by the Association in accordance with the provisions of Rule 3 against the following Costs:

- 17(1)** The Costs of or incidental to any legal or other proceedings which a Member may take or defend with the support of the Board, the Committee or the Managers for the purpose of asserting or defending any of the claims or disputes specified in Rule 18, including any such Costs which the Member may become liable to pay to any other party to those proceedings.
- 17(2)** The Costs of or incidental to any of the claims, disputes, legal or other proceedings specified in Rules 18(15) and 18(16) to which a Member may be a party or at which he may be represented, in both cases with the support of the Board, the Committee or the Managers, including any such Costs which the Member may become liable to pay to any other party to those proceedings.
- 17(3)** The Costs 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 18.

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**RULE 18 EXTENT OF COVER**

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The cover provided under Rule 17 in accordance with the provisions of Rule 3 applies to the following claims, disputes and proceedings involving the Entered Ship:

- Freight, Hire 18(1)** Claims in respect of freight, deadfreight, hire, demurrage or  
**and** despatch arising under any contract of affreightment,  
**Demurrage** charter party, bill of lading or other contract of carriage.

- Detention 18(2) and Delay** Claims in respect of the detention or loss of use of, or delay to, an Entered Ship.
- Loss and 18(3) Damage** Claims arising out of the loss of or damage to an Entered Ship.
- General 18(4) Average** Claims in respect of general and particular average contributions or charges.
- Carriage of 18(5) Goods** Claims in respect of the breach of any contract of affreightment, charter party, bill of lading, or other contract of carriage or the breach of any legal duty arising in connection with the carriage of goods.
- Supplies 18(6)** Claims in respect of the supply of fuel, materials or equipment, or other necessities to an Entered Ship.
- Repairs 18(7)** Claims in respect of negligent repair of or alteration to an Entered Ship.
- Stevedores 18(8)** Claims in respect of improper loading, lightening, stowage, trimming or discharge of cargo.
- Insurers and 18(9) Brokers** Claims in respect of amounts due from or to:  
(i) underwriters, brokers and any other persons conducting the business of marine insurance;  
(ii) shipbrokers.
- Salvage and 18(10) Towage** Claims in respect of salvage, towage or pilotage services rendered by or to an Entered Ship.

*Provided always* that there shall be no cover under this Rule in respect of any tug, supply boat or salvage vessel unless the vessel has been declared as such at the time of entry and any cover has been agreed by the Managers and is specified in the Terms of Entry.

- Passengers 18(11)** Claims by or against Passengers arising under a ticket of passage.
- Seamen and 18(12)** Claims by or against Seamen, stowaways or other persons  
**Others** on or about an Entered Ship.
- Provided always* that there shall be no cover under this Rule for claims by or against Seamen which arise under or in connection with a collective agreement or an agreement of service.
- Buying and 18(13)** Claims arising under a contract for the building, purchase,  
**Selling** sale or mortgage of an Entered Ship.
- Port and 18(14)** Claims by or against port authorities, ship's agents, customs  
**Customs** authorities or terminal owners.
- Enquiries 18(15)** Representation of a Member at official investigations, Coroners' Inquests or other enquiries.
- Omnibus 18(16)** All such claims, disputes and legal or other proceedings which are not specified in Rules 18(1) to 18(15) and which, in the discretion of the Board (or, in the case of claims not exceeding USD 2 million, the Committee), come within the scope of the cover afforded by the Association, but only to the extent that the Board (or, in the case of claims not exceeding USD 2 million, the Committee) may decide that the Member should recover from the Association.



## IV Exclusions, Limitations and Warranties

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### **RULE 19 GENERAL EXCLUSIONS**

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The cover provided by this Class is exclusively in respect of the Costs as defined in Rule 2 and specified in Rule 17; in no circumstances shall the Member be covered for any other loss, cost, liability or expense howsoever arising other than such as may be covered under Rule 32(3) or Rule 32(4) (Board/Committee discretion).

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### **RULE 20 RISKS SPECIFICALLY EXCLUDED**

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Subject always to the absolute discretion of the Board (or, in the case of claims not exceeding USD 2 million, the Committee) under Rule 32(1), there shall be no recovery from the Association in respect of Costs which arise in respect of:

- Bad Debts 20(1)** Claims against persons from whom there is, in the opinion of the Managers, no reasonable prospect of recovery, taking into account any legal problems of enforcement and any assets available to satisfy a judgement or award.
- Admitted 20(2) Debts** Claims against a Member which relate to money owed by that Member and where, in the opinion of the Managers, there is no justification in the Member's refusal to pay.
- 20(3)** Claims against the Association.
- Support 20(4)** Any legal or other proceedings or the appointment of any lawyers or other experts at a time when the Member is not supported by the Association in respect of such proceedings or appointment or when he has failed to comply with a direction

issued by the Managers under Rule 31(1) or the Board (or, in the case of claims not exceeding USD 2 million, the Committee) under Rule 32(2).

**20(5)** Matters where the Member knew or ought 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.

**Road Vehicles 20(6)** Liabilities which a Member may incur as the owner or operator of a road vehicle.

**Diving 20(7)** The activities of professional or commercial divers where the Member is responsible for such activities, unless:

(i) special cover has been agreed between the Member and the Managers under Rule 7; or

(ii) the activities are incidental to and carried out in relation to the inspection, repair or maintenance of the Entered Ship or in relation to damage caused by the Entered Ship; or

(iii) the activities are recreational.

**Sanctions 20(8)** Matters where the provision of cover or a payment by the Association in respect thereof may expose the Association or the Managers to the risk of being subject to a sanction, penalty, prohibition or any adverse action by a state, international organisation or other competent authority.

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## **RULE 21 EXCLUSION OF CERTAIN SPECIALIST RISKS**

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There shall be no recovery from the Association in respect of any Costs relating to claims in respect of expenses of an Entered Ship which is:

**Salvage tugs 21(1)** A salvage tug or other Ship used or intended to be used for salvage or wreck removal operations, when the claim arises as a

result of any salvage and/or wreck removal service or attempted salvage and/or wreck removal service, unless cover has been specifically extended for such operations.

**Drilling and 21(2) production** Used for drilling, core sampling or production operations in connection with oil or gas exploration or production when the claim arises out of during such operations.

**Storage 21(3)** Used for the storage of oil when either:

**Ships**

- (i) oil is transferred directly from a producing well to the Ship and the claim arises out of or during such transfer; or
- (ii) the Ship has oil and gas separation equipment on board and gas is being separated from oil whilst on board (other than by natural venting) and the claim arises out of such separation.

**Waste Ships 21(4)** Used for waste incineration or waste disposal operations, when the claim arises out of those operations.

**Entertainment 21(5) Ships** Moored on a permanent basis open to the public as a hotel, restaurant, bar or other place of entertainment, when the claim arises in respect of hotel or restaurant guests or other visitors or the catering crew of the Ship.

**Underwater 21(6) operations** Used as or in connection with the operation of a submarine, mini-submarine or diving bell.

**Specialist 21(7) Ships** Used for specialist operations (other than tugs, firefighting Ships and salvage Ships) including but not limited to dredging, blasting, pile-driving, well-intervention, cable or pipelaying, construction, installation or maintenance work, core sampling, depositing of spoil, and power generation and decommissioning, where the claim arises out of or is incurred during those operations.

PROVIDED ALWAYS THAT:

Special cover may be agreed between the Member and the Managers under Rule 7.

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**RULE 22 IMPRUDENT TRADING**

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The Association shall not insure a Member against any Costs arising out of or consequent upon an Entered Ship carrying contraband, blockade running, or being employed in an unlawful trade, or performing any voyage or being employed in any trade if the Board (or, in the case of claims not exceeding USD 2 million, the Committee) having regard to all the circumstances shall be of the opinion that the nature of the carriage, trade or voyage in respect of which the Ship was engaged was imprudent, unsafe, unduly hazardous or improper.

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**RULE 23 EXCLUSION OF NUCLEAR RISKS**

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Unless otherwise agreed in writing there shall be no recovery from the Association in respect of any liabilities, costs or expenses (irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Member or his servants or agents) when the loss or damage, injury, illness or death or other accident in respect of which such liability arises or cost or expense is incurred, was directly or indirectly caused by or arises from:

- (A) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
- (B) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
- (C) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
- (D) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter.

PROVIDED ALWAYS THAT this exclusion shall not apply to liabilities, costs or expenses arising out of the carriage of “excepted matter” (as defined in the Nuclear Installations Act 1965 of the United Kingdom or any regulation made thereunder) as cargo in an Entered Ship and agreed by the Managers in writing.

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**RULE 24 EXCLUSION OF RISKS COVERED BY HULL POLICIES**

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The Association shall not insure a Member to any extent whatsoever against any Costs, loss, liability or expense against which the Member would be insured (save to the extent of any franchise or deductible) if the Entered Ship were fully insured either;

- (A) Under Hull Policies on terms not less wide than those of the Lloyd’s Marine Policy MAR Form 1/1/82 with the Institute Time Clauses Hulls 1/10/83 attached; or
- (B) Under policies providing for Time Charterers’ liability for damage to Hull on terms not less wide than those available under Rule 19(24)(B) of the Rules of Class 3 - Protection and Indemnity - of the Association.

PROVIDED ALWAYS THAT:

Any franchise or deductible to which any such policy is subject shall be deemed not to exceed 1 percent of the Entered Ship’s insured value or, if not known, of the free uncommitted market value of the Entered Ship.

The Member shall provide the Managers with satisfactory evidence of the relevant franchise or deductible.

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**RULE 25 EXCLUSION OF WAR RISKS**

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The Association shall not insure a Member to any extent whatsoever against any costs, loss, liability or expense against which the Member would be insured if the Entered Ship were fully insured under War Risks Policies on terms no less wide than

those of the Institute Time War and Strikes Clauses Hulls - Time 1/10/83 and the Institute Protection and Indemnity War and Strikes Clauses Hulls - Time 20/2/87.

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**RULE 26 EXCLUSION OF RISKS COVERED BY PROTECTION AND INDEMNITY POLICIES**

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The Association shall not insure a Member to any extent whatsoever against any cost for which the Member would be insured if the Entered Ship were fully insured under P & I policies on terms not less wide than those of Class 3 - Protection and Indemnity - of the Association current at the time when the claim arises and with no deductible or franchise applicable to claims under those policies.

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**RULE 27 OTHER INSURANCES**

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**Double 27(1) insurance** Unless the Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall, in its discretion, otherwise determine there shall be no contribution by the Association to Costs recoverable under any other insurance or which would have been so recoverable:

- i) apart from any terms in such other insurance excluding or limiting liability on the ground of double insurance; and
- ii) if the Ship had not been entered in the Association with cover against the risks set out in these Rules.

**Certification 27(2)** Where any person other than the Association has provided evidence to any authority of the financial responsibility of the Member, there shall be no contribution by the Association to the Member or any such person in respect of any Costs resulting therefrom.

PROVIDED ALWAYS THAT:

This Rule may be waived either:

- (i) by prior agreement with the Association in writing; or
- (ii) if the Board (or, in the case of claims not exceeding USD 2 million, the Committee) in its discretion so decides.

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**RULE 28 CLASSIFICATION AND CONDITION OF SHIPS**

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**28(1)** Every Member warrants that every Ship entered by him for insurance in this Class is, and shall remain throughout the period of entry, fully classed with a classification society approved by the Managers and that throughout such period the Member will fully and timely comply with all the rules, recommendations and requirements of such society relating to the Entered Ship.

*Provided always* that the Board may in its discretion waive compliance with this warranty for such periods and upon such terms as it thinks fit.

**Change of 28(2) classification** Any change of classification or classification society shall forthwith be notified to the Managers in writing, together with all outstanding recommendations, requirements or restrictions specified by any classification society as at the date of such change.

**Information 28(3) from the Member** Where required by the Managers it is a condition precedent to the Member's right of recovery from the Association that the Member shall first have provided to them an assurance that the Entered Ship's class has been maintained, as well as a list of recommendations, requirements or restrictions specified by any classification society and where any periodic docking survey or any special survey of hull, machinery or equipment is overdue, a statement as to whether or not an extension has been permitted by the classification society. If the Managers so require, such information shall be certified by the classification society.

**Statutory 28(4) requirements** Every Member

- (i) shall comply with all the statutory requirements of the state of the ship's flag relating to the construction, adaptation, condition, fitment, equipment, manning and loading of the Entered Ship; and
- (ii) must at all times maintain the validity of any statutory certificates which are required and issued by or on behalf of the state of the ship's flag.

*Provided always* that the Board may in its discretion waive compliance with this Rule for such periods and upon such terms as it thinks fit.



**Information 28(5)** Should the Association wish to approach the classification society direct for information, the Member will provide the necessary authorisation.

**Survey 28(6)** The Managers may as a condition of entry or re-entry of a Ship in the Association require the Member or prospective Member to submit the Ship to survey by a surveyor appointed by the Managers. The Managers in their discretion may require the Member or prospective Member to bear the expense of such survey.

In the light of such survey the Managers may:

- (i) refuse the entry or re-entry of the Ship; or
- (ii) refuse the entry or re-entry of the Ship until repairs or other action recommended by the surveyor have been carried out to the satisfaction of the Managers within any time limit prescribed by the Managers; or
- (iii) accept the entry or re-entry of the Ship on such special terms as the Managers may in their discretion decide.

**Ship 28(7)** Without prejudice to any warranties or other duties and obligations imposed on a Member under these Rules or the general law, the Managers may at any time and from time to time require a Member to undergo an appraisal of the management systems ashore or on board Ship relating to the operation of Ships managed or operated by him by a surveyor appointed by the Managers on a date and at a place agreed between the Member and the Managers and within such time limit as may be specified by the Managers. The Managers may in their discretion require the Member to bear the expense of such appraisal.

In the light of such appraisal or in the event of failure by the Member to undergo such appraisal within the time limit specified by the Managers, the Managers shall have the power, in their discretion to:-

- (i) terminate the entry of all Ships entered by the Member forthwith; or
- (ii) amend, vary or impose special terms on the Terms of Entry of Ships entered by that Member with immediate effect in such manner as they think fit, including the exclusion of all or part of the risks specified in Rule 17 (Risks Covered) and Rule 18 (Extent of Cover) for such time or period as they may specify. *Provided always* that if the Member does not accept such amendment, variation or condition he shall have the option of withdrawing the entry of his Ships forthwith.

**Condition 28(8)**  
**survey**

Without prejudice to any warranties or other duties and obligations imposed on a Member under these Rules or the general law, the Managers may at any time and from time to time require a Member to submit his Entered Ship to survey by a surveyor appointed by the Managers on a date and at a place agreed between the Member and the Managers and within such time limit as may be specified by the Managers. The Managers may in their discretion require the Member to bear the expense of such survey.

In the light of such survey or in the event of failure by the Member to submit the Entered Ship to such survey within the time limit specified by the Managers, the Managers shall have the power, in their discretion, to:

- (i) terminate the entry of the Ship forthwith; or
- (ii) amend, vary or impose special terms on the Terms of Entry of the Ship with immediate effect in such manner as they think fit, including the exclusion of all or part of the risks specified in Rule 17 (risks covered) for such time or period as they may

specify. *Provided always* that if the Member does not accept such amendment, variation or condition he shall have the option of withdrawing his entry of the Ship forthwith.

**Right of 28(9)  
adjudication**

If any difference or dispute between a Member and the Managers shall arise concerning the actions taken by the Managers under this Rule 28, the Member shall have the right to refer the matter to adjudication by the Board under Rule 44 (disputes and differences). Pending such adjudication, any such action taken by the Managers shall bind the Member.

**Obligation 28(10)  
of Member**

Notwithstanding the provisions of this Rule 28 nothing shall relieve the Member of his obligation to keep his Entered Ship at all times in a proper condition.

Any recommendations or observations of a surveyor acting under any part of this Rule shall be treated as within the actual knowledge of the Member.

Any failure by the Member to implement the said recommendations shall entitle the Board (or, in the case of claims not exceeding USD 2 million, the Committee) in its discretion to refuse, in whole or in part, a claim for recovery from the Association in respect of any incident whatsoever occurring after such recommendations have been made.

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**RULE 29 BYE-LAWS**

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**29(1)** The Board shall have power to pass bye-laws ordering and 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.

**29(2)** The Board may also recommend the use of any particular form of contract of carriage in any particular trade. Members whose Ships are engaged in such trades shall endeavour to use the appropriate form of contract of carriage when the circumstances of the fixture or engagement of such Ships permit.

**Recommendations**

**Notice 29(3)** Notice shall be sent by the Managers to all Members upon the passing of any such bye-law or issue of such recommendation. The bye-laws or recommendation shall come into operation on the date stated in the notice and shall thereupon be assumed to be incorporated in these Rules and shall be included in, or with, every copy of these Rules issued by the Association as soon as may be conveniently possible. If a Member shall commit a breach of such bye-law the Board (or, in the case of claims not exceeding USD 2 million, the Committee) 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 and the burden of proving in each case that the claim (or portion thereof) could not have been avoided by such a compliance shall be on the Member. The Board (or, in the case of claims not exceeding USD 2 million, the Committee) may further impose such terms upon the Member as it may think fit as a condition of the continuance of the entry of the Member's Ship or Ships in this Class.

# V Claims

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**RULE 30 OBLIGATION OF THE MEMBER IN RESPECT OF CLAIMS**

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**Notice 30(1)** Every Member shall be bound to give prompt notice in writing to the Managers of every claim likely to give rise to Costs recoverable under these Rules and shall furnish the Managers as soon as reasonably possible with all documents or information relevant thereto.

**Approval 30(2)** Before incurring any Costs which may be recoverable under these Rules a Member must seek the prior approval of the Managers under Rule 31(2).

**Information 30(3)** A Member must at all times promptly notify the Managers of any information, documents or reports in his or his agents' possession or knowledge relevant to any incident referred to under Rule 30(1) above. Further he shall, whenever so requested by the Managers, give the Association or its representatives free access to such information, documents or reports with liberty to inspect and copy the same. Such free access shall include the right to conduct a survey, or to interview any officer, servant or agent of the Member who may in the opinion of the Association be in possession of information relevant to the said incident.

**Time 30(4)**  
**limit for**  
**notice** Every claim of the type referred to in Rule 30(1), above, shall be notified to the Association by the Member as soon as possible, but in no case later than twelve months after the Member has notice of the potential claim.

**Time limit 30(5)**  
**for reimburse-**  
**ment** All requests by a Member for reimbursement of any Costs recoverable from the Association under these Rules and the Certificate of Entry must be made to the Association within twelve months of the payment of the Cost by the Member.

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**RULE 31 POWERS OF THE MANAGERS RELATING TO THE HANDLING AND SETTLEMENT OF CLAIMS**

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- 31 (1)** The Managers shall have the right, if they so decide, to control or direct the conduct of any claim or legal or other proceedings relating to any matter which may result in Costs in respect of which the Member is or may be insured under these Rules and the Certificate of Entry and to require the Member to settle, compromise or otherwise dispose of such claim or proceedings in such manner and upon such terms as the Managers see fit.
- 31(2)** It shall be a condition precedent for the recovery of Costs under these Rules that the Managers shall have given prior approval to the action giving rise to such Costs. In particular the Managers shall decide whether or not legal or other proceedings should be commenced or defended. Save only that any Costs incurred as a matter of urgency where consultation with the Managers was not practicable shall be notified to the Managers as soon as is reasonably possible and the Managers shall then decide whether or not to continue any action already commenced and not yet concluded.

**Referral 31(3)** In the case of doubt as to the advisability of commencing or continuing any legal or other proceedings in the exercise of their powers under Rules 31(1) or 31(2) the Managers shall refer the matter to the Board for decision under Rule 32(1).

*Provided always* that the Managers shall in any event refer the decision to the Board (or, in the case of claims not exceeding USD 2 million, the Committee) if a Member shall so request.

**Appoint- 31(4)(A)** Without prejudice to any other provision of these Rules and **ment of** without waiving any of the Association's rights hereunder, **experts** the Managers may at any and all times appoint on behalf of the Member, upon such terms as the Managers may think fit, lawyers, surveyors or other persons with a view to obtaining advice on,

investigating or dealing with any matter which may result in Costs in respect of which the Member is or may be insured under these Rules. The Managers may also at any time discontinue such employment if they think fit.

**(B)** All lawyers, surveyors or other persons appointed by the Managers on behalf of the Member, or appointed by the 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 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 Association in connection with the matter without prior reference to the Member and to produce to the Association without prior reference to the Member any documents or information in their possession or power relating to such matter, all as if such person had been appointed to act and had at all times been acting on behalf of the Association;

(ii) that any advice they may give to the Member is that of an independent contractor employed by the Member and shall in no way bind the Association.

**Bail 31(5)** The Association may give bail or other security in respect of security for Costs. The Association is under no obligation to provide bail or other security on behalf of any Member, but where the same is provided it shall be on such terms as the Managers may consider appropriate and shall not constitute any admission of liability by the Association for the Costs in respect of which the bail or other security is given. In no case shall cash deposits be made by the Association.

**Recovery 31(6) of Costs** Insofar as Costs are covered under these Rules, the Association shall be entitled to any sum which the Member recovers in respect of such Costs pursuant to any award, judgment or settlement agreement. If any claims, disputes or proceedings are

settled or compromised for a lump sum which includes costs recoverable from any other party, or without any or adequate provision as to the payment of such costs, then in any of those events the Association shall be entitled to recover from the Member such reasonable sum as the Managers may in their sole discretion determine as being attributable to Costs.

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**RULE 32 POWERS OF THE BOARD AND THE COMMITTEE RELATING TO THE CONTROL AND SETTLEMENT OF CLAIMS ON THE ASSOCIATION**

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**32(1)** Save insofar as is provided under Rule 31 (Powers of Managers) the Board (or, in the case of claims not exceeding USD 2 million, Committee) shall have sole discretion to decide which legal or other proceedings shall be commenced or defended, which claims under Rule 18 shall be taken up and as to the conduct thereof and as to the discontinuance or settlement of any such claims.

**Terms 32(2)** The Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall be entitled at any time in their absolute discretion to impose such terms as they may think fit as a condition of their continued support for a claim under Rule 18.

**Small Claims 32(3)** If the Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall be of the opinion 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 probable Costs likely to be incurred in such proceedings as compared with the amount in dispute then the Board may in its discretion (in addition 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 Board (or, in the case of claims not exceeding USD 2 million, the Committee) may think fit.



- Costs, 32(4)(A)** The Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall have power in its discretion to determine that the Member should be reimbursed in whole or in part for any Costs incurred for which the Association would not be liable by virtue of Rule 20.
- (B)** The Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall have power in its discretion to determine that the Member should be reimbursed in whole or in part for any losses, liabilities or expenses incurred, for which the Association would not be liable by virtue of Rule 19, which are incidental to the risks covered by Rules 17 and 18.
- Cover 32(5)** The Board (or, in the case of claims not exceeding USD 2 million, the Committee) may from time to time resolve that in respect of any specified future claims or classes of claim arising in the next Policy Year they will only be supported as to a specified amount or proportion of any type or types of Costs. Where the Board so resolve, notice of such resolution shall be given to all Members as soon as is conveniently possible and an appropriate endorsement shall be endorsed on the Terms of Entry of all Members for the next and future Policy Years.
- Payment of 32(6)** The Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall meet as often as may be required for settlement of claims which shall be paid by the Association as the Board (or, in the case of claims not exceeding USD 2 million, the Committee) may determine in accordance with these Rules, but the Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall have power from time to time to authorise the Managers to effect payment of claims without prior reference to the Board (or, in the case of claims not exceeding USD 2 million, the Committee). No Director shall sit on the Board and no Representative shall sit on the Committee while it is engaged in the settlement of any claim in which he is interested.
- losses and liabilities**
- Claims**

**Reduction of 32(7)** Without prejudice to any other provisions of these Rules, the Board (or, in the case of claims not exceeding USD 2 million, the Committee) shall have power in its discretion to reject a claim or reduce the sum payable by the Association in respect thereof, if:

**Claims**

- (i) in the opinion of the Board (or, in the case of claims not exceeding USD 2 million, the Committee) the Member making the claim has not taken such steps before, at the time of, or after the incident or events giving rise to the claim, to protect his interests as he should have done or as he would have done if he had not been insured in this Class;
- (ii) the Ship in respect of which the claim is submitted has ceased before the incident which gave rise to the claim to be fully classed by a classification society approved by the Managers or if the Member has failed fully and timely to comply with all the rules, recommendations and requirements of such society and the Member has failed to give notice of this cesser or failure to the Managers;
- (iii) the claim shall have been settled or any liability shall have been admitted, by or on behalf of, the Member without the prior consent in writing of the Managers;
- (iv) the Member failed to comply with a recommendation or directive made at any time by the Board, the Committee or the Managers to the Member, in connection with the handling or settlement of the claim or potential claim;
- (v) the Member has failed fully to comply with the recommendations of the surveyor appointed by the Managers under Rule 28 (classification and condition of Ships);
- (vi) the Member shall have failed to comply with any of his obligations under Rule 30.

**Interest 32(8)** In no case shall a Member be entitled to be paid interest on his claim against the Association.

## VI Cesser of Insurance

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**RULE 33 CESSER OF ALL INSURANCES**

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A Member shall cease to be insured by the Association in respect of all Ships entered by him upon the happening of any of the following events:

**Failure to pay 33(1)** If, having failed to pay when due and demanded by the Managers any sum due from him to the Association, he is served with a notice by or on behalf of the Managers or the Association requiring him to pay such sum and he fails to pay such sum in full on, or before, the date specified in such notice.

**Failure of 33(2)** If, being an individual, he shall die, or becomes of unsound mind, or otherwise mentally unfit, becomes bankrupt or makes any arrangement or composition with his creditors generally.

**Failure of 33(3)** If, being a corporation, an effective resolution is passed for **Corporation** voluntary winding up or it applies to the court to be wound up or an order is made by the court for its compulsory winding up or it is dissolved or upon the appointment of a receiver or manager in respect of all or part of the corporation's business or upon possession being taken of any property of the corporation under the provisions of a charge secured upon that property or upon entering into or becoming subject to any composition or arrangement with its creditors or upon its commencing or being the subject of any proceedings before a court, arbitration tribunal, dispute resolution body or equivalent, of competent jurisdiction under any bankruptcy or insolvency laws to seek protection from its creditors or to re-organise its affairs.

**Sanctions 33(4)** If, by virtue of any sanction, prohibition or any adverse action by a state, international organisation or other competent authority, the Association is prohibited from insuring the Member.

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**RULE 34 CESSER OF SHIP ENTRY**

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A Member shall cease to be insured by the Association in respect of an Entered Ship upon the happening of any of the following events in relation to such Ship:

**Transfer of 34(1) interest** If the Member shall cease to have a legal, beneficial or other interest in the Ship, or if entire control and possession is transferred whether by demise charter or otherwise.

**34(2)** If the managers or operators of the Ship shall be changed.

**Total loss 34(3)** If the Ship becomes a total loss or is accepted by the hull underwriters as being a constructive, compromised or arranged total loss, except as regards liabilities flowing from the casualty which gave rise to such total loss of the Ship.

**34(4)** 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, whichever shall be the earlier.

**Mortgage 34(5)** If the Ship be mortgaged or otherwise hypothecated, unless an undertaking or guarantee approved by the Managers is given to pay all Contributions due or to become due in respect of the Ship.

*Provided always that the Managers may waive this provision.*

**Classification 34(6)** If the Member fails to meet the requirements of Rule 28 (classification).

**Termination 34(7)** If the entry of the Ship shall have been terminated in accordance with Rule 9(3) (termination of cover by the Board or Managers) or Rule 28(7) (Ship Management Appraisal) or Rule 28(8) (Condition Survey).

**Sanctions 34(8)** If, by virtue of any sanction, prohibition or any adverse action by a state, international organisation or other competent authority, the Association is prohibited from insuring the Entered Ship.

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## **RULE 35 EFFECT OF CESSER**

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**For failure 35(1)**  
**to pay** If the cesser of insurance shall have occurred by virtue of Rule 33(1) (failure to pay) the Association shall not be liable for any claims under these Rules in respect of any Ship which has been entered by the Member, whether the incident giving rise to such claim occurred before or after the cesser of insurance, unless the incident giving rise to such claim occurred during a Policy Year which had been closed at the time of the cesser of insurance.

**For any other 35(2)**  
**reason** If the cesser of insurance or cesser of the Ship's entry shall have occurred by virtue of any other reason, the Association shall remain liable for all claims under these Rules arising by reason of any incident which occurred before the cesser but shall be under no liability whatsoever by reason of any incident which occurred after the cesser.

*Provided always that:*

(i) the provisions of Rule 35(1) shall apply to the contract of insurance even if the entry of the Ship shall have ceased under the provisions of Rule 33(2) (failure of individual), Rule 33(3) (failure of corporation) or Rule 34 (cesser of Ship entry) before the notice specified in Rule 33(1) (failure to pay) shall have been issued or taken effect.

(ii) the Board (or, in the case of claims not exceeding USD 2 million, the Committee) may in its discretion admit either wholly or partly any claim for which the Association is under no liability under this Rule whether the incident giving rise to such claim occurred before or after the cesser of insurance.

**No waiver of 35(3) rights**

Without prejudice to the generality of Rule 41 (forbearance) no act, omission, course of dealing, forbearance, delay or indulgence of any kind by or on behalf of the Association nor the granting of time, nor the acceptance by the Association (whether express or implied) of liability for, or the recognition of, any claim and whether occurring before or after the cesser of insurance, shall derogate from the effect of Rule 33 and Rule 34 (cesser of Ship entry) or be treated as a waiver of any of the Association's rights thereunder.

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**RULE 36 CONTRIBUTIONS DUE ON CESSER OF INSURANCE**

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**36(1)** Subject to his liability being otherwise agreed or assessed under Rule 13 (release), a Member whose Entered Ship or Ships cease to be insured by the Association for any reason, shall be and remain liable to pay to the Association all Contributions in respect of such Ship or Ships for all Policy Years which have not been closed under Rule 37(1) (Closing of Policy Years) as at the date of such cesser, including the Policy Year in which the insurance ceases which, under Rule 10 (Contribution), such Member would have been liable to pay had the insurance of such Ship or Ships not ceased.

*Provided always* that the Member shall be liable for Contributions for the Policy Year in which the insurance ceases pro rata only for the period beginning with the date of entry and ending with the happening of the event that occasioned the cesser of insurance if:

(i) such cesser arises by virtue of Rule 9(3) (termination of cover by the Board or Managers); or

(ii) such cesser arises upon the happening of any of the events specified under Rule 34 (cesser of Ship entry) and the Member gives notice of the event in writing to the Managers within one month of the date thereof; or

(iii) such cesser arises by virtue of Rule 33(1) (cesser for non-payment), in such case the Member's liability to pay Contributions shall include the sum specified in the notice given under that Rule.

**Set-off 36(2)** For the purpose of determining whether any (and, if so, what) sum is due for the purposes of Rule 36(1) or otherwise under these Rules no account shall be taken of any amount due or alleged to be due by the Association to the Member for any reason whatsoever, and no set-off of any kind (including any set-off which might otherwise have arisen by reason of the bankruptcy or winding up of the Member) shall be allowed against such sum (whether or not any set-off against Contributions has been allowed at any time in the past), except to the extent (if any) to which any sum demanded by the Managers as due, and required to be paid in a notice served under Rule 33(1) (cesser for non-payment), may (in the Managers' discretion) in itself have already allowed for a set-off or credit in favour of the Member.

## VII The Funds of the Association

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### RULE 37 CLOSING OF POLICY YEARS

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**37(1)** The Board shall, at such time as it may deem expedient after the end of a Policy Year declare that such Policy Year shall be closed.

**Disposal of 37(2) excess funds** If prior to closing any Policy Year the Contributions and other receipts (including transfers from reserves and provisions) in respect of such Policy Year shall exceed the claims, expenses, losses and other outgoings (whether incurred, accrued or anticipated) falling upon the Association for that year together with all transfers to reserves and provisions made out of the Contributions paid in respect of such Policy Year, then the excess may be disposed of either:

- (i) by being put to General Reserve in accordance with the provisions of Rule 39; and/or
- (ii) the Board may order it to be returned in whole or in part to the Members who paid such Contributions in proportion to their respective Contributions, save that no return shall be made in respect of any Ship which has been subject to a release under Rule 13 or which was entered on special terms which specifically excluded liability to contribute to Exceptional Calls, or the entry of which ceased by reason of the application of Rule 33(1) (cesser for non-payment).

**Amalgamation 37(3) of Closed Policy Years** On closing a Policy Year, or at any time thereafter, the Board may resolve to amalgamate the accounts of any two or more Closed Policy Years and to pool the amounts standing to the credit of the same. If the Board shall so resolve then the



two or more Closed Policy Years concerned shall for all purposes be treated as though they constituted a single Closed Policy Year.

**Closed Policy 37(4)  
Year balances** If in respect of any Closed Policy Year it shall appear to the Board that the claims, expenses, losses and other outgoings (whether incurred, accrued or anticipated) falling upon the Association for that year, together with all transfers to reserves and provisions, will not balance with the Contributions and other receipts (including transfers from reserves and other provisions) in respect of that year, then any credit shall be transferred to the General Reserve of the Association and any deficit shall be treated as an expense of the Association and may be made up either by a transfer from the General Reserve of the Association or by Calls under Rule 10(1) (Contribution by way of Calls).

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**RULE 38 REINSURANCE**

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**Individual 38(1)  
Ships** The Managers may reinsure on behalf of the Association the whole or any part of the risks arising in connection with any Entered Ship or Ships upon such terms and with such reinsurers as the Managers shall consider appropriate.

**Risks of the 38(2)  
Association** The Managers may reinsure or cede on behalf of the Association the whole or any part of the risks of the Association with such reinsurers and on such terms as the Managers shall consider appropriate.

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**RULE 39 RESERVES**

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The Board may establish and maintain such reserve funds or other accounts for such contingencies or purposes as it in its discretion thinks fit.

In particular:

**General Reserve** The Board may set aside at any time to General Reserve such sums from the proceeds of the Estimated Total Call or Exceptional Call in respect of any Policy Year as it thinks fit. Such General Reserve may be used by the Board at any time:

(i) so as to provide in whole or in part for any claims, expenses, losses or other outgoings of the Association (whether incurred, accrued or anticipated) and including, but not limited to, any deficiency which has occurred or may occur in respect of any Closed Policy Year or so as to eliminate or reduce any Call in respect of any Policy Year past, present or future; or

(ii) to make a distribution to Members of such amount and in such manner as it thinks fit.

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**RULE 40 INVESTMENT**

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**Investment 40(1) management** Subject to the approval of the Board the funds of this Class of the Association may be invested by the Managers or by any investment manager or firm of brokers or agents appointed by the Managers. The Board may from time to time and at any time lay down such guidelines for the investment of the funds of the Association as it shall think fit.

**Investment 40(2) media** Such investments may be made by means of the purchase of such stocks, shares, bonds, debentures or other securities or the purchase of such currencies, commodities or other real or personal property, or by means of being deposited in such accounts as the Managers may think fit, or by such other method as the Board may approve.

**Pooling of 40(3) funds** Unless the Board otherwise decides the funds standing to the credit of all Policy Years and of any reserve or account of this Class, shall be pooled and invested as one fund.

**Gains and 40(4) losses** When funds are so pooled any dividends, interest or accruals of interest and any realised or unrealised investment gains or losses, arising on the pooled funds shall be credited or debited, as the case may be, to the income and expenditure account of the Association in the financial year in which such gains or losses arise.

- (A)** Any such gains may be used to meet:
- (i) the claims, expenses, losses and other outgoings (whether incurred, accrued or anticipated) which in the opinion of the Board necessarily and properly fall upon this Class of the Association; or
  - (ii) such transfers to reserves or provisions as the Board may deem it expedient to make, including transfers to reserves and provisions in respect of any deficiency which has occurred or which may be likely to occur in respect of any Closed Policy Year as the Board thinks fit.
- (B)** Any such losses shall be treated as an expense of the Association and may be made up either by a transfer from any investment reserve, the General Reserve or by Calls under Rule 10(1) (Contribution by way of Calls).

## VIII General Terms and Conditions

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### **RULE 41 FORBEARANCE**

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**41(1)** No act, omission, forbearance or conduct of the Association whatsoever and whensoever occurring, whether by or through its officers, servants or agents or otherwise, shall constitute any admission or promise that the Association will forego any of its rights under these Rules.

**Advice of 41(2) experts** Any person appointed under Rule 31(4) (appointment of experts) is appointed to assist the Member, and any recommendations and advice which he may give shall in no way bind, prejudice or affect the rights and remedies of the Association under these Rules.

**Waiver by 41(3) Board** Notwithstanding any neglect or non-compliance with, or breach of, any of these Rules by a Member the Board may in its sole discretion waive any of the Association's rights arising therefrom and may pass and pay in full or in part any claim which it thinks fit. The Association shall nevertheless at all times and without notice be entitled to insist on the strict application of these Rules.

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### **RULE 42 ASSIGNMENT**

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**42(1)** No insurance given by the Association, and no interest under these Rules or under any contract between the Association and any Member, may be assigned without the written consent of the Managers who shall have the right in their discretion to give or refuse such consent without stating any reason or to give such consent upon any such terms or conditions as they may think fit.

**Set-off 42(2)** The Association shall be entitled before making any payment to an assignee of the Member to deduct or retain such amount as the Managers may then estimate to be sufficient to discharge any liabilities or potential liabilities of the Member to the Association.

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**RULE 43 DELEGATION**

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**By the 43(1) Board** Whenever any power, duty or discretion is stated in these Rules to be vested in the Board, such power, duty or discretion shall be exercisable by the Board unless the same shall have been delegated to any sub-committee of the Board, or to the Managers, in accordance with the provisions as regards delegation contained in the Memorandum and Articles of Association of the Association in which event the power, duty or discretion may be exercised by any person to whom the same shall have been so delegated.

**By the 43(2) Managers** 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 employee of the Managers to whom the same shall have been delegated or sub-delegated.

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**RULE 44 DISPUTES AND DIFFERENCES**

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**Adjudication 44(1)** If any difference or dispute between the Association or the Managers and any other person shall arise out of or in connection with these Rules or any contract of insurance between the Association and a Member such difference or dispute shall in the first instance be referred to and adjudicated by the Board notwithstanding that the Board may have already considered the matter before any such difference or dispute arose. Such reference and adjudication shall be on written submissions only.

**Arbitration 44(2)** If the Member or such other person does not accept the decision of the Board, or if the Board shall fail to make any award within three months of the reference to it, the difference or dispute shall then be referred to arbitration in London.

- (A) The arbitration shall be conducted by two arbitrators, one to be appointed by each of the parties, and in case the arbitrators shall not agree then the difference or dispute shall be referred to the decision of an umpire to be appointed by them.
- (B) No Member of the Association nor the Managers nor any employee of the Managers shall act as arbitrator or umpire.
- (C) The evidence and proceedings upon any arbitration may in the discretion of the arbitrators or umpire be taken in a mercantile way without regard to legal technicalities respecting evidence.
- (D) The arbitrators or umpire may, in case any point of law shall arise, take the opinion of such counsel or solicitor as they may think fit, and may act upon any such opinion, and unless the arbitrators or umpire taking such an opinion otherwise direct, the costs of and incidental thereto shall be deemed to be part of the costs of the award.
- (E) The costs of and incidental to any such reference and award shall be in the discretion of the arbitrators or umpire respectively.
- (F) The submission to arbitration and all the proceedings therein shall be subject to the provisions of the Arbitration Act, 1996 or any statutory modification or re-enactment thereof.

**Sole remedy 44(3)** No Member nor such other person 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 44 and may only commence proceedings, other than the arbitration under Rule 44(2) above, so as 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. The sole obligation of the Association to such Member or other person under these Rules, and any Certificate of Entry, in respect of such difference or dispute shall be to pay such sum as may be directed by such an award.

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**RULE 45 NOTICES**

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- On the 45(1)  
Association** A notice required under these Rules to be served on the Association may be served by sending it through the post in a pre-paid letter or by sending it by facsimile message or by electronic mail to the Association at the Association's registered office for the time being.
- On a Member 45(2)** A notice 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 facsimile message or by electronic mail to such Member at his address as appearing in the Register or at any place of business of a broker or other intermediary through whom a Ship to which the notice relates is or was entered in the Association. In the case of Joint Members a notice shall be served on any Joint Member and such service shall be sufficient service upon all Joint Members.
- Addresses 45(3)** Any Member described in the Register by an address not within the United Kingdom who shall from time to time give the Association an address within the United Kingdom at which notices may be served upon him, shall be entitled to have notices served upon him at such address, which shall be deemed to be his address as appearing in the Register for the purposes of Rule 45(2).
- Date of 45(4)  
Service** Any notice or other document if served by post shall be deemed to have been served on the day following 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 in a pre-paid envelope. Any notice served by facsimile machine or electronic mail shall be deemed to have been served on the day after it was despatched and in proving such service it shall be sufficient to prove that the notice was duly despatched.

**Successors 45(5)** The successors of anyone 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 notwithstanding that the Association may have notice of the Member's death, disability, lunacy, bankruptcy or liquidation.

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**RULE 46 JURISDICTION**

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**English Law 46(1)** These Rules and any contract of insurance between the Association and a Member shall be governed by and construed in accordance with English law.

*Provided always* that it is not intended that any benefit or rights should be acquired through the operation of The Contracts (Rights of Third Parties) Act 1999 or other similar legislation.

**Jurisdiction 46(2)** Any dispute or difference with the Association (including disputes over the interpretation, effect or application of Rule 44) shall (subject to Rule 44) be decided exclusively by the High Court in London.